

**MARSH HARBOR**  
**DESIGN AND DEVELOPMENT GUIDELINES**

The development, construction, erection, placement and installation of all Improvements on Residential Property shall be subject to and governed by the following covenants, conditions, restrictions and reservations, to wit:

1. **Type of Structure.** Since the permitted use of Lots is limited to single family residential dwelling and related uses and purposes only, no building or structure other than (1) one single family residential dwelling and its related appurtenances, facilities and improvements, which may include garages, out buildings and accessory structures, shall be constructed, erected, placed, installed, located or permitted to remain on any Lot.

2. **Approved Plans.** All Improvements on a Lot must be constructed, erected, placed, installed and located in accordance with detailed plans prepared by or under the supervision of and sealed by residential designers or architects licensed and registered as such in the State of Florida in conformance with all applicable governmental regulations.

3. **Governmental Regulations.** All Improvements constructed, erected, placed, installed and located on a Lot shall conform to and comply with all applicable Governmental Regulations, including, without limitation, all building, zoning and land use regulations of the County.

4. **Height Limitations.** No Improvement on Residential Property shall exceed thirty-five (35) feet in height, as measured from the approved average finished grade on the front street side of the particular Lot involved or as otherwise limited or required by applicable Governmental Regulations.

5. **Building Setback Lines.** No part of any residential dwelling or out building (other than roof overhangs) shall be constructed, erected, placed or installed any closer to the property boundary lines of a Lot than 20 feet to the front yard (street side) property boundary line, 20 feet to the rear yard property boundary line and 10 feet to the side yard property boundary lines which are in conformity within the approved PUD.

6. **Corner Lots.** In the case of Corner Lots, the side yard building setback line on the street side which is not the front of the residential dwelling constructed thereon shall be five (5) feet less than the front yard building setback line of the immediately adjacent Lot on that street.

7. **Other Setback Lines.** Improvements other than the main residential dwelling on a Lot shall be placed, located, erected, constructed, or installed no closer to the property boundary lines of any Lot, by type of Improvement, as follows:

- a. **Driveways.** No closer than five (5) feet to any side yard property boundary line.
- b. **Walkways (other than street side sidewalks).** No closer than seven and one-half (7.5) feet to any side yard property boundary line.

- c. **Swimming Pools.** No closer than the otherwise established side yard building setback line and no closer to the rear yard property boundary line than ten (10) feet.
- d. **Patios and Decks.** No Patio or deck, including a swimming pool patio or deck, whether constructed of concrete, cool deck, brick, or other pavers, aggregate, wood, or other material, shall be constructed nearer than ten (10) feet to any rear yard property line or nearer than the otherwise established side yard building setback line to any side yard property line.
- e. **Outbuildings and Accessory Structures.** All outbuildings or accessory structures (other than boat houses or docks) including free-standing garages, shall be located within the building setback lines established in Sections 5 and 6 of these Guidelines unless permitted by Governmental Regulations and approved in writing by the Architectural Review Board.

8. **Intercoastal Waterway Improvements.** Notwithstanding any provision of these Guidelines, except for boat houses and docks, all buildings, structures and site improvements shall be set back not less than one hundred (100) feet from the normal high water elevation line of the Intercoastal Waterway.

9. **Dwelling Size.** Each single family residential dwelling constructed on a Lot shall have a minimum heated and cooled living area of two thousand four hundred (2,400) square feet.

10. **Temporary Improvements.** No buildings, structures, improvements or other facilities of a temporary nature, including mobile homes, trailers, tents or shacks shall be permitted on a Lot; provided, however, that temporary improvements or facilities used solely in connection with and only during the period of the construction of approved permanent Improvements on a Lot may be permitted by the Architectural Review Board, in its discretion, during the actual period of the construction of such permanent Improvements so long as the same are removed immediately following the completion of such construction.

11. **Garages/No Carports.** Each single family residential dwelling constructed and maintained on Residential Property shall have a garage as an appurtenance thereto. No carports (or open sided garages) shall be permitted on Residential Property. All garages shall be for neither less than two (2) nor more than four (4) standard sized passenger vehicles.

