

# Water Oaks Regatta Homeowners' Association

## Architectural Guide

April 2013



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# **Water Oaks Regatta Homeowners' Association Architectural Guide**

## **Applicable Provisions of the Covenants**

All of the provisions of the Covenants relating to architectural control of buildings, lots, docks, moorings and boat lifts are contained in Article V (Architectural Controls) and select parts of Article X (Use Restrictions). These provisions are attached hereto in relevant part as Appendix B and C, respectively.

## **Purpose of Architectural and Other Controls**

There are essentially four areas of architectural or other controls that all owners should be familiar with. These are external structure controls, landscaping reviews, docks and moorings oversight and approval of all boat lifts.

All of these controls serve the same basis purpose—to enhance the interests of all owners in this Association by promoting consistence in harmony of external design and appearance of townhouses and related structures; by seeking uniformity in dock and mooring alterations in harmony with the existing dock and mooring environment, along with safety and view considerations; by providing oversight for <sup>1</sup> appropriate landscaping projects; and, finally, to ensure compliance with the rules<sup>2</sup> relating to installation of a boat lift .

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1 Landscaping oversight is within the jurisdiction of the Yards & Grounds Committee under Article X, Section 13 of the Covenants. Accordingly, landscaping procedures are not addressed in this Architectural Guide.

2 Approval of boat lifts is a matter for the Board of Directors upon the advice of the Docks Committee under Section 24 of the Covenants. Accordingly, all issues relating to installation of a boat lift, including boat lift related alterations of docks and moorings, are not addressed in this Architectural Guide.

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## **Board of Directors and the Architecture Committee**

No building or structure may be erected on, or any exterior addition, change or alteration therein, until the plans and specifications have been submitted to the Association and approved in writing (Article V, Section 2). Similar requirements are imposed on alteration of docks and moorings (Article V, Section 11). The Association may act through the Board of Directors or by an Architecture Committee (Article V, Section 2). With rare exceptions, in this Association the Architecture Committee is responsible for all initial architectural decisions.

## **General Principles of Architectural Control**

### **Exterior of Townhouses**

As a general rule, the exterior of a townhouse may not be changed structurally or in exterior design or appearance without the approval of the Board of Directors or the Architecture Committee. The guiding principle for approval of such a change is whether it is in conformity with and in harmony with the external design of existing structure and in accordance with the original plans and specifications. Particularly important is the desire to maintain consistency of building appearance on the street side of the Association. Consistency may not be deemed as important on the water side of the Association.

Water Oaks is over two decades old and many architectural applications have been approved, and some disapproved, over the years. Architectural precedent is an important principle and not to be lightly disregarded. One of the objectives of this Architectural Guide is to introduce owners to specific examples of past approved practices.

### **Structures on Lots**

Structures of any kind on lots must be approved by the Board of Directors or the Architecture Committee. The most common structures that are approved after some detailed review are patios, waterfront decks, and

waterfront retainer wall structures. Any owner who believes some structure will enhance the use of his or her property and is in harmony with the appearance of the neighborhood should submit an application to the Architecture Committee for review.

There are certain structures on lots that are simply prohibited. Any structure of a temporary or permanent character, such as a tent, shack, barn, tree house or storage shed may not be constructed or maintained on any lot (Article V, Section 7). Similarly, no fence shall be allowed in either the front or back yard of any lot, with the exception of the existing fence associated with unit 100 (Article X, Section 16).

### **Architectural Control of Docks and Moorings**

Docks and moorings are under the same architectural review controls as buildings and lots. To date, there are no automatic pre-approved alterations applicable to docks and moorings.

The same structures prohibited on lots are also not permitted on docks (Article V, Section 7). As a practical matter, a storage shed is the only structure noted that would appear to be applicable to, and prohibited for, a dock.

### **Routine Replacement, Repair and Restoration**

Routine replacement, repair or restoration of existing exterior structures does not require approval of the Architecture Committee. It is the responsibility of each owner to ensure the action contemplated is limited to maintaining such structure in its prior existing architectural mode.

