

Oak Harbour -Architectural Guidelines

# **Oak Harbour**

## **Architectural Guidelines**

This document has been prepared by KB Home Fort Myers LLC, the Declarant under the Amended and Restated Declaration of Covenants and Restrictions for Oak Harbour, and KB Home Tampa LLC, its affiliated entity. It is not intended for distribution other than to provide information for Oak Harbour homeowners considering modifications to their homes or Lots. The Architectural Guidelines may only be changed or altered by the Declarant for so long as Declarant owns any portion of the Oak Harbour property, and thereafter by the homeowners association, pursuant to Article 9 of the Declaration.

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## ! INTRODUCTION

### 1.1 Welcome to Oak Harbour.

Oak Harbour is a community designed to respect the visual character of its site, alleviate environmental impacts and maximize water and energy conservation principles, all to the extent feasible. In order to preserve and enhance these principles, these Design Guidelines are established to maintain certain standards by which the community may grow and develop.

The Design Guidelines have been revised by Oak Harbour Community Association, Inc. pursuant to the Amended and Restated Declaration of Covenants and Restrictions for Oak Harbour, as amended from time-to-time ("Declaration") recorded in the Public Records of Charlotte County, Florida. The Design Guidelines may be changed and amended to serve the needs of an evolving community pursuant to the procedures set forth in the Declaration and in these Design Guidelines.

The Design Guidelines provide an overall framework to allow the community to develop and progress in an orderly manner, implementing planning concepts and philosophy and any requirements of regulatory agencies. The Design Guidelines include minimum standards for the design, size, location, style, structure, materials, color, mode of architecture, mode of landscaping and relevant criteria for the construction and modification of improvements of any type. They also establish a process for judicious review of proposed new developments and changes within the community.

### 1.2 Governmental Requirements.

It is the responsibility of the Owner to comply with all Governmental Requirements and obtain all necessary permits and approvals from the appropriate federal, state, county or municipal governmental agencies ("Governmental Agencies") before beginning approved work on a project. For example, the Charlotte County may require certain permits, depending on the proposed change, alteration, or addition. The Owner shall provide copies of any such required permits or approvals to the Reviewing Body if so requested.

To the extent that any Governmental Requirement requires a more restrictive standard than those found in these Design Guidelines or the Declaration, the Governmental Requirement shall prevail. To the extent that the Governmental Requirement is less restrictive than these Design Guidelines, or the Declaration, the Declaration and Design Guidelines shall prevail.

### 1.3 Required Approvals for Modification Activity.



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The Owner is required to submit an application to the Reviewing Body and request review of plans for any Modification Activity prior to beginning the Modification Activity. Modification Activity, includes, but is not limited to:

- Removing of any tree.
- Constructing improvements on a Lot.
- Modifying or adding to existing improvements (other than repainting an improvement in its original color).
- Installing a fountain, pool, spa or other water feature.
- Constructing or installing fences, walls, decks, fireplaces, permanent outdoor barbecue, or other hardscape, such as walks, driveways, paving, brick, masonry, railroad ties, wood trim, concrete, rocks, flagstone or any inert material.
- Landscaping, irrigation, alteration of grades or drainage.
- Placing any object, ornament, monument, statue, sign, or similar accessory on a Lot that is visible from the street or by neighbors, including lighting, flags or lawn ornaments. These guidelines may identify permitted exceptions.

All applications shall be submitted to the Reviewing Body for approval prior to work commencing on the Modification Activity. The fact that similar Modification Activity may exist or have been approved for another site does not automatically set a precedent for other Modification Activity. Beginning or completing the Modification Activity prior to approval by the Reviewing Body does not mean that the approval requirement is waived. An Owner may be required to remove or correct any Modification Activity if not approved.

1.4 Fees. Removed 05/2020 via HOA BOD vote

1.5 Inspections.

The Reviewing Body shall appoint members or representatives to conduct inspections of Modification Activity in progress and completed work. These

inspections may be conducted after the approval of an application prior to the commencement of work and at completion of work in order to ensure the work is complies with the approved application. The Reviewing

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Body has no obligation to ensure that the work is done in compliance with approved plans or Government Requirements, however.

1.6 Conditions for Commencement of Work.

**NO WORK SHALL COMMENCE ON ANY MODIFICATION ACTIVITY UNTIL AN APPLICATION FOR THE WORK HAS BEEN SUBMITTED TO AND APPROVED BY THE REVIEWING BODY.**

1.7 7 Applying for Approvals from Government Agencies.

Unless otherwise expressly approved in writing by the Reviewing Body, **prior** to submittal of a request for a permit or approval from any Government Agency, the Owner must obtain the approval of the Reviewing Body for the Modification Activity for which the permit or approval will be requested. If the permit or approval from the Government Agency differs from the approval by the Reviewing Body, the Owner must re-submit the proposed change to the Reviewing Body. Unless required by applicable law, approval by a Government Agency shall not bind the Reviewing Body with respect to a permit or approval from the Government Agency, which differs from the approval by the Reviewing Body.

2 APPLICATION REQUIREMENTS

2.1 All Applications.

All applications shall include:

2.1.1 Owner Information.

Name of Owner, Lot number, street address, and contact information.

2.1.2 Modification Information.

Appropriate information for the particular type of Modification Activity, as summarized below.

