

A Brief Description of the Waiver Process for the Wildview HOA Design Guidelines

Note: This is a summary of the process for providing a Waiver to the Rules and Regulations that govern the Wildview HOA. The Bylaws, Covenants and Design Guidelines take precedence over anything in this document, should there appear to be an inconsistency.

Background: Generally speaking, Wildview is governed by its By-Laws and Covenants, and, by extension, it's Design Guidelines. By having purchased a home in Wildview, all homeowners have agreed to abide by these conditions, according to Section 10 of the Covenants.

Occasionally, however, a homeowner wishes to include on their property some type of building material, structure or plant material which does not conform to the Design Guidelines, either because of its placement or its type. In this case, Section 11 of the Covenants allow for the possibility of a Waiver to be granted by the Design Review Committee:

*11. **WAIVER.** A variance, waiver or release of these conditions and/or restrictions granted by the DRC or any acquiescence or failure of the DRC to enforce any violation shall not be deemed to be a waiver of any of the conditions and restrictions in any other instance. The DRC may, by its signed written instrument, waive, release or vary any provision of these Covenants as they pertain to any Lot, which waiver, release or variance shall be effective as to all parties otherwise entitled to enforce these Covenants. No member of the Committee shall have any liability whatsoever to any Owner or other party aggrieved or injured on account of the grant of such release, waiver or variance. In return for such waiver, release or variance, the Committee may impose upon the Owner and the Lot involved such additional or altered covenants as the Committee deems proper and appropriate in the circumstances. Each Owner agrees, by accepting title or any interest in any Lot, that Declarant, its employees or agents, and each member of the Committee, shall be immune from suit or liability in accordance with the foregoing.*

Waiver process: The first step for receiving a Waiver is for the homeowner to present their plan to the Design Review Committee. If the Design Review Committee does not approve the plan, the homeowner may request a Waiver. Having received the request for a Waiver, the Design Review Committee may approve or disapprove the Waiver request. If the Waiver is not granted, the Committee may but is not required to also suggest alternative plans which would be acceptable.

Considerations for a Waiver: In determining whether or not to grant a waiver, several aspects of the proposal are considered by the Design Review Committee:

1. The extent of departure from the Design Guidelines must be considered, with the intent of minimizing departures.
2. The possibility of alternative solutions that would not require or would reduce the extent of departure from the design guidelines is considered.
3. Previous decisions (i.e. precedents) are reviewed to determine whether a solution similar to previously granted waivers would be satisfactory.
4. Any other critical aspect of the proposal, such as the impact of the proposed action upon neighborhood safety, may also be considered.

In these considerations, the overriding concern is to maintain the character of Wildview.

Waiver Grant: Once a mutually agreed upon alternative is developed, the Design Review Committee will provide a written Waiver to the homeowner for the specifically agreed upon plan. If the homeowner deviates significantly from the agreed upon plan, the Waiver is no longer applicable, and the implemented version would be in violation of the Design Guidelines.