### **Architectural Control Procedure Projects Requiring Approval**

The architectural control procedure is very simple. Except for projects approved in principle in advance as noted below, all exterior projects must be approved on a case-by-case basis by the Architecture Committee. All you have to do is decide what you would like to accomplish. Then submit the plans and specifications for your project to the Architecture Committee—usually the Committee chair or a designated alternate. A sample application form is set forth as Appendix A.

The date of receipt of the application by the Committee will be recorded on the application. The Architecture Committee chair and such designated alternate will be noted in the monthly minutes of the Board of Directors, with special instructions, if any, applicable for the subsequent month.

Committee meetings will be scheduled as necessary to consider applications, but approval or disapproval may be accomplished by telephone or e-mail polling of Committee members. In either event, participation by a majority constitutes a quorum for the purpose of considering the application—with a majority vote of such participants sufficient for approval. If any member of the Architecture Committee so requests, a meeting of the Committee will be scheduled with the applicant and other interested owners, if any, invited to attend.

As soon as possible after receiving the application, the Committee will post a notice on the Association bulletin board at the swimming pool to providing public notice to all other owners of the application and the date it was filed. If the project is unique or, under the circumstances, would appear likely to be of special interest to a neighbor, the Committee may provide personal notification by mail, e-mail or telephone to such potentially interested owners.

If the Committee has any questions or needs further information, it will seek further help to clarify matters.

It is always helpful if an applicant discusses his or her plans with their neighbors in their building so that the neighbors are not surprised by the request. While the approval of such neighbors is not required, it never hurts to be able to tell the Committee that no one in the building has any objection.

Ordinarily, the Committee has a maximum of 30 days to approve or disapprove the application. Every effort will be made to take prompt action. If the Committee fails to act within the time specified, further approval is not required and you may proceed as if the application were approved.

## Projects with Advanced Approval

There are some improvement projects that have been essentially approved in advance. They will all be discussed in more detail below. All the Architecture Committee wants from you for pre-approved projects is notification in writing on the standard application form (Appendix A) that you intend to proceed in accordance with pre-approved specifications described in the applicable guideline herein or an addendum to this guide. Examples of such pre-approved improvements include installation of a designated metal roof, installation of a designated garage door, installation or use of designated devices for storm and hurricane protection, replacement of cedar siding with Hardie™ board, and replacement of a flat roof on the waterside with an appropriately sloped roof. Installation of a natural gas electric full-house generator has been approved in principle, subject only to a review of the architecturally appropriate location of the external unit.

### Specific Types of Projects Roofs



**Tile-metal Roof Comparison**



**Interior Unit Roof**

With continued problems involving the original cement tile roofs in Water Oaks, the Association has pre-approved and encourages installation of an ALLMET (formerly “Dura-loc”) brand metal roof, Signature Series, Profile #12

Continental, Color #60, Autumn Gold. Units within Association have different roof configurations. The original decision to permit a transition to a metal roof was based on a presentation given to the Board of Directors by Collins & Associates Commercial Roofing when the company was a representative for Dura-Loc. To arrange for installation of the ALLMET product, contact the company via <http://www.allmet.com/contactus.aspx>.

As a general rule, an owner electing to install a metal roof should install the new roof on all roof areas associated with the unit. This rule clearly includes the roof of detached garages and any first story roof on the street side of the unit. On the other hand, a roof over a waterside screen porch may logically be exempt from the full replacement rule. The Architectural Committee also notes that some units share a common roof with no logical break between them. This feature appears to dictate that units with common roofs would have to convert to a metal roof at the same time just due to installation restraints.

The Architecture Committee suggests that any owner contemplating installing a new metal roof poll some of the owners who have done it and get up- to-date recommendations for installers.

Obviously, an owner may replace the tile roof with a tile roof of the same or similar design and appearance. Whether a new style tile roof meets the architectural standards of the Association should be submitted to the Architecture Committee for review and approval.

