

AUDUBON ASSOCIATION

ARCHITECTURAL GUIDELINES

**A DESIGN CONTROL GUIDE FOR RESIDENTS OF
THE AUDUBON ASSOCIATION COMMUNITY**

A FEW WORDS ABOUT DESIGN CONTROLS

Most automatic-membership community associations have the power of design review or architectural control and it is as basic a function as maintenance of common areas. Properly exercised, design review can create and preserve an attractive, livable community. It also protects the value of individual homes, the single largest asset most people ever own.

Failure to exercise design review properly can create major problems for a community in the form of misunderstanding and controversy among the residents, inconsistencies and unfairness in treatment, a multitude of real or imagined violations and, possibly, expensive and protracted court cases. Additionally, the association and its members may suffer major property value losses if design review is absent or ineffective.

An essential element of successful design review is recognition by all members of the community that it is a benefit and not a burden. Design review is, at best, an imperfect art which gains the most community support when it is clearly understood and consistently applied. The following guidelines reflect the Audubon Association's efforts to accomplish these goals for the benefit of all.



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INTRODUCTION

This comprehensive guide is provided for prospective and current Audubon residents. The purpose is to inform residents of the interpretations made by the Architectural Standards Committee (ASC) of the Declaration of Protective Covenants, Conditions and Restrictions for the Audubon Community.

This guide in no way replaces the Audubon Declaration. Future amendments to the Declaration not reflected by this guide and all individual decisions made by the (ASC) shall take precedence. The ASC will conduct periodic evaluations of the Guidelines to determine if amendments are required. Residents should also submit to the ASC requests for additions or changes to the guidelines. These guidelines are expected to be used in conjunction with Town of Amherst regulations. The guidelines do not violate Town of Amherst requirements, but they may be more specific for the Audubon Community.

The Association's policy is to provide a copy of the Audubon Declaration & Bylaws to every new homeowner at the time of closing. However, not every real estate agent, attorney or bank is aware of this policy or diligent in this delivery. To ensure new homeowner receives this information, the Association's management will deliver a copy either in person or via mail to the homeowner of record as soon as that individual's identity can be verified.

In any case, it is the homeowner's responsibility as a new member of the HOA to learn their rights and responsibilities as a member of the HOA. Additional copies are freely available from the Audubon Office located at 700 Robin Road or via email. Contact office@audubonhoa.com. As a member of the Audubon Community Association every homeowner plays a role in ensure that our Community maintains the high principles set forth in the Audubon Declaration.

Questions on any of the contents herein may be directed in writing to:

Audubon Association, Inc.

P.O. Box 620

Getzville, New York 14068

(716) 688-1632 Phone

(716) 688-1637 Fax

Email: office@audubonhoa.com

or drop off at:

700 Robin Road

Amherst, NY 14228

I. ORGANIZATION

1. AUDUBON COMMUNITY ASSOCIATION

Nine Elected Directors include:

- Board President
- Vice President
- Treasurer
- Secretary



2. Architectural Standards Committee (ASC)

The ASC is composed of at least five members (including one chairperson) who are currently Audubon residents and who volunteer their time. A licensed architect will be retained for committee consultation. The ASC is the only Committee required under the Audubon Declaration. The members of the ASC are appointed to the position by the Audubon Association’s Board of Directors (Board) for a term of two years. At the end of the two-year period their appointments are subject to renewal or termination by the Board.

The Audubon Community Membership shall be notified of any proposed revisions to the ASC guidelines via the Community newsletter and website. The Audubon Community can provide input by sending an email to office@audubonhoa.com or mail Audubon Association P.O. Box 620 Getzville, NY 14068. For those with limited access to the internet, a hard copy can be obtained from the Audubon office located at 700 Robin Rd. Call the office for an appointment. 716-688-1632.

The ASC's efforts are directed toward upholding the Audubon New Community Declaration of Protective Covenants, Conditions and Restrictions described in this guide along with the review and approval of home modifications as they relate to architectural style and related matters. The ASC meets periodically to discuss home modifications and violations. Residents who wish to discuss matters with the ASC are welcome to join a meeting but must reach out to the office in advance.

The ASC has the power to adopt, interpret and enforce rules and regulations covering the submission of plans for its review and approval and the exercise of any powers granted to it under the Audubon Association Declaration and Bylaws. The ASC may also issue policy statements relative to architectural styles, details of construction and related matters. Rules, regulations, and policy statements of the ASC may be amended or revoked provided said change does not affect the finality of prior ASC approvals.

To make building decisions, 50% of the ASC members must be present to form a quorum comprised of a minimum of 3 members.

II. FILING AN APPLICATION FOR ARCHITECTURAL STANDARDS COMMITTEE (ASC) APPROVAL:

Residents may obtain a standard application at the Audubon Association office, download a copy from the website www.audubonhoa.com or request a copy via email at office@audubonhoa.com and return it when completed. Incomplete applications will be returned, and delay of your project may occur. (See section pertaining to your specific project for application requirements). **Residents should allow 45 days for processing of their application. The ASC recognizes that some project timelines require a quick reply, and they will work to provide a decision within a week, but large, unique, or debatable requests may take longer.** Change approvals are valid for 6 months. If the work has not been completed in 6 months, it is incumbent upon homeowners to contact the office and request an extension.