2.1.3 Contractor Information.

Name, street address, and contact information of contractor doing the proposed work, if known.

2.2 Landscaping or Site Work Affecting Landscaping.

Such applications shall include:

2.2.1 Landscape Designer.

Name of any landscape designer involved in preparing the landscaping plans, including street

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address and contact information, if any.

2.2.2 Landscape Plans.

One copy of landscape plans, including (unless otherwise expressly approved by the Reviewing Body):

- North arrow; scale of drawing; existing site features; existing trees (type and diameter at five feet above existing grade); significant shrubs; property lines; adjacent land uses; (examples: residential Lot, common area, lagoon, etc.); and location or edge of streets, walks, walls, fences, houses, service areas, decks, patios, walks and drives. Minimum scale of drawings to be 1 inch = 20feet.
- Proposed changes to items listed above, including any additional hardscape that Owner desires to install, such as brick, masonry, wood edging, concrete, rocks or other inert materials; and existing plantings to be removed. (Proposed changes should be clearly identified by color, shading, or other contrasting technique). Color pictures, brochures, and color samples of products shall be submitted with application to assist the Modifications Committee in understanding the application.
- Existing site drainage, including drainage structures, direction and slope of flow and any proposed alterations to this drainage.
- Proposed plantings, with plant list and plant key for any abbreviations used, varieties, quantities, sizes and spacing. Locations of proposed trees, shrubs, ground covers, mulching and grassing (clearly labeled). Plant symbol to be to scale and show mature size (diameter) of the proposed plant with a circle. Indicate center of proposed plant with a "+" and the center of an existing plant with an "o".
- Plan for any irrigation system modifications (preferably on a separate drawing) to include location of automatic timer box and any rain sensor, and approximate location of valves, sprinkler heads, irrigation lines and sizes.

2.3 Changes or Additions to Structures.

Such applications shall include:

2.3.1 Architect/Builder.

Name of any architect or builder involved in preparing the proposed plans, including street address and contact information.

2.3.2 Proposed Plans.

One copy of the proposed plans, including (unless otherwise expressly approved by the Reviewing Body):

- Site drawings showing North arrow; scale of drawing; existing site features s; trees (type and diameter at five feet above existing grade); significant existing shrubs; property lines; adjacent land uses (examples: residential lot, common area, lagoon, etc.); and location or edge of streets,

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walks, walls, fences, houses, service areas, utility equipment, decks, patios, walks, and drives. Minimum scale of drawings to be 1 inch= 10 feet.

- Existing and proposed floor plan.
- Existing elevation (photograph acceptable) and elevation of any proposed exterior modification. (If Owner has a photograph of another house or a picture from a magazine or brochure such photo does not replace the requirement for plans and details of changes to Owner's property.)
- Proposed material and color samples, including location of proposed use.
- If the change or addition affects the roof or roofline, a roof plan should also be submitted. A building section may be requested depending on the complexity of the change or addition.
- Minimum scale of floor plan, elevation, and sections shall be 1/4 inch= 1 foot.

### 2.4 Review Procedure and Notice of Pending Application.

Unless otherwise expressly approved by the Reviewing Body, the Reviewing Body shall review each application without a hearing and based solely on the information contained within the application. An Owner or another Owner affected by the proposed application may request a hearing, but the decision as to whether a hearing shall be granted, and the form of such hearing shall be determined solely by the Reviewing Body. If the Modification Activity is, in the opinion of the Reviewing Body, likely to be controversial or a matter of substantial community interest, the Reviewing Body may require that a notice or sign in form approved by the Reviewing Body be placed on the property for a reasonable time to give notice of the pending application.

Reasonable efforts shall be made by the Reviewing Body to respond to an application within 30 (thirty) days\* of receipt of all required information. The decision of the Reviewing Body shall be final on all matters submitted to it.

*\* Thirty Days starts from the date the Reviewing Body acknowledges receipt of application.*

### 2.5 Notice of Decision of Reviewing Body.

Upon completion of review by the Reviewing Body, one set of plans shall be returned to the Owner accompanied by a letter indicating the Reviewing Body's decision. The action of the Reviewing Body shall be stated in the following manner:

#### 2.5.1 "Approved."

The entire application submitted is approved in total.

#### 2.5.2 "Approved as Noted."

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The application submitted is partially approved or approved with conditions. An Owner may only proceed with the work to be performed if it complies with all conditions set forth in the letter from the Reviewing Body, or on or in any document enclosed with the letter.

### 2.5.3 "Not Approved." (Denied)

The entire application submitted is not approved and no work shall commence.

### 2.7 Effect on Building Permit or Other Government Approval.

If the application for Modification Activity submitted by an Owner requires a building permit or other Government Approval, approval by the Reviewing Body is not a guarantee that such permit or other Government Approval will be approved by the appropriate Governmental Agency. If the appropriate Governmental Agency requires modification to the plans approved by the Reviewing Body, such modifications must also be approved by the Reviewing Body in order for the Owner to proceed with the Modification Activity.

### 2.9 Effect of Modifications on House Warranties.

Owners are responsible for verifying the effect of any proposed modifications against any existing warranties for nullification concerns.

### 2.10 Owner Responsibilities.

It is the responsibility of each Owner to comply with all requirements of these Design Guidelines in addition to the Declaration and any applicable Supplemental Declarations.