## Garage Doors



**Unit 208 New Approved Door Unit**



**206 Old Original Wood Door**

The original garage doors are made of wood panels that deteriorate and are very expensive to replace. Accordingly, the Association has pre-approved Raynor- Centura Millcreek design in the color brown—paint if necessary. Raynor Corporation telephone 1-800-472-9667; website is [www.raynor.com](http://www.raynor.com) for complete information & to download a brochure. Raynor-Centura dealers are Pickard’s Garage Doors, Pace, FL, 850-994-7201; Southern Door Company, Dothan AL, 334-792-0962. You can pick up or have doors delivered and have a local contractor install it.

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## Exterior and Trim Paint



**Light Brown Shade for siding**



**Dark Brown Shade for Trim**

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Section 4 of Article X (Use Restrictions) states that, with respect to siding and trim colors, the goal of is a uniform color standard throughout the entire Association. Experience has demonstrated that this is no easy task as owners follow their own dictates. It is clear that owner awareness and cooperation are essential if a consistent color scheme on a building-by-building basis is to be attained.

There has been some confusion as to what the proper colors are. Here is the standard: Wonder Shield exterior latex flat paint or comparable quality of paint. The light brown shade for siding is "Butternut SH88". The dark trim shade is "Oxford Brown".

Previously, the WOHA recommended a couple of local stores for the two above paint colors and also registered them at Lowe's in Fort Walton Beach. One of the local stores has closed and sometimes the paint obtained elsewhere did not match the original paint colors. To help ensure color uniformity, the Architectural committee has implemented a new approach. Color matching will now depend on a pair of small wooden boards painted with the trim and siding colors. The Architectural Committee chairperson will keep one pair and Panhandle Management, LLC, 1049 John Sims Pkwy, Suite 1, Niceville, FL 32578 will keep the other pair. Homeowners may borrow either pair, take them to any paint store that offers color matching, and be confident that the colors are correct.

### **Generators (Full House)**



**Generator End Unit 500**



**Generator End Unit**



**Two Generators on End of Building**



**Generator (Interior Front) Unit 208**

Full unit natural gas generators have been approved in various places for both end and interior units. These installations are pre-approved subject to location and camouflage issues to be set forth in an application.

## Hurricane Protection



**Electric Overhead Shutters:**



**Units 810 (stowed) and 200 (deployed)**



**Vertical Horizontal Expanding Unit 208**



**Lexan™ Shutters Unit 600**

Installation of hurricane and storm shutters to protect your property is encouraged—and governed under the provisions of Section 11 of Article X of the Covenants. All five of the common hurricane shutter protectors are pre-approved so long as the installation is architecturally consistent with the exterior of the unit.

Two measures are approved only for use for the duration of actual hurricane and storm danger—plywood and aluminum protection. Both of these are just architecturally tacky, so they go up when needed but are removed and stored when not needed. These are the least expensive and the materials can be obtained at Lowe's, Home Depot, lumber outlets, etc.

A third approach is similar in installation method to plywood and aluminum shuttering—except it is an attractive semi-transparent material called Lexan™. Units 500 and 600 have Lexan™ hurricane shutters. While somewhat more expensive than aluminum hurricane shutters, the Association has approved Lexan™ for absentee owners to leave installed throughout the hurricane season.

Two other types of hurricane protection are permanent installations that are self-storing. Both are designed to be deployed manually or electrically upon the approach of a storm and to be retracted within a reasonable time after the danger has past. One type stores the protective cover in a container installed over the area to be protected which is then deployed and retracted vertically by an electric motor. Units 200-202 and 810 have

this type of installation. The other type stores the protective cover accordion style in a container installed vertically at the edges of the area to be protected. It is then manually deployed horizontally across the area to be protected. Unit 208 has this type of installation.

Each of these methods of hurricane protection has pros-and-cons related to ease of use and expense. All are effective. Take the time to talk to an owner with each type of protection. It may keep you from getting something not satisfactory for you.

### **Impact and Wind Resistant Doors and Windows**

If an owner is considering replacing windows and external doors, serious thought should be given to high impact-wind resistant doors and windows as an alternative to shutter type hurricane protection. Proposals for such items must be submitted for Architecture Committee approval.