12. **Roofs.** Except as hereinafter specified, roofs on the main body of all buildings and other structures on Residential Property, including the principal residential dwelling and all out buildings and accessory structures, including boat houses, shall be pitched. No flat roofs or mansard roofs shall be permitted on Residential Property without the approval of the Architectural Review Board. However, the Architectural Review Board may, in its discretion, approve flat roofs or mansard roofs on a limited portion or portions of the main body of a building, including the principal residential dwelling on any Lot if architecturally compatible with the remainder of the roof structure of the particular building on which it is to be constructed and all adjacent and nearby residences and other structures. The pitch of all roofs shall be not less than five inches (5") in twelve inches (12") (5/12 vertical/horizontal) unless otherwise approved by the Architectural Review Board, in its discretion, taking into account the architectural style of the

principal residential dwelling to be constructed on a particular Lot as well as such other relevant factors as the proposed ceiling height(s) for such building. All roofs shall be constructed of architectural asphalt composite shingles, clay tile, cement tile, or slate. However, no pure white, pure black or pure primary color roof shall be permitted or approved by the Architectural Review Board.

13. **Antennas, Etc.** No antennas, aerials, discs, or other devices for the transmission or reception of radio or television signals or any other form of electro-magnetic radiation or communication shall be erected, constructed, installed, used or maintained outside of any building or structure on a Lot whether or not the same located on the roof of any structure or is otherwise attached to or detached from a building or a structure unless it is not visible from the street and remains below the plate line.

14. **Windows.** The exterior windows of all buildings or other Improvements on a Lot shall have frames and muntins, if any, constructed of wood, clad metal, fiberglass or such other materials as shall be approved by the Architectural Review Board. In no event, however, shall raw or silver aluminum or other unclad metal window frames or muntins be permitted. All windows on the front elevations of any building plainly visible from the street shall have architectural decorative raised banding and/or shutters as further described in Section 15 of these Guidelines. Windows located on the side and rear elevations of any building, which are plainly visible from the street, shall also be required to have architectural banding for stucco buildings or brick ledges and/or other details for brick buildings.

15. **Shutters and Window and Door Coverings.** No exterior windows or doors of any building or other Improvements shall be covered by any shutters, boards, or similar type window coverings; except such as may be required for protection from severe storms and only then during the actual period of any such severe storm and the period within 24 hours before and 24 hours after an anticipated severe tropical storm or hurricane; nor shall any such windows or doors be covered by or coated with any foil or other reflecting or mirrored materials. The foregoing restriction shall not be construed as a prohibition against decorative exterior shutters located to the side of or over window or door openings.

16. **Exterior Air Conditioning and Swimming Pool Equipment.** All air conditioning, swimming pool and other mechanical or electrical equipment or the like located outside of a residential dwelling or other building or outbuilding shall be screened from the view of street rights-of-way, lakefronts and adjacent or neighboring properties by opaque walls attached to and made an architectural part of each single family residential dwelling and otherwise in conformity with the applicable provisions of the Architectural Standards and Guidelines, if any, or as otherwise approved by the Architectural Review Board. Absolutely no window or wall mounted air conditioning units of any type shall be permitted.

17. **Fences and Walls.** Other than those constructed by Developer or the Association within the Wall and Landscape Easements established pursuant to the Declaration of Covenants, Conditions and Restrictions of Marsh Harbor, no fences or walls shall be erected on a Lot unless first approved by the Architectural Review Board. The height of all fences or walls shall be no higher than four (4) feet and no fence or wall shall extend toward the front of the Lot past the rear wall of the dwelling. All fences and walls shall be constructed of decorative wrought iron or clad aluminum.

18. **Swimming Pool Screens.** No swimming pools shall be enclosed by any screen, screening or other enclosure or under a roof of any kind unless the same shall be located entirely within the building setback lines otherwise established for the main residential dwelling on a particular Lot, are constructed of materials which match and/or are otherwise architecturally and/or aesthetically compatible with the main residential dwelling on such Lot and are otherwise architecturally treated as a part of such residential dwelling.

19. **Exterior Building Materials, Finishes and Colors.** All exterior building materials and finishes shall be consistent with other homes found within planned unit developments within a three mile radius of this community. Exterior building colors shall be limited to earth tones for the main body color when paint or stone is used to cover the exterior. Brick colors may vary from earth tones. No buildings shall be colored in a manner that detracts from the other buildings within the community. The Architectural Review Board will not approve very bright, very dark or primary colors. Trim colors shall compliment the main body color and shall not detract from other buildings within the community. The foregoing restriction shall be equally applicable to the initial painting and as any subsequent painting of any Improvements. Uncovered or exposed (whether or not painted) concrete or concrete block shall not be permitted as the exterior finish of any building, structure or wall unless approved by the Architectural Review Board.