## 3 RESIDENTIAL DESIGN GUIDELINES

### 3.1 Architectural Character.

The Declarant has developed each area of Oak Harbour and each model home with a different plot design style. The original home and plot styles are to be maintained except as approved by the Reviewing Body.

### 3.2 Architectural Impact on Nearby Property.

Applications for additions to a structure shall be reviewed for proximity to setback lines, impact on drainage and significant buffering foliage, and access for drainage and utilities. Where the Reviewing Body determines that there is a significant adverse impact, the application will be "not approved" or "approved as noted".

### 3.3 Standards May Vary.

Design or exterior changes appropriate for property in one area may not be applicable to another area.

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### 3.4 Waiver of Standards.

The Reviewing Body shall have the right, in its sole discretion, to waive, in writing, specific standards as they apply to a particular application if the Reviewing Body determines, in its sole discretion, that such waiver is warranted as a result of special conditions or factors not commonly encountered and such waiver will not have a material adverse impact on these Design Guidelines and the community. Any waiver shall be limited to the maximum extent feasible while responding to the special conditions or factors.

### 3.5 House Modifications.

#### 3.5.1 Architectural Design.

The architectural design of any and all additions, alterations, repainting, and renovations to the exterior of an existing home shall conform to, or be compatible with, the design of the original home in style, detailing, materials, and color. Any such addition, alteration, or renovation shall be made only after application to, and written approval by, the Reviewing Body.

#### 3.5.2 Wall Height.

All room additions and enclosures shall have a minimum interior wall height from finished floor to the lowest ceiling of the existing structure. Exterior doors shall open to a level structural landing if the step down to resulting grade exceeds 8 inches.

#### 3.5.3 Height of Building.

The height of the roofline of any addition to an existing home shall not be higher than the original roof-line.

#### 3.5.4 Setback Lines.

Setback lines for Oak Harbour are defined by the Declarant and recorded on the applicable Lot plat or stated in the applicable Declaration for the purpose of protecting against overbuilding a property site and imposing improperly on neighboring properties. All additions to homes shall be built within the established setback lines for Oak Harbour, regardless of more lenient requirements of any local Governmental Authority. The minimum setbacks are set forth in part in Exhibit A. If a Lot has more stringent setbacks than those in Exhibit A, more stringent setbacks shall apply.

#### 3.5.5 Allowed Materials.

Unless expressly approved by the Reviewing Body, all materials used in maintenance, repair, additions, and alterations shall match those used in the original construction of the Dwelling Unit as to color, composition, type, and method of attachment. When house, storm or hurricane windows are added or replaced with new materials, the description, trim color and glazing specifications on those materials shall be included with the application for addition or

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replacement to ensure that the long-term appearance will be compatible and will not degrade with long term exposure to the elements. The Reviewing Body may allow substitute materials.

3.5.6 Lot Drainage/Roof Drainage.

When any additions, alterations, or renovations are performed to an existing home, the established Lot drainage shall:

As provided for in the Declaration, no Owner or Resident shall alter the drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Properties without consent of the Owner(s) of the affected property and the Reviewing Body.

All new or altered roofs shall drain to the ground solely within the deeded Lot area. No roof shall drain directly onto a neighboring property. Roof gutter downspouts shall be directed to splash blocks or other impervious surfaces, plastic flexible drain tubes, or to undersurface drainage lines within landscaping.

3.5.7 Slope of Roof.

No alterations or improvements shall be made which provide a roof slope of not less than 3 feet vertical to 12 feet horizontal. All screened areas shall have roof designs with a minimum pitch of 3 feet vertical over a 12-foot horizontal. Pitches can be broken to match the existing house roof, but no screened roof design shall appear as a flat pitched surface from any external elevation. Current dwelling designs will be considered.

3.5.8 Covered Patios.

Homes with a covered patio may later enclose the patio with screening or a combination of windows, doors, and screening approved by the Reviewing Body. Any renovation of a covered patio to a screened patio (or a window/screen combination) or patio addition, extension, etc. shall be made only after application to, and written approval by, the Reviewing Body. Conversion to a conditioned living space may void warranties the Owner has from the Declarant or original builder.

3.5.9 Exposed Rafters.

Exposed rafter type covers shall be approved by the Reviewing Body and shall match the house material and color when the patio is attached or has a common side with the home.

3.5.10 Front Entryway/Porch and Front Courtyard Areas.

Modifications to the front entryway/porch and front courtyard which are visible from the street and are in compliance with Design Guidelines and are aesthetically in harmony with the individual and neighboring properties may be considered for approval. Applications for changes or additions shall meet but are not limited to the following minimum criteria:



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3.5.10.1 Front Door.

Solid color shall be compatible to house colors. Material shall be suitable for front door installations. Storm doors and screens shall be of manmade material (no wood storm doors).

3.5.10.2 Front Area and Courtyard.

Front Courtyards with fence structures are not permitted. No part of the front entry/porch/courtyard shall be enclosed by screen or full walled (floor to ceiling) structure.

3.5.10.3 Decorations.

Decorations attached to walls, on pedestals or suspended from the covered structure are acceptable if any decorative features are in harmony with the property frontal view. All decorations are subject to approval by the Reviewing Body.