These products are available in a wide variety of styles, including picture windows, sliding glass doors, French doors, casement windows and the like. These products are relatively new on the market and expensive. However, when the cost of other hurricane protective measures is considered, they present an attractive alternative to standard windows and doors. Virtually all established manufacturers, including Pella and Anderson, carry these products.

### **Screen Porch Enclosure**



**Two Porch Enclosure Glass Examples**

Proposals for glassing in screen porches are required to be presented to the Architecture Committee with plans and specifications. There is such a variety of water side so-called “screen porch” enclosures that it is impossible to imagine the Architecture Committee not approving any reasonable proposal. The rule applied in the past is that glassing in a screen porch is fine if it does not deviate from existing variations of glassed in porches. The current practice is to permit the Chair of the Committee or a designated alternate to review the application and approve architecturally sound proposals.

## Patios



## Various Patios

The point here is that patios are an extremely popular feature to add to a unit and the above pictures illustrate the variety. Each patio has unique characteristics and impacts differently on the environment and adjacent neighbors. Accordingly, each patio proposal must be submitted to the Architecture Committee for approval based on the plans and specifications. As a practical matter, considering the number and characteristics of existing patios, it is unlikely that a reasonable proposal would be disapproved.

## Waterfront Decks



### Various Waterfront Decks

Water Front decks are also a very popular improvement to properties in Water Oaks. None of them seem to be alike. The above pictures are simply four illustrations. Due to the obvious effect on the waterfront and view, all proposals for waterfront decks must be approved by the Architecture Committee based on plans and specification submitted by an owner. Each application is considered on a case- by-case basis, with likely insistence on input from neighbors.

## ***Retaining Walls***



It is clear that in appropriate circumstances the Association will approve retaining walls and sea walls. All of these projects require review and approval by the Architecture Committee. Generally, these structures are approved to solve an overriding problem with erosion or potential collapse of the shore line bank behind a unit. Another reason to approve a sea wall might be to enhance the utility of a dock. These proposals will be considered on a case-by-case basis.

## **Siding**



**Unit 600 Hardie™ Board**

Replacement of the original unit siding may be either the same original cedar boards or Hardie™ board. All of Unit 600 currently has Hardie™ boardsiding. Units 500, 502, and 610 have replaced most of the cedar siding with Hardie™ board. Hardie™ board is highly recommended as a substitute for cedar siding. Hardie™

board replacement is pre-approved with only an information application submitted to the Architecture Committee for its records.

## Driveways

The original driveways are concrete. Since some homeowners have a problem with flooding from the driveway into the garage, the association approved the use of cobblestone pavers to replace the concrete driveways and walkways. The following are the only approved pavers:

**Manufacture: *Sims Stone***

**P.O. Box 4049, Muscle Shoals, AL 35662**

**1-800-242-2591 --- (256) 381-8402**

**Style: ..... Choctaw Rectangular and Squares**

**Color:..... Cherokee Blend (Red/Buff/Charcoal)**

**Pattern:..... Brokeline with Combo Border**

Below is a list of local installers that can install the approved pavers, or the equivalent. It is still the responsibility of the homeowner to get the Architectural Committee’s approval of the installation before it can begin.

**Local Installers:**

- Five Star Outdoor Living, P. O. Box 5081, Niceville, FL
- Polly’s Concrete Products Inc, 1466 Cedar St Niceville, FL 32578
- First Globe Stone, 390 S. Geronimo St., Suite 101, Miramar Beach, FL, 32550, Phone: (850) 650-9955 / (850) 699-0197 / Fax: (850) 650-9908

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## Dock Features (height, width, et seq.)



**4’ Dock, uniform height above water**



**5’ Dock, w/step down height, units 504-506 units 500-502**

The starting point for architectural control of docks and moorings is the criteria that our dock and mooring environment should be generally retained in “conformity with and in harmony with the design of existing docks and a simple dock environment.” (Article X, Section 3(b)) To date, there are no advanced pre-approved alterations to docks and moorings, so an application should be completed for all