Applicants should understand that the drawings they furnish with their application will be, in most cases, all that the ASC has to work with to determine if the aesthetics, integrity, and architectural details appear acceptable. Residents should email or drop off their Architectural Change forms to the office and may request a meeting with the ASC should they think further elaboration of the project is necessary. Residents or affected neighbors should contact the ASC through the office if they need to express concerns. Upon review and approval, the ASC will send an approval letter to the resident, allowing them to commence work.

***Please note that certain home modifications will often require building permits from the Town of Amherst. It is the resident's responsibility to verify if a building permit is necessary and to obtain the necessary permits from the Town of Amherst. The ASC has no role in the Town's permitting process.

Using the completion date provided by the applicant, a designated representative from the ASC will perform a site inspection to make sure that compliance has been met. If everything is satisfactory, the application will be marked "in compliance" and will be returned to the applicant's file.

Since Spring and Summer are often the busiest times for the ASC, please don't wait until the last minute to submit your application. The ASC reserves the right to table applications that are incomplete or require additional information from the applicant.

The ASC will be happy to discuss your plans during the preliminary or planning stages to avoid any confusion or delays.

It should be remembered that the Town of Amherst is responsible for road maintenance, storm, and sanitary sewers, etc. Construction faults or problems with your lot or home are **not** the responsibility of the ASC or the Audubon Association.

Residents should not involve the ASC or Board in neighbor-to-neighbor disputes which do not involve violations of Audubon Architectural Standards, Policies or Rules and Regulations.

Audubon residents and members interested in attending ASC meetings or serving on the ASC should email, write or call:

Audubon Association, Inc.
ASC
P.O. Box 620
Getzville, New York 14068
Call (716) 688-1632
office@audubonhoa.com

III. MAJOR HOME PROJECTS:

Each dwelling has an Association record file. Any request for an architectural modification will cause a file to become active. A representative of the ASC will check on work in progress as well as completion (including landscaping) to determine if the schedule has been met and all work is in compliance. If all phases of the work have been completed it will be noted as such in the resident's folder and it will then become inactive. If required, a new photo will be taken to update the appearance of the home.

NOTE: The following projects all require the submission of the ASC Application Form for approval before beginning any work. If you are in doubt, call the Association office to make sure.

1. HOUSE ADDITIONS OR ALTERATIONS:

The Audubon Declaration provides that no existing residence may be altered in any way that materially affects the **exterior** appearance unless those alterations have been approved by the ASC. Projects such as, but not limited to construction projects involving:

- ❖ additional rooms
- ❖ family rooms
- ❖ porches, decks, patios
- ❖ porch enclosures
- ❖ awnings
- ❖ sunrooms
- ❖ dormers
- ❖ windows
- ❖ garages
- ❖ greenhouses
- ❖ roof modifications
- ❖ driveways

ALL REQUIRE PRIOR APPLICATION AND APPROVAL

The addition or alteration should always complement the existing house or group of townhomes with respect to:

1. scale, materials and color of paint or artificial surface materials
2. roof pitch, overhang, and new color as compared to color of original roof
3. window, door projections and trim
4. overall continuity of building lines

Application to the ASC should include:

- survey of property and existing improvements
- survey and site plan showing the addition in relation to the existing house and property lines
- front, back and side view drawings indicating colors, materials, details, etc. All pertinent dimensions must be indicated and shown to scale. Existing house must be shown on these drawings. Architectural or contractor's drawings are preferred here.
- Floor plan showing new addition in relation to existing structure
- Schedule of work (starting date and time of completion)
- Neighbor **notification** form signed by all neighbors with sight lines to planned modification to the applicant's residence (explained below).

Rough "sketches" are often difficult to interpret and judge for compliance. Applicants should prepare or have prepared for them quality drawings that clearly show all relevant details. When obtaining application forms check with the office for helpful examples. Applications with poor quality drawings or incomplete information will be returned to applicant for clarification, thereby delaying the project's review.

The neighbor notification form should be presented to all neighbors directly impacted by the change. That is, ALL neighboring residences that have a visual sightline with the proposed change. Note that neighbors directly impacted by the change may be across the street or because of the absence of property fences, may include neighbors

on the lots behind your residence. Adjoining neighbors are always contacted for notification.

House additions require building permits from the Town of Amherst. Thus, it is suggested that drawings prepared for the ASC submission be of adequate quality as to be acceptable to the Town.

Approval by the ASC does not guarantee structural soundness and/or safety of the project. Approval is to check for conformance to the Audubon Declaration only (i.e., aesthetic integration with respect to the existing house and neighborhood). ASC approval does not replace the need for town approval or vice versa.

Residents should be aware that the addition of more living area (decks not included) will result in an increase in quarterly HOA assessments for the property. Assessments are based on the total square footage of living space for each house as is reflected in the Town of Amherst's records. The Association office can assist you if you desire more information.

2. CHANGE OF EXTERIOR COLORS OR MATERIALS:

Modifications to existing external house color schemes or changes in the material (e.g., wood to vinyl) are subject to prior approval by the ASC. An application for approval is required when any changes are proposed from the existing theme.

Color schemes, materials, and architectural features present in adjoining neighbor's homes must be considered to avoid drastic departure from the Community's overall look.

In general, subdued earth tone colors are required. Earth tones are defined as "**any color containing some brown**" which include the natural colors contained in rocks, soil, grass, and every other earth element. Colors for trim and gutters should be complimentary to avoid excessive and aesthetically harsh contrast with the house color.