3.5.10.4 Decorative Outdoor Furniture.

Decorative furniture shall be in harmony with the frontal view in style and color. The maximum height of the furniture is 3 feet and the maximum width is 5 feet. Furniture may be placed in planting beds, courtyards or on the front porch but no closer than 15 feet to curb.

3.5.10.5 Arbors/Archway/Trellises.

Not permitted in front yards. Arbors, archways and trellises are only permitted in the rear yards if it is not visible and completely concealed from view from the any adjacent streets and from adjoining or adjacent property owners. Furthermore, no arbor, trellis or other similar-type installations shall be installed without the Reviewing Body's prior written approval, which may be reasonably withheld.

3.5.10.6 Pergolas/Gazebos.

Not permitted in front yards. Pergolas and Gazebos are only permitted in the rear yards if they are not visible and completely concealed from view from the any adjacent streets and from adjoining or adjacent property owners. Furthermore, no pergolas, gazebos or other similar-type installations shall be installed without the Reviewing Body's prior written approval, which may be reasonably withheld.

3.5.10.7 Fence/Gates.

Refer to Paragraph 4.6, below.

3.5.10.8 Plantings.

Landscaping in and next to the front entry/porch or courtyard area shall be maintained to present a neat appearance with no overgrowth onto roofs. Plantings may be suspended or

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placed on pedestals or placed in decorative containers with applicable irrigation devices. When decorative and plant items that were previously approved are to be changed to similar items and are in compliance with the Design Guidelines, re-application is not required.

3.5.11 Shutters and Window Boxes.

Upon approval by the Reviewing Body, shutters and/or window boxes may be installed. Shutter design and color and window box design and color shall be complimentary to the home design and overall aesthetic of Oak Harbour.

3.5.12 Hurricane Protective Systems (Hurricane Shutters).

Hurricane Shutters shall be used as a protection system only in the event of an oncoming storm and are not to be confused with decorative shutters. The system may not deviate from the aesthetic look of the homes. The system may not be implemented earlier than 72 hours prior to a storm's arrival and must be removed and stored no later than 72 hours after a storm. Manufacturers' catalog(s) and the selected design as applicable shall be attached when applying through the Reviewing Body.

3.5.13 Flags.

No flag may be displayed on any Unit except as follows: Please see Article XIV Section 7

All flags shall be maintained in good condition and should not be displayed on days when the weather is inclement. Proper lighting is required for nighttime display of the American Flag.

3.5.14 Shade Devices.

Man-made screens and shade devices must appear as an integral part of the building elevation and shall be made of materials that complement the Home. Awnings or any other shading devices shall only be applicable to windows and doorways and not ancillary equipment. Such devices shall be in harmony as to size, style, and color with the house and application to shaded opening. Fabric awnings or similar shading devices are permitted on the rear, side, and front of the home when the color, which must be solid, is muted and consistent with the color of the home, roof, shutters and community-wide standard and approved by the Reviewing Body. The color of the exterior shading devices shall complement the home. Awnings or such other devices shall have a retractable feature, either mechanical or manual, for storage in inclement weather. Fixed awnings are not permitted. Shading devices shall not extend over 10 feet. In the event cleanliness or repair becomes a factor, the Owner will be given 72 hours to correct the problem. If conditions persist, the Reviewing Body will seek corrective action from the Association for the removal or restoration of the awning or shading device.

3.5.15 Pergolas/Gazebos.

The placement of pergola or gazebo structures shall be at least 20 feet from any neighbors Lot line and only in the rear yard. Pergolas and Gazebos are only permitted in the rear yards if they

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are not visible and completely concealed from view from the any adjacent streets and from adjoining or adjacent property owners. Furthermore, no pergolas, gazebos or other similar-type installations shall be installed without the Reviewing Body's prior written approval, which may be reasonably withheld. Application to the Reviewing Body for such pergola, gazebo or other similar type installation shall include the size, materials, and placement on the lot, if said application does not include at a minimum this information, said application shall be denied until required information is provided to the Reviewing Body.

#### 3.5.16 Yard Furniture.

Furniture is permitted in front yards only if it meets the standards for formal decorative furniture as determined by the Reviewing Body. Patio umbrellas are not permitted in front yards, including courtyards. Yard furniture (e.g., lawn chairs, lounges, gliders, tables, and umbrellas) in rear yards shall be placed no closer than 20 feet to the nearest property line unless placed on hardscape material adjacent to the house.

#### 3.5.17 Water Features.

The maximum depth of a water feature (i.e., Koi pond) is 2 feet.

### 4 LANDSCAPE AND HARDSCAPE GUIDELINES

#### 4.1 Landscaping by the Association.

The Association shall be responsible for maintaining the Area of Common Responsibility as provided in the Declaration. The Association shall also perform such additional maintenance as may be required under any Supplemental Declaration.

#### 4.2 Landscaping for Lots.

Landscaping must be consistent with the following minimum requirements:

##### 4.2.1 Planting Beds

The planting beds that were provided by the developer (or previously approved via the modifications process) may be planted without any approval with any plants from the list of the commonly used plants found in Exhibit C. ~~Any plants other than those need to be approved and then will be added to the list.~~

##### 4.2.2 Commonly Used Plant Material.

Refer to Exhibit C for a list and description of recommended plant materials. Use of artificial flowers or trees anywhere outside the roofed area of the house is prohibited. Use of annual plants in planting beds as described above is acceptable without prior approval.