20. **Exterior Lighting.** Exterior lighting or illumination of buildings, parking areas, sidewalks, driveways, yards, landscaping and trees shall be designed and installed so as to avoid visible glare (direct or reflected) from other adjacent or nearby properties, including the Common Streets and Roads. Special exceptions to such specifications may be approved by and within the discretion of the Architectural Review Board upon a reasonable showing of good cause therefor.

21. **Garbage and Trash and Equipment Storage Areas.** All exterior garbage and trash and exterior storage areas shall be enclosed either by landscaping of a substantial height and volume or a wall composed of materials substantially similar to, but not attached to, the residential dwelling, in order to block the view from the street of all equipment and trash receptacles. All such areas shall be adjacent to the main dwelling on the property.

22. **Street Side Mail and Other Delivery Boxes.** All street side mailboxes or other delivery boxes or receptacles shall be of one particular type or design specified by the Architectural Review Board so long as such designated type or design, in the case of mailboxes, meets applicable rules and regulations of the United States Postal Service.

23. **Underground Utilities.** All utility lines and facilities within the community shall be located and installed underground or concealed under or within a building or other on-site Improvements; provided, however, that the foregoing restriction shall not be deemed to prohibit (a) temporary electric power and telephone service poles and water lines which are incident to the ongoing construction of approved Improvements, provided that the same are removed immediately following the completion of such construction; (b) above-ground electric transformers, meters and similar apparatus properly screened and as approved by the Architectural Review Board; or (c) permanent outdoor safety/security light poles which have been approved by the Architectural Review Board.

24. **Cable Television.** Each single family residential dwelling constructed on Residential Property shall be wired to receive and accept cable television service. The cost of the installation and maintenance of the internal cable television system for each single family residential dwelling on Residential Property and the connection thereof shall be borne by the Owner of each Lot. It is expressly provided, however, that notwithstanding such requirement, neither the Developer nor the Association shall have any responsibility or liability to anyone whomsoever or whatsoever, including, without limitation, any Owner, for any failure, deficiency or malfunction of any internal cable television system or the cable television system serving the community from time to time.

25. **Landscaping and Hardscaping.** The entire surface area of each Lot which is pervious, open and uncovered by buildings, structures, driveways, walkways, parking areas, sidewalks, swimming pools, decks, patios or other impervious surfaces shall be landscaped with lawn grass, ground covers, shrubs, bushes, trees, flowers and other plant materials or vegetation. All landscaping and hardscaping shall be installed promptly after the completion of construction of the principal residential dwelling on a Lot and in any event prior to the issuance of a Certificate of Occupancy by the County.

26. **Grass.** No type or variety of lawn grass other than of the St. Augustine variety shall be planted or installed on Residential Property. The planting of lawn grass on Residential Property shall be accomplished by the installation of full sod covering the entire area required to be grassed. Partial sodding, sprigging, plugging or seeding shall not be permitted.

27. **Trees.** Included in the landscape investment, each lot owner shall plant a minimum of three (3) "street trees" which may include but not be limited to magnolia, live oak, laurel oak, river birch, bradford pear, or drake elm. Feature palm trees, excluding palmettos or sago palms shall count towards the street tree allotment. Each street tree, other than palm trees, shall be a minimum of three-inch caliper diameter at breast height.

28. **Artificial Vegetation.** No plastic, vinyl or other type of artificial vegetation shall be permitted on the exterior of any building on Residential Property.

29. **Irrigation Systems.** All landscaped and grassed open areas on a Lot shall be irrigated by means of an automatic underground irrigation or sprinkling system capable of regularly and sufficiently irrigating all lawns and plantings within such open areas, including open areas, if any, existing between the platted street or road right-of-way contiguous to the particular Lot involved and the curb of the street or road located in such right-of-way.