NOTE: Color changes to doors, windows, shutters, and trim are also subject to ASC review and prior approval.

Application to the ASC should include:

- stain, color chips, or material sample of proposed house siding color and trim
- sample of roofing color and style
- indication of colors for all doors, shutters, windows, and trim
- neighbor **notification** form

**** Cluster home residents (townhouses, rental apartments, etc.) should always try to paint or stain at the same time. Applications for a different color or material from adjoining units will be denied.*

3. DECKS AND PATIOS

Decks and patios may have a significant impact on the overall appearance of a house, thus requiring review and prior approval by the ASC via normal application procedures.

Decks which will normally be located at the rear of the house (versus the side), **should** be constructed of pressure treated wood, redwood, cedar or engineered product. Decks should be compatible in color with the house. In many cases, wood left to weather naturally, is an

acceptable option. The adjoining neighbor's privacy, including those bordering the rear of the applicant's property, must be considered when planning the deck location.

Application to the ASC should include:

- survey and site plan showing proposed deck in relation to existing house and adjoining property lines.
- front, side, and top view clearly depicting sizes of wood members, dimensions, stair, railing and post details, height above ground, method of foundation support and below deck screening, etc.
- landscape plans
- neighbor **notification** form

Modifications to existing decks must match in color and design. To comply with Town of Amherst codes, deck heights of 18" or more above ground level require railings. Benches placed at the edge of decks should also have back supports for safety. Steps leading from the deck to ground level should have a handrail.

NOTE: If deck is attached to the house, a Town of Amherst building permit is required.

4. SWIMMING POOLS/HOT TUBS:

The Declaration provides that ONLY "in-ground" type pools are acceptable. **Above ground pools are not allowed. Hot tubs may be approved, but should be submitted to the ASC prior to installation for approval.**

Application to the ASC should include:

- survey and site plan showing pool with respect to house, adjoining property lines and adjoining houses
- proposed fencing plan showing location around pool (on site plan). Fencing shall be 4 feet high using Audubon approved styles only (see section on Fencing)
- manufacturer's catalog cuts indicating pool design and quality of construction
- landscape plan buffering the impact of the fence
- neighbor **notification** form

NOTE: Caution is required with respect to size and location of auxiliary pool equipment. Separate filtration and pump equipment may be noisy and could draw complaints from neighbors. See "Noise and Privacy" page 19.

5. FENCES:

As of August 1992, fences are not permitted within the Audubon Community.

There are several exceptions to this policy:

- 1) SWIMMING POOLS:
 - a) The minimum amount of fencing required to enclose a swimming pool is allowable.
 - b) In order to satisfy Town of Amherst ordinances a fence with a minimum height of four (4) feet is required to surround the pool. If a pool is approved for installation, consideration must be given to the pool's placement to allow adequate room for the fence to be set back a minimum of eight (8) feet from

the property lines. Only the minimum possible area immediately around the pool can be fenced.

NOTE: A pool installation does not justify a property boundary fence.

- c) Acceptable fencing styles for swimming pools are picket and black wrought iron and wood or vinyl stockade. Other style wood, vinyl or wrought iron pool fencing can be submitted for review and approval.
- d) Each wood style fence should be left natural or stained with appropriate earth tone colors. Earth tone colors contain some brown and reflect colors found in nature.

2) PERIMETER FENCING:

- a) Fencing may be allowable for property which borders commercial property outside the Audubon Community, but only that portion of the lot that borders outside property.
- b) If part of a resident's lot borders Walton Way, Campbell Blvd., Millersport Hwy. or a commercial property which is not part of the Audubon Community, consideration will be given to allow a six (6) foot high wooden stockade or vinyl type fence provided the resident can show just cause for its installation and it will not have a negative impact on neighboring properties.
- c) The only acceptable fencing style for property which borders commercial property is stockade (wood) or vinyl with a level top. This style should be left natural or stained with appropriate earth tone colors blending in with adjoining perimeter fences.

3) PRIVACY SCREENS

- a) Small privacy screens or fences may be permitted, depending on the circumstances described. The ASC must approve any fence or screen before it is installed.
- b) Garbage can screens or fencing is encouraged but must be pre-approved by the ASC. 4ft. height maximum.

Plantings must accompany the installation of any stockade fence and a landscape plan must be provided to the ASC for its review along with the necessary documents normally provided for any architectural change. Coniferous or evergreens are the preferred type of plants, but many varieties of shrubbery are also acceptable provided they will furnish thorough coverage of the fence within a five--year period. Approved landscaping that dies must be replaced by the owner.

Application to the ASC should include:

- site plan showing proposed fence in relation to existing homes and adjoining property lines (See Exhibit A)
- style, color, material, and dimension of proposed fence
- landscape plans
- neighbor **notification** form

6. **TREE REMOVAL:**

The Audubon Declaration provides that no trees larger than 4 inches in caliper (diameter) measured 2 feet above ground line are to be removed without the prior approval of Architectural Standards. Consideration should also be given, however, to preserving natural privacy screens by limiting the removal of brush or small trees less than 4 inches in diameter on or near house property lines.

Normally when a tree becomes necessary to remove, a replacement tree should be added somewhere on the property unless thinning of trees due to overcrowding is the issue. Approval to remove trees because of over-crowding will not require additional trees to be planted.