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#### 4.2.3 Swales.

Plants, flowers, shrubs, and trees shall not be planted in the swale such as to obstruct storm drainage along the side yards of the Lot.

#### 4.3 General Landscaping Criteria.

Basic planting requirements should, at a minimum, address the following areas:

##### 4.3.1 Approvals.

The reviewing body may reject any proposed plant it considers inappropriate.

##### 4.3.2 Permitted Ground Cover.

The ground surfaces of all Lots except that occupied by hardscape or structures shall be covered with a combination of landscaping, sodded grass lawn, planted ground cover, and approved mulch materials as listed in Exhibit B. The sodded grass lawn area shall not be less than 50% of the total ground surface area unless otherwise approved. If a living ground cover is proposed in place of the sodded lawn, approval shall be secured from the Reviewing Body prior to the commencement of work. For the purpose of these Design Guidelines, topsoil or decomposed granite shall not be considered inert material. No artificially colored or painted rock shall be permitted. Ground cover or inert material shall not be used to spell out names, nicknames, names of states, city athletic teams, slogans, states, emblems, geometric patterns, or any other communication.

In order to prevent soil erosion and to maintain positive drainage, the original grades of the Lot shall be maintained during landscape and sod installation. For this reason, a minimum sod buffer of 10 feet on the front curb and rear property line must be maintained as a drainage area. Lagoon top of slope and banks are included in the sod buffer. The Lot Owner shall hold harmless the Developer and Community Association for any property damage, including damage to the house, caused by an alteration of the grades or changes in the drainage patterns in connection with the design, installation, or maintenance of Owner's landscaping done by Owner or hired landscape contractor.

##### 4.3.3 Dead or Diseased Plantings.

Dead or terminally diseased plantings shall be promptly removed and all material resulting from the tree removal must be disposed of properly.

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### 4.3.4 Restrictions on Paved Cover.

#### 4.3.5.2 Walkways/Driveways.

Walkways may be expanded to a maximum of 48 inches wide including any decorative trim or edging. Other changes to walkways/driveways are limited to approved colors, patterns, texture, coatings and materials.

### 4.4 Landscape Accessories.

Landscape accessories are any items placed in the Lot that have not already previously discussed in these guidelines. All landscape accessories require approval. Placement and style of all landscape accessories shall be subject to approval on an individual basis consistent with the overall aesthetic scheme of The Oak Harbour. No more than 4 landscape accessories shall be approved on any Lot. No landscape accessory mounted on entryway columns or walls shall be in excess of 18 inches in height. Properties facing streets on two or more sides shall use landscaping to screen accessories. Applicants shall provide landscape plans that incorporate accessories to show how they are shrouded from adjacent property owner views.

#### 4.4.1 Arbors

Arbor construction and installation shall be applied for and approved through the Reviewing Body and are considered a landscape accessory. The placement of arbor structures shall be at least 20 feet from any neighbor's Lot line and only in the rear yard. Arbors are only permitted in the rear yards if they are not visible and completely concealed from view from the any adjacent streets and from adjoining or adjacent property owners. Furthermore, no arbors or other similar-type installations shall be installed without the Reviewing Body's prior written approval, which may be reasonably withheld. Application to the Reviewing Body for such arbor or other similar type installation shall include the size, materials, and placement on the lot, if said application does not include at a minimum this information, said application shall be denied until required information is provided to the Reviewing Body. The maximum size of any arbor shall not exceed the height of 8 feet, the width of 3 feet, and the depth of 2 feet with the wider dimension parallel to the rear Lot line. The arbor shall have approved vegetation, which will be required on the finished product. Application for size, materials, and placement shall be submitted and approved for prior to installation by the Reviewing Body. Vegetation shall be maintained to present a neat appearance with no overgrowth onto roofs or walkways.

#### 4.4.2 Trellises

Trellis construction and installation shall be applied for and approved through the Reviewing Body and are considered a landscape accessory. The placement trellises shall be in a planting

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bed and only in the rear or side yard. The maximum size of any trellis shall not exceed the height of 8 feet, the width of 3 feet, and the depth of 6 inches with the wider dimension parallel to the side or rear Lot line. The placement of a trellis in a side yard planting shall not be more than 2 feet from the wall of the house. The trellis shall have approved vegetation, which will be required on the finished product. Application for size, materials, and placement shall be submitted and approved for prior to installation by the Reviewing Body. Vegetation shall be maintained to present a neat appearance with no overgrowth onto roofs or walkways.

### 4.4.3 Ground Mounted Landscape Accessories.

Ground Mounted Landscape Accessories may not be in excess of 3 feet in height. Examples include, but are not limited to, low ground flags, statues, sculptures, bird baths, plant stands, potted plants, lawn ornaments, lighthouses, and other miniature structures.

### 4.4.4 Fountains

Fountains shall be limited in height to 4 feet 6 inches above the natural grade of the Lot. Any fountain shall be of natural material, color, and design, each of which is compatible with the overall architectural theme of Oak Harbour. Fountains shall be permitted in the front yard and rear yard of all residential homes. No more than one fountain shall be permitted in each yard. Fountains shall be subject to review for style and placement.