30. **Landscaping Requirements Around Side and Rear Yards.** All side and rear yards that are plainly visible from the street shall have beds running along the perimeter of the building or other permanent improvements and shall have five gallon shrubs planted not more than two and one half (2.5) feet apart from each other. Landscaped beds shall, wherever practical, extend beyond the front elevation of the home to soften the partial view of the side elevations for residences that do not have plainly visible side yards.

31. **Docks and Boathouses.** No dock or boathouse shall be constructed on a Lot or on or over State-owned lands or waters of the Intercoastal Waterway adjacent or contiguous

to a Lot except for the private use of the Lot owner and only if such dock or boathouse shall be in compliance with the following requirements:

- a. A permit or permits for any such dock or boathouse and any dredging, filling or vegetation removal required in connection with its construction shall have first been issued, if otherwise required, by the County, the STJWMD, the State of Florida Department of Environmental Protection, the United States Army Corps of Engineers and such other governmental authorities, if any, as shall have jurisdiction of or over the construction of docks or boathouses on the Intercoastal Waterway.
- b. Only one (1) dock or boathouse shall be permitted for each Intercoastal Waterway Lot.
- c. All docks and boathouses shall comply with the terms of that certain Conservation Easement (Application Nos. 4-109-0180A, 12-109-0073A) recorded or to be recorded in the public records of St. Johns County, Florida.
- d. All docks and boathouses shall be set back not less than fifteen (15) feet from a side yard Lot line.
- e. No dock or boathouse shall contain bathrooms or built-in cooking facilities (other than barbeques) or otherwise be constructed in such fashion as to contemplate occupancy as a living space, whether temporary or permanent.
- f. **Seawalls or Bulkheads.** No seawall or other bulkhead shall be constructed on a Lot or on or in State-owned lands or waters adjacent or contiguous to a Lot.

**32. Precedence Over Less Stringent Governmental Regulations.** In those instances where the covenants, conditions and restrictions set forth in these Guidelines set or establish minimum standards in excess of applicable Governmental Regulations, including, without limitation, building, zoning, land use and environmental regulations, the covenants, conditions and restrictions set forth in these Guidelines shall take precedence and prevail over less stringent Governmental Regulations.

**33. Waivers, Exceptions and Variances by Developer.** Notwithstanding anything to the contrary set forth in or which may otherwise be implied from the terms and provisions of these Guidelines, Developer specifically reserves exclusively unto itself, for the duration hereinafter specified, the right and privilege (but Developer shall have absolutely no obligation) to: (a) grant waivers with respect to any existing or proposed future deviation from, or violation or infraction of, the building restrictions specified in these Guidelines where, in the discretion of Developer, Developer shall determine or decide that such deviation, violation or infraction is de minimus, minor, or insignificant, (b) grant waivers of, exceptions to, or variances from, the building restrictions specified in these Guidelines where special conditions and circumstances exist which are unique or peculiar to a particular Lot and not generally applicable to other Lots (e.g., because of its size, configuration, unusual location or other unique characteristics) or where a literal interpretation or application of any such building restriction to a particular Lot would be inappropriate, inequitable or otherwise work or result in a hardship or deny such Lot and

the Owner thereof specific rights which are generally enjoyed by other Lots and Owners; it being expressly provided, however, that, in all cases, Developer, in its exercise of such right and privilege shall, in its discretion, determine or decide that its grant of any such waiver, exception or variance shall not result in, represent, be or constitute a significant deviation of or derogation from (a) the plan of development for the community, and (b) the objects and purposes of these Guidelines. Developer shall have such right and privilege to grant waivers, exceptions and variances, as aforesaid, until either (a) the expiration of a period of twelve (12) years from the date of the recordation of the Declaration of Covenants, Conditions and Restrictions of Marsh Harbor among the Public Records of the County or (b) the sale by Developer in the ordinary course of business, and not in bulk, of all Lots in the community, whichever shall last occur. Following the occurrence of the last of the foregoing events to occur, the right and privilege of Developer to grant waivers, exceptions and variances, as aforesaid, shall be delegated and assigned by Developer to and thereafter vest in the Architectural Review Board. To the extent that any such waiver, exception or variance is granted in a particular instance or with respect to any particular Lot or Improvement pursuant to the provisions of this Section, as aforesaid, the same shall not be deemed to be a precedent for the granting of such, or any similar, waiver, exception or variance in any other particular instance or in respect of any other particular Lot or Improvement.