If a dead tree exists on a resident's lot for an inordinate amount of time, the Association expects that the resident will take the necessary measures to have it removed. Most often this will require the use of a tree service. Make sure that any service that you retain is insured. Also, please notify the Association office if you intend to remove a dead tree.

The following are acceptable reasons for tree removal with approval:

- 1. Removal of trees due to over-grown conditions. Thinning of trees is desired so no need to plant additional trees.**
- 2. Removal of trees due to damage to property. This may include foundations, driveways, etc.**
- 3. Tree is a threat to cause damage to property due to its location and condition.**

When weather conditions (e.g., wind or rain storm) create an emergency situation involving safety or potential serious property damage, the tree may be removed without approval. However, it is important to notify the Audubon Office afterwards.

*NOTE: **Tree stumps must also be removed or in a worst case left at grade level.** A mound of dirt around a visible stump is not considered grade level. Burying the stump in a garden is acceptable if there is not visible evidence of the stump remaining.*

Application to the ASC should include:

- site plan, size (trunk diameter), location and reason for proposed tree removal. Type of tree (if known) is also requested. Before approval is given, the tree(s) to be removed must be identified. Often, placing a marker around the tree serves as suitable identification. Personnel from Audubon grounds or land maintenance will check marked trees before cutting.
- specifications and location of replacement tree
- neighbor notification form

NOTE: Residents are cautioned not to cut down trees before obtaining ASC approval. Cutting of trees without approval is an enforceable violation (See Section V, Enforcement Policy for Violations)

- once approved, you are responsible for obtaining your own tree removal service to remove trees on your property. Audubon will not provide such a service unless the dead trees are on Audubon Common Property. The removal of standing dead trees requires approval and you must notify the Association office. A representative will come out and verify the condition of the tree.

- common areas of land within Audubon are owned and maintained by the Audubon Association. These areas include many locations in and around walkways, waterways, play areas, tennis courts, etc.

NOTE: No trees, flowers or shrubbery will be removed from these common areas nor shall any residents' trash, refuse, grass clippings, etc. be dumped onto Audubon Common Property.

7. ADD-ON CHIMNEYS:

Exposed metal chimney flues running the height of the house are not allowed. Add on chimneys should be either masonry or, if metal, in a framed-in wooded enclosure called a chase which will be of the same material and color as the house.

Application to the ASC should include:

- front and side elevations
- material to be used
- neighbor approval form

8. NEW DRIVEWAYS OR DRIVEWAY EXPANSION:

The Declaration provides that additions or changes to existing driveways shall require prior approval.

Audubon ASC Revisions:

August 2012: *“Concrete driveways are now allowed in the Audubon Community with approval by the ASC. The concrete mix should be natural or earth tone to avoid the bleached appearance.”*

Application to the ASC should include:

- survey and site plan showing proposed new section of driveway or proposed changes to existing driveway in relation to house and property lines
- materials to be used
- neighbor notification form

NOTE: if driveway width is to be expanded, there must remain a five-foot set-back from the adjoining property lines.

IV. GUIDELINES FOR MISCELLANEOUS ITEMS:

1. GENERAL PROPERTY MAINTENANCE:

The Declaration provides that each owner shall maintain property and all structures in good condition including, but not limited to:

- ❖ trash removal and storage
- ❖ mowing of all lawns on a regular basis

- ❖ tree and shrubbery trimming as necessary
- ❖ play equipment
- ❖ sheds
- ❖ fences
- ❖ general repair and painting of house and trim
- ❖ driveway repair
- ❖ roof repair
- ❖ storage of miscellaneous items on the outside portion of your property that are deemed unsightly by nature or location **shall be removed.**

Most inquiries along these lines involve property that has deteriorated due to high uncut grass, overgrown shrubs, weed infested gardens, dead trees and peeling paint or faded stain on house or trim, etc. If upon inspection, it is determined that the property detracts from the appearance of the adjoining property or neighborhood, a violation exists, and the owner will be given an opportunity to correct it within a specified timeframe. (See Section V, Enforcement Procedures for Violations)

NOTE: The term 'curb appeal' is relevant here as a home and neighborhood's impression is first made at curbside. It is each homeowner's responsibility to remove grass and weeds that grow in the crevice formed between the street and curb.

2. STORAGE SHEDS

Requests for storage sheds or outbuildings **requires approval.**

Materials: Wood frame sheds with vinyl siding or wood sidings are preferred. Color of siding/paint should match or compliment house color. Plastic construction is acceptable if color is matched or complimentary to house siding. Roof material should match or compliment the house. **No metal sheds are permitted.**

Plantings: Depending on where the structure is situated, it will have to be visually buffered by plantings to "soften" its effect on the neighborhood.

Maintenance: The building shall be kept in good repair of siding, paint, roof and materials.

Location: Consider easements, adjoining neighbors views from sides and rear, and view from road. Refer to Town of Amherst codes for sheds, sight lines and permits. It's the homeowner's responsibility to comply with Town of Amherst codes.

NOTE: The normal size for storage sheds should not exceed 8' X 10' with an overall height not to exceed 9'. Consideration will be given to approval of larger sheds/outbuildings that are in remote locations. View from the road would be very important, along with signatures on the notification form of neighbors directly impacted by the shed.