### 4.4.5 Bird Houses/Feeders.

Bird houses/feeders shall be placed in rear yard only. Bat houses, butterfly houses, bird houses, and bird feeders shall be designed and placed to be in harmony with the surrounding environment

### 4.4.6 Holiday Decorative Accessories.

Temporary statues, artifacts, and other holiday decorative landscaping accessories are allowed within a reasonable period of time prior to, during, and after a holiday season, provided that all such items shall be removed 14 days after the holiday.

## 4.5 Plastic Sheeting.

The use of solid plastic sheeting or polyethylene over ground cover areas will not be permitted. If landscape fabric is used, it must allow the free flow of water, air, and gases to and from the soil. Weed control fabrics may only be used with prior approval of the Reviewing Body. All weed control fabrics must be kept thoroughly covered with a 3 to 4-inch layer of approved mulch material.

## 4.6 Fencing.

### 4.6.1 Fence Guidelines.

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All Fencing installed is restricted to the building setbacks as shown on Exhibit A, however, no fencing shall be permitted on an easement. Only the fences described below shall be permitted to be constructed by the Owner. All fencing is subject to approval of the Reviewing Body. Fence material shall be wrought iron, black aluminum or tan PVC. Wood and chain link (or chicken wire or similar) fencing is not permitted.

Wrought Iron/Black Aluminum fences shall be 4 feet in height unless otherwise stated below or required by town, county, and/or state codes. Vertical members of the fence may range 1 inch in width to 1 inches in width. Vertical members of the fence shall not be less than 2 inches apart and not greater than allowed by building code. All fences shall have landscaping installed on the outside of the fence and such landscaping shall be installed within 30 days after the fence is completed. Fence installation is considered complete when the fence and gates have been installed and the owner has beneficial use of the fence. Landscaping must include 3 to 5 gallon size plants, as described in Exhibit C, planted at 3 foot intervals along the entire perimeter of the fence. All fences shall be repainted when necessary to maintain original appearance. Wrought Iron/Black Aluminum fences may be used as a perimeter fence. However, the fence must be installed with a maximum origination at the front 1/3 of each side of the dwelling. The fence (Wrought Iron/Black Aluminum may originate from the front 1/3 of each side of the dwelling, as far as the rear 1/3 of each side of the home.

PVC/solid fences may not be any greater than six feet (6') in height, and include a gate that is a minimum of 48 inches in width. PVC fences used as a privacy fence must originate at the rear 1/3 of each side of the dwelling.

Lots that back up to lakes or ponds may not fence in rear yard with solid fence in manner that would block the view of any neighboring home of the lake or pond.

#### 4.6.1.1 Perimeter Fences

All perimeter fences are intended as a 3-sided fence that encloses the sides/rear of the home/yard. All perimeter fences are restricted to building setbacks. Wetland, wooded, or preserve Lots in which the required distance from the rear property line, as stated in Exhibit A, is equivalent to the tree line do not require landscaping at the portion of the fence obscured by the tree line. If the tree line of a wetland, wooded, or preserve Lot is closer to the property line than the required rear property line distance, the rear portion of the fence may be extended to the tree line as long as the fence does not encroach on an easement. Landscaping is not required on the portion of the fence obscured by the tree line.

#### 4.6.1.2 Decorative Fences.

Decorative fences are not permitted at the front entry to create a courtyard. Materials used for decorative fence only include Wrought Iron/Black Aluminum. They may not exceed 4' in height. PVC/Solid fence may not be used as a decorative fence.

#### 4.6.2 Privacy Hedging/Plantings.

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Plantings used for privacy/hedging/screening or landscaping along property lines shall be located or designed to not interfere with swale drainage. No plant or other landscaping may be located on an easement. Plantings must be maintained by the Owner to be aesthetically pleasing to neighboring property owners. (plant overgrowth weed and grass encroachment on neighboring properties shall be controlled).

4.7 Ancillary Equipment.

4.7.1 Window and Roof Mounted Equipment.

Window and roof mounted equipment (including mechanical, air conditioning) shall not be allowed. Supplemental heating and cooling equipment may be installed in walls, and attic ventilation devices may be installed on the roof, with approval of the Reviewing Body. A sound barrier may be required for added equipment.

4.7.2 Exterior Appliances.

Installation of exterior water softeners, water filters, trash or compost containers/piles, gardening storage areas and any hardscape enclosing areas (other than pool/spa and filter equipment described in Paragraph 4.13) are permitted with adequate screening.

4.7.3 Interior Water Treatment.

All interior water treatment systems shall be connected to the sewage system.

4.7.4 Antennas, Aerials, and Satellite Dishes.

No antenna, aerial, satellite dish, or other device for the transmission or reception of television, or radio (including amateur or ham radios) signals of any kind will be allowed outside the Dwelling Unit, except those antennas whose installation and use is protected under Federal law or regulations (generally, certain antennas under one meter in diameter) provided that an application for such an antenna or other device shall be submitted to the Reviewing Body and such application will only be approved if:

4.7.4.1 Visual Impact.

The antenna or other device is designed to assure the minimal visual intrusion possible (i.e., is located in a manner that minimizes visibility from the street and preserves the community wide standard); and,



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4.7.4.2 Compliance.