Application to the ASC should include:

- survey and site plan indicating location with respect to existing house and adjoining property
- side and front view drawings (including measurements) of proposed structure
- neighbor notification form: include all neighbors whose sight lines would be impacted by the shed/outbuilding.

3. DOGHOUSES AND DOG RUNS:

Doghouses that are separate outbuildings will be reviewed on an individual basis. Integration of the doghouse within the architectural lines of the main house is encouraged.

Chain link fences or chain link dog runs are not allowed.

4. SPORTING EQUIPMENT: Basketball nets, poles, backboards, hockey, soccer, lacrosse goals, baseball nets:

No poles or backboards may be erected without prior approval of the ASC. Homemade type equipment is discouraged.

Residents should consider painting basketball poles and the accompanying backboard the same color as the house. This way, they are less obtrusive. Consideration must also be given to the neighbor's privacy with respect to the location of backboard and other sports goals. Side-of-driveway location is not always the best location with respect of adjoining property privacy. Noise associated with a bouncing ball, loud games or runaway balls on adjoining property could become a nuisance to immediate neighbors whose living areas are in close proximity to the basketball pole's location.

Any portable sport nets not in use or in poor condition should be stored out of site. Portable nets should not be viewable from the street during the winter December 1- April 1.

Application to the ASC should include:

- survey and site plan showing direction and location of backboard or pole with respect to house, street and neighboring properties.
- proposed color scheme
- neighbor notification form

5. SWING SETS AND YARD RECREATION EQUIPMENT:

Application to ASC is required. The choice of vivid colors is discouraged. The ASC requires playset materials to be earth tone colors to blend it in with the landscape. Care should also be taken to see that the placement of such equipment is far enough away from neighbor's windows so that play activity is not intrusive on the neighbor's privacy. Consideration will be given to lot size, equipment design, amount of visual screening and adjoining neighbor's comments.

Application to the ASC should include:

- survey and site plan indicating location of equipment with respect to existing house and adjoining property
- photo or brochure of proposed equipment showing size and colors
- neighbor notification form

6. GUTTERS

If gutters are replaced on any dwelling, they must be the same color as the previous gutters. Approval is needed for color change. If gutters are replaced as part of a larger siding replacement/maintenance, they should be coordinated with the siding.

7. STORM DOORS, SCREEN DOORS, WINDOWS & GARAGE DOORS:

Any replacement doors or windows must be of the same style and color as the previous doors or windows. If new items are being installed where style and colors differ or where one did not exist before, then application must be made to the ASC.

8. WINDOW SHUTTERS:

Application to ASC is required. Shutters for a window or door should be approximately half the width of the window or door that they flank. For example, if a window is three feet wide, then each of the shutters that flank it should be no narrower than 16". Shutters should not be used to flank casement or awning type windows. As regards to color, they should be painted a color that will coordinate with or match the colors used for the body or trim.

9. AIR CONDITIONER COMPRESSORS & PERMANENT GENERATORS:

Application to ASC is required for installation of air compressors and permanent generators. Common sense must be exercised in the location of air conditioner compressors whether permanent outdoor units or window unit. This also applies to permanent generators. Noise from permanent generators or heat pumps in winter and air conditioners in summer can cause complaints from neighbors. Care must be taken to locate the unit so that a reasonable distance exists from neighbor's windows. In the event of replacing a generator or air compressor prior approval is required if relocating the permanent generator or air compressor to another area on the property. **To soften the view of a ground compressor or permanent generator, the Association suggests that the resident plant shrubs or bushes around the unit.**

September 2012: Application to ASC is required for installation of permanent generators. *"In the event of replacing a generator or air compressor prior approval is required if relocating the permanent generator or air compressor to another area on the property. **To soften the view of a ground compressor or permanent generator, the Association suggests that the resident plant shrubs or bushes around the unit.**"*

10. VEHICLES/EQUIPMENT

The ASC strives to balance the interests of those residents who own recreational vehicles with the interests of those who object to viewing such vehicles parked in the community.

The following are prohibited from parking on residential lots or streets:

- ❖ Boats
- ❖ Boat trailers
- ❖ House trailers
- ❖ Trailers
- ❖ Campers
- ❖ Recreational vehicles
- ❖ Motor homes
- ❖ Snowmobiles
- ❖ Junked vehicles or equipment
- ❖ Non-operable vehicles
- ❖ Non-registered vehicles

NOTE: Commercial vehicles/large vehicles parked on residential lots or streets must meet the requirements of the Town of Amherst.

Residents should appreciate that the intent is to prevent driveways and residential lots from becoming unsightly and cluttered with” stored-for-the-winter” or “parked-while-being-worked-on” or “junked” cars, recreational vehicles, boats, etc.

In addition, no repair work involving the dismantling of any motor vehicle, boat, or machines for more than one day’s time is permitted outdoors.

Also, no machinery may be placed or operated on the property except such machinery as may be required to maintain a private residence or as may be located indoors and used in the pursuit of a home hobby. *Residents should contact the Association office regarding available storage space for boats, campers, etc., in the Audubon R.V. Storage Area.*

Residents who sporadically park a boat, RV or similar items in their driveways should be considerate of the vast majority of fellow residents who abide by this written covenant. Violators will be contacted once; any subsequent storage in the driveway will be subject to the fine policy procedure. See Section V; “Enforcement Procedures for Violations”.

11. ANTENNAS, SATELLITE DISHES & SOLAR PANELS:

No outside television antennas or radio antennas are allowed.

An ASC change form must be submitted prior to the installation of Solar panels. Include the size, qty and location of the panels. Panels must be rooftop mounted.

SATELLITE DISH REQUIREMENTS FOR PRIVATE HOMEOWNERS ARE AS FOLLOWS:
(Renters and Owners with shared common property have special requirements and should call the Audubon Management for further information.)

- 1.) The dish shall be no larger than (19) nineteen inches in diameter or 18 X 24 inches if oval.
- 2.) Color must be of a neutral color (including gray or black) and may be repainted to blend with the primary color of the house. Check with your manufacturer first for paint type.
- 3.) The preferred location is attached to the house:
 - a. Installation should be on the rear or side portion of the house.
 - b. Dishes may be installed on roofs provided they are not visible from the front of the house or from curbside.
 - c. Concealment under eaves or behind chimneys is recommended.

No approval is necessary if the above conditions are met.

NOTE: Approval is necessary for attached dishes if conditions 1 thru 3 are not met.

- 4.) If the dish is not attached to the house, prior approval is required.
 - a. Dishes may be installed at ground level at the rear or side portions of the property.
 - b. All cables shall be buried.
 - c. Location can be no closer than (10) ten feet to the adjoining property lines.
 - d. Screening is required for dishes within view of the front or curbside.
 - e. No dishes shall be placed on common property.
- 5.) Miscellaneous:

- a. Dishes should be installed to present the lowest possible profile.
- b. Dishes should not be installed or mounted on trees or poles. This would be the last resort for obtaining reception. The dishes shall not be installed or mounted on mailboxes, play equipment, etc. or in any fashion considered obtrusive or offensive.
- c. Screening materials must provide year-round protection from view by neighbors or street side and must be an integral part of the application.
- d. Selective pruning may be allowed to reduce interference, but it must be clearly identified and be part of the application. Any tree, over (4) four inches in diameter measured two feet above the ground line, that may require removal must also be part of the application and must be marked at the site.

12. SIGNS:

Realtor signs advertising the sale of the property are permitted as well as For Sale by Owner signs done in good taste. Political signs also done in good taste and “sized” in proportion to the property are allowed, but only within two weeks before an election and they must be removed within 48 hours after the election. Signs should not obstruct the view of traffic.

Commercial building sign changes must be submitted to the ASC for approval.

The ASC, at its discretion may adopt additional rules relating to signs based on individual cases.

13. HOME BUSINESS:

The Declaration provides that “no profession or home industry may be conducted on any residential property without prior approval”. No business signs are allowed.

An office within one’s home is usually not a problem. However, the following instances would be a problem when or if complaints arose from:

- ❖ Noticeable traffic (people and cars) entering and leaving the property to the point where neighbors become disrupted.
- ❖ Parking of an abnormal amount of vehicles daily making it obvious some profession was being conducted inside (delivery trucks, taxi cabs, business trucks, etc.)

Any activity offensive by sound or appearance which may be a nuisance or annoyance to neighbors stemming from the operation of a home business or other activity is not permitted.

Along the same lines, the Declaration states that no building or structure shall be used for any purpose other than for use originally designated.

Since the Town of Amherst also regulates home businesses they should be consulted if a resident is considering such an activity.

14. NOISE AND PRIVACY:

The Audubon Declaration prohibits any activity which may be deemed offensive (upon complaint) from odor, sound, or appearance. In addition, activity which results in nuisance or annoyance to neighbors is prohibited.

Overcrowding of any single dwelling due to occupancy by the number of adults or by the presence of vehicles, especially in properties not owner occupied would (upon complaint) constitute a nuisance or offensive activity. Such properties would be referred to the Town of Amherst for inspection.

A loud constantly barking, yelping dog would (upon complaint) also constitute a nuisance or offensive activity. Other examples that could lead to complaints are:

- ❖ Noise from hot tub, pool filtration equipment, direct vented furnaces, air conditioners too close to property lines
- ❖ Consistently loud sound including from vehicle motors, music from stereo systems, instrument amplifiers, etc.

15. PETS:

It is not permitted to keep “uncommon” pets such as goats, chickens, ducks, etc. within the property. In consideration of neighbors, it is also important for residents to observe the Town of Amherst’s leash and “pooper scooper” requirements.

16. CLOTHESLINES:

Outdoor clotheslines are not permitted in Audubon.

17. POLES:

No poles (flagpoles, light poles, etc.) may be erected without prior approval. Driveway lamp post lights should be approximately 6 foot in height and their design is subject to approval by the ASC. Any commercial lighting and sign changes must be submitted to the ASC for approval.

18. MAILBOXES:

Brown or black mailboxes are the only acceptable mailbox colors. If a new mailbox is required or desired call the Association office and place the order.

The Association maintenance staff will install a new mailbox and you will be billed a nominal fee. These are the only acceptable mailboxes. Maintenance or replacement of the mailbox post is the responsibility of the Audubon Association.

NOTE: To aid visitors, delivery, and emergency personnel, the Association strongly recommends that your home number be placed on the mailbox lid.