The antenna or other device complies with the maximum extent feasible with these Design Guidelines within the confines of applicable Federal regulations, i.e., without precluding reception of a quality signal, or unreasonably increasing the cost of the antenna or device. The applicant shall provide reception readings taken by the installer or self for potential locations, which make the antennae least visible. The following are preferred locations:

- Rear of the house, below the ridge line.
- Rear of the house attached to the roof or the fascia.
- Side of the house, toward the rear, attached to the roof or fascia.
- Side of the house, toward the rear, attached below the eave.
- Ground mounted, rear yard painted and screened with shrubs.
- Ground mounted, side yard, toward the rear yard, painted and screened with shrubs.

4.7.5 Mechanical Equipment.

Mechanical equipment or other service areas such as utility boxes shall be screened and allow for access to equipment for servicing.

4.7.6 Roof Top Decorations.

Roof top decorations, cupolas and application of non-functional articles other than lighting, ventilating, and antennas mentioned above are prohibited. Any changes to the rooftop design must be submitted in detail with the application.

4.7.7 Exterior Sound Emitting Devices.

Any exterior sound emitting devices (speakers, sound players, insect/animal repellants/chasers, chimes, etc.) shall not create an audible nuisance to the neighbors.

4.8 Trash Containers.

Trash shall be stored in covered containers, which shall be kept in the garage, except when they are being made available for collection, and shall be subject to any restrictions in the Declaration or Rules and Regulations promulgated pursuant to the Declaration.

4.9 Signage.

4.9.1 General Limitations.

Posting of Signs of any kind, except those required by law, such as posters, circulars, billboards, "For Sale", "For Rent", open house direction signs or other commercial signage shall not be displayed on a Lot, house (inside or outside), vehicle, or common area.

4.9.2 No Soliciting Signs.

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Residents shall be permitted to post "no soliciting" signs near or on the front door, or in the front yard near the entrance to a courtyard. Such "no soliciting" signs shall be professionally prepared (no hand lettering) and shall not exceed 1 foot in height above grade if placed in the ground. Any such sign shall not exceed a size of 36 square inches (i.e., 3 inches by 12 inches) whether placed in the ground, on the front door or in a window near the front door.

4.9.3 Security System Signs.

Residents shall be permitted to post a sign from a security/alarm company providing services to such Resident or the home. One single-sided small security/alarm sign may be placed in the front yard where it is visible to persons approaching the house, and a sign may also be placed in the windows of the home. The sign shall be professionally prepared (no hand lettering) and shall not exceed 2 feet in overall height from finished grade and/or 72 square inches in size (i.e., 8 inches by 9 inches) if placed in the ground; or exceed 16 square inches in size (i.e., 4 inches by 4 inches) if placed in a window. The sign shall be located within the setback criteria set forth in Exhibit A for such homes.

4.9.4 Exemption.

Notwithstanding the above, Declarant and its authorized designees shall be allowed to install any sign(s) necessary for purposes connected with the development of Oak Harbour and/or as may be described in the Declaration.

4.10 Other Prohibited Exterior Features.

The following features shall be prohibited from use in Oak Harbour:

- Clothes lines or clothes poles that are visible from the street or neighbors
- Window A/C unit
- Above ground swimming pools
- Storage buildings, garages, or sheds
- Dog houses and other animal dwellings not identified in Paragraph 4.4.3
- Dog runs and other fencing or enclosures for pets

4.11 Lighting.

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The Owner is required to submit an application to the Reviewing Board for review for all exterior lighting modifications. No exterior lighting shall be permitted that constitutes a nuisance or hazard to any Owner or Resident.

4.11.1 landscape/Walkways.

Illumination of landscaping (36 inches high or less), as well as for walks and driveways shall be accomplished with low wattage fixtures, ground mounted. Decorative low voltage/solar light fixtures for low-level landscape and path lighting are permitted. Fixtures shall be installed and maintained in a vertical position. A maximum quantity of 12 low-voltage or solar lights may be installed in front yards. A maximum quantity of 12 low-voltage or solar lights may be installed in rear and side yards (combined).

4.11.2 large Bushes/Trees.

Illumination of large bushes and trees may be accomplished with standard or low voltage (flood or spot) light fixtures, ground mounted and aimed vertically upward.

4.11.3 Spotlights/Floodlights.

Exterior spotlight and floodlight fixtures shall be either non motion or motion detector fixtures. Exterior spotlight and floodlight fixtures location(s), other than the original construction of the dwelling location(s), require approval of the Reviewing Board.

4.11.4 Holiday lighting.

Holiday lighting and decorations will be permitted so long as the lights and decorations are unobtrusive, are installed only during the appropriate season, and are removed within 14 days after the holiday.

4.11.5 lampposts.

lampposts (measured to the top of lighting fixture) shall not exceed 80 inches in height. A lamppost may have no more than two globes. Globes shall not create a lighting nuisance to surrounding properties. A lamppost is not considered a landscape accessory.

4.11.6 Fence/Building Mounted.

Exterior fence or building mounted light fixtures, including motion detector, spotlights and floodlights shall conform to the architecture of the house and be subject to approval of the Reviewing Body. Any enclosure of a light fixture shall be designed to conceal the lamp (bulb) and to direct the light downward.

4.11.7 landscape Requirements.

Junction boxes shall be placed below grade to minimize day-time visibility of the hardware.

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#### 4.12 Mailboxes.

Mailboxes other than as installed by, or with the express permission of, Declarant or any alterations thereto, shall be subject to review by the Reviewing Body and may not be permitted under applicable governmental regulations. The color, size, appearance, and location of the mailboxes installed by Declarant shall be preserved and shall not be altered unless approved by the Reviewing Body, except that lettering with the address of the Owner may be affixed to the mailbox without obtaining approval from the Reviewing Body. Costs for replacement and/or maintenance of multiple use mailbox posts shall be shared by the Owners of the mailboxes mounted. Replacement mailboxes and posts are allowed and shall conform to existing standards as represented by mailboxes previously installed by the Developer. All mailbox replacements are subject to approval from the Reviewing Body.

#### 4.13 Pools, Spas, and Water Features.

Above-ground spas and hot tubs are permitted in the rear yard, and only if surrounded by a screen enclosure or sunroom.

For approval of in-ground pool, in-ground spa, or water feature excavation, the Owner shall submit all plans to the Reviewing Body for approval prior to commencing excavation. In most cases, it may be necessary to obtain approval from the appropriate Governing Authority. It will be necessary for a licensed and insured contractor to evaluate feasibility and manage the installation of pools and spas.

A fence or screen structure shall be constructed around in-ground pools and in-ground spas in accordance with the provisions of these Guidelines. Pool/spa mechanical equipment shall be positioned adjacent to the house and obscured from view with shrubs or other landscape preclude features.

The excavation site shall be well maintained for safety purposes. Attention shall be given to the grading and drainage to prevent erosion.

#### 4.14 Outdoor Kitchens.

Outdoor kitchens and built-in barbeques shall be placed in the rear yard only, adjacent to the house or patio and shall not extend laterally past the side wall of the house. The exterior surround shall match the color and finish of the house walls. Homeowners installing cooking equipment under a patio roof or inside a screen or glass enclosure should consider requirements for exhaust ventilation. Installation of roof mounted equipment is not permitted in accordance with Paragraph 4.7.1.

#### 5 REVIEWING BODY SUBCOMMITTEES.

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The Reviewing Body may, as it deems necessary, establish and abolish subcommittees of the Reviewing Body relating to the performance of specific duties to assist the Reviewing Body. Any authorized agent of the Reviewing Body, or of any Subcommittee established by the Reviewing Body, shall be authorized to perform the plan review and inspection of Lots required pursuant to these Design Guidelines. The operations and procedures of a Reviewing Body Subcommittee shall be established by the Reviewing Body upon its formation.

The Reviewing Body Chairman shall appoint all members of a Reviewing Body Subcommittee. At least one Reviewing Body member shall be a member of the Reviewing Body Subcommittee. That member shall act as Chairman of the subcommittee. Appointees to the Reviewing Body Subcommittee need not be architects, owners, lessees, or residents and do not need to possess any special qualifications of any type except such as the Reviewing Body may, in its discretion, require. The Chairman will have authority to dismiss or replace Subcommittee members.

6 ENFORCEMENT OF GUIDELINES AND REVIEWING BODY ACTIONS.

In the event of a violation of these Design Guidelines or any decision of a Reviewing Body, the Declarant or the Board may take any enforcement action authorized by the By-Laws or the Declaration.

Any changes or amendments to the Design Guidelines shall only apply to construction and modifications commenced after the date of such amendment. Changes shall not require modification or removal of structures previously approved once the approved construction has commenced. However, changes to, or replacement of, previously approved projects SHALL comply with the Guidelines in effect at the time of the new modification application.

7 AMENDMENTS TO DESIGN GUIDELINES.

The Board of Directors shall have the authority to amend or change the Design Guidelines. Any amendments, modification or supplements shall apply to construction and modification commenced after the date of such amendment only and shall not require modification or removal of Modification Activity previously approved once the approved construction or modification has commenced.

8 INTENTIONALLY OMITIED

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9 EXHIBIT A - BUILDING SETBACKS

The building setbacks described below are applicable to Oak Harbour and recognized by the Reviewing Body. Notwithstanding any other provision of law, all building setbacks shall meet these requirements, except for such buildings which are built by Declarant pursuant to approvals obtained from Charlotte County, as applicable.

Front Yard:	30 feet
Side Yard:	10 feet
Side Yard facing Street:	20 feet
Rear Yard:	20 feet
Rear Yard Pool/Patio/Accessory Setback	20 feet

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**11 EXHIBIT B - APPROVED INERT MATERIALS**

Approved inert landscape materials shall include bark, hardwood mulch, rock and/or stone of naturally pigmented color (i.e., as found in native form), rubber, and other materials as may be approved by the Reviewing Body from time to time. Determination of whether a material is acceptable for inclusion in any specific situation shall be made by the Reviewing Body and shall be in writing.

Approved inert driveway, sidewalk, and porch paving, covering and coating materials shall include concrete, brick, other previously installed surfaces, and other materials that may be found to be acceptable.

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12 EXHIBIT C- COMMONLY USED PLANT MATERIALS

**Large Trees** Suitable for Southwest Florida Landscapes

**Small Trees**  
Suitable for Southwest Florida Landscapes

**Large or Accent Shrubs (5-7 Gallon)**  
Suitable for Southwest Florida Landscapes



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**Medium Shrubs (3-5 Gallon)**

Suitable for Southwest Florida Landscapes

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13 EXHIBIT D-DEFINITION OF FRONT, REAR & SIDE YARD