19. GARBAGE STORAGE:

Rubbish removal is carried out by the Town of Amherst, usually on Monday. Please check with the Town at 631-7119 for any specific questions regarding the type of trash requiring disposal. **The Declaration states that containers for the deposit of garbage and rubbish shall be stored so that they are not visible from the street, or from adjacent and surrounding properties.**

The Town of Amherst has provided 2 different size blue totes for the garbage. **The Town of Amherst requires totes be stored behind the front building line.** Consideration should be given to plantings or lattice screening around the storage area for these garbage totes to meet these Town and Association requirements. A lattice screen would require approval of the ASC. The small open blue totes for recycled items should not be stored outdoors.

The ASC has the discretion to adopt reasonable rules and regulations relating to the size, shape, color, and type of containers permitted; their placement and location on the property. The intent is to prevent random full view placement of garbage cans around the property thus creating an eyesore.

Trash must always be contained to prevent its being windblown and to prevent scattering of debris by animals or rodents. This is particularly important when placing at curbside for pickup. Use of rigid plastic earth-tone-colored cans is requested for yard waste. Placement at curb side shall be done no sooner than the evening before. Placement of rubbish prior to the evening before pick-up is not allowed.

NOTE: There is absolutely no dumping of any type of rubbish, refuse, grass clippings, etc. on any portion of common property.

If you have questions about any type of trash pick-up or recycling, please call the Town of Amherst at 631-7119.

20. DUMPSTERS AND GARBAGE CAN FOR MULTI UNIT RESIDENTS:

Dumpsters and cans should have screening such that the dumpsters are not visible from the street. The cans and dumpsters should not be visible from private residences. The screening should be high enough to screen the top of the dumpster but no higher than 8 feet.

21. COMPOST BINS AND YARD WASTE:

In these days of overburdened landfills, many residents are considering compost bins as a method of returning nutrients to the soil which would normally add to the landfill problem. The Association encourages such individual recycling but cautions that it must be done correctly. Generally, if the bin is constructed and used properly there is very little odor of decomposing material or any rodent problem.

The styles of bins vary considerably from expensive commercial ones to simple homemade apparatuses. Both can be quite effective. Great care must be taken to ensure that the composting material will not in any way be offensive to neighboring families. Information on composting methods is kept on file in the Association office. Since most of the bins are portable, please consult the ASC regarding placement of the compost bin.

22. LANDSCAPING:

Landscaping design is up to the discretion of the individual property homeowner but should be in keeping with Audubon's high standards and complement the owner's lot and the adjoining surroundings and homes. Extensive use of mostly natural materials is expected. Due to the Audubon's prohibition of property fences, residents should keep in mind that their side and backyards may be the primary viewing area for neighboring residents. Thus, care should be taken to properly maintain those areas.

Residents who plan to do more than normal type of landscaping (mulching, shrubbery, flower and vegetable planting) must file an application to the ASC. This would include projects involving large amounts of wood, large rocks, retaining walls, or projects that may alter existing drainage patterns. If landscaping is planned near an adjoining street, you should remember that vehicle site distances must not be impeded in any way.

Consideration should be given to preserving natural privacy screens between residences, especially with respect to the random and unapproved removal of shrubs or small trees on or near property lines.

Application to the ASC should include:

- Site plan showing landscape design or alteration with respect to house, adjoining property lines and adjoining houses (See Exhibit A)
- Neighbor approval form

23. LAWN ORNAMENTS AND DECORATIVE FENCING OR SCREENING:

The use of split rails, lattice screening or picket fence sections for decoration requires approval.

Decorative and ornamental yard accessories such as birdbaths, sundials, statues, etc. must be of a size, configuration and placement that are appropriate for the lot.

24. EXPOSED MATERIALS IN YARDS

As noted previously, resident's front, side and rear yards are clearly visible to neighboring residents. As such, homeowners should take care to properly store items that find their way into yards including toys, tools & ladders. Items left out in all seasons become unsightly due to rust, soiling or bleaching.

Firewood is a specific issue as resident's often have it delivered in bulk for use over time. Firewood should be stacked neatly out of sightlines, and if covered, using a dull-toned tarp. Standard blue tarps should not be used as they are not conducive to a yard's overall appearance.

V. ENFORCEMENT PROCEDURES FOR VIOLATIONS:

Pursuant to the Audubon Declaration, Article VIII, any exterior change to your property including painting, additions, modifications, improvements, and alterations, require the completion of an **Exterior Change Request Form** (along with a neighbor notification form).

If an exterior change is made without the completion of the exterior change request form, a fine of \$250.00 can be assessed to the resident/member.

The ASC may also exercise their responsibility to restore the property to its' prior state. The cost of such abatement will be charged to the homeowner and any subsequent attorney fees will be added to the cost. Failure to pay will result in a lien being placed on the property. *For example, a resident installs a fence with out prior approval, the ASC may require the resident to take it down and/or send an agent to remove it. Charges for such remediation will be billed to the homeowner.*

Properties are reviewed for Architectural Compliance regularly. If a property is determined to be non-compliant and in violation, the following process will be followed:

- 1) When the ASC is made aware of a violation and it is verified by a representative of the ASC, a violation letter is sent by the Audubon Association office placing the resident/member on notice to rectify the violation or appeal within thirty (15-30) days or as specified in the letter.
- 2) If the resident/member corrects the violation, the violation is closed and noted in the resident/member's file.
- 3) If the violation is not resolved and continues past the timeframe stated, or if the appeal was denied and the violation is not corrected, the case is referred to the Audubon Board of Directors for final handling.
- 4) The Audubon Board of Directors will write to the resident/member requiring a response as to their intentions within ten (10) days.
- 5) If the resident/member fails to respond to the Board of Directors, the attorney is advised to commence litigation for the removal of the violation through the courts and /or a fine of \$20.00 per day will commence. The resident/member will be notified of either course of action by the attorney and of the date that the fine will begin accruing. Said fine will be imposed until the date the violation is corrected but would not exceed \$5,000.00. The Management Office would record the continuing presence of the violation.
- 6) Upon removal of the violation or at any time as determined by the ASC, the Association may commence legal proceedings to collect the fine, including all cost and attorney's fees. The collection process may include adding fines to quarterly property assessments, or a judgement lien on the owner's property,
- 7) Be further informed as stated in the Audubon Declaration ASC agrees, by submission of such plans, that no action or suit will be brought against the Audubon Association or the ASC in connection with such submission.

***Appeal** – An Arbitration Procedure was approved by the Audubon Board of Directors on March 16, 1994, to be used when a resident has failed to reach an agreement with the ASC after meetings with all parties have occurred.

The **Residential Arbitration Committee** will be composed of three people without any direct personal stake in the arbitration matter, to include the Association Board President or designated Board Member, the ASC Chairperson or other designated ASC member, and a licensed architect preferably holding a University at Buffalo faculty position or from a local professional firm. The resident would present his or her case to the Arbitration Committee for final decision. The resident will be responsible to pay all fees associated with the Architect or Management Representative. A majority vote would rule any decision.

In this booklet, you will also find a "Request for Exterior Change Form" and a "Neighbor Notification Form". Additional copies are available from the Association office.

The Association's management company has been notified that these policies/procedures be followed accordingly. This procedure will be enforced to assure Audubon resident that the

standards of design quality will be maintained in the Community, which protects property values and enhances the overall environment.

If you should have any questions pertaining to this matter, please contact our office at 716-688-1632 office@audubonhoa.com

VI. FURTHER IMPORTANT INFORMATION:

1. BUYING OR SELLING YOUR AUDUBON PROPERTY:

It is important to realize that Audubon homes require a “Certificate of Compliance” at the time of sale to satisfy all legal requirements. In some instances, a Certificate of Compliance is also required by the lending institution when refinancing. This requirement should be checked by your attorney.

Also, an inspection of the home’s exterior by the ASC is required before the Association can sign-off on the final Certificate of Compliance. This inspection must be done by a representative of the ASC before the closing date. The request for the Certificate of Compliance is the obligation of the resident. Please notify the Association office well in advance of your closing date to allow sufficient time for this exterior inspection to occur.

Typical modifications that must be previously approved are those covered in these guidelines and include, but are not limited to the following:

- House additions (sunrooms, porches, etc.)
- Decks
- Fencing
- Tree removal
- Color and trim changes
- Miscellaneous visible exterior items as flagpoles, add-on chimneys, swimming pools.

NOTE: Any modification to the property that is not on file as being approved at the Association office will be noted when the office file is compared to the home’s existing condition.

Non-compliance with prior requirements may delay the Certificate of Compliance – and thereby delay closing the sale -- until the ASC has approved the modifications (or changes made, if necessary to bring the house into conformance). Delays occurring at such a critical time may disrupt the timing or the terms of the sales contract. Should the sale close without the Certificate of Compliance, it may be left to the Buyer to correct the previous owner’s violations, which could create litigation between the Buyer and Seller. It is the current homeowner’s responsibility -- not the real estate agent, attorney or bank -- to ensure that a Certificate of Compliance is completed before closing. The Audubon Declaration and Bylaws “run” with the deed to the land and structure. This means that you as well as any future homeowners are bound to comply with these documents.

As soon as the Seller receives an approximate closing date, they are responsible for notifying the Association’s management office at 716-688-1632 office@audubonhoa.com about the sale in process. This notification allows the management office to help coordinate reviewing your ASC file, obtaining your final Certificate of Compliance, updating, and closing your assessment account etc.

NOTE: The Buyer of a property in the Audubon Community is advised to contact the Association office to verify that their new property's ASC file and accounts are in order as soon as they receive and read this document.

2. IMPORTANT AGENCIES & CONTACT NUMBERS:

POLICE, FIRE FIRST AID OR EMERGENCY 911

Amherst Police, Information and Complaints 716-689-1311
Getzville Fire Department 716-689-1212
Gas Emergency 1-800-444-3130
National Grid (electric) 1-800-867-5222
Buried cable Information1-800-962-7962

Hospitals:
 Millard Fillmore Suburban 716-688-3100
 Oshei Children's Hospital 716-878-7000

Local Schools:
 Heim Elementary716-626-8686
 Heim Middle School716-626-8600
 Williamsville North High School716-626-8500

Poison Control716-878-7654

Audubon Community Association:
Audubon Association Office716-688-1632
Brewster Mews Office716-689-7600
Parkside Housing716-688-4200

Local Town of Amherst Services:
Audubon Main Library716-689-4922
Audubon Recreation Center716-631-7136
Amherst Senior Service Center716-636-3050
Amherst Town Court716-689-4200
Town of Amherst Building Dept716-631-7080
Town of Amherst Engineering Dept716-631-7154
Town of Amherst Highway Department716-631-7117
Town of Amherst Refuse Control Office716-631-7119
Town of Amherst Information716-631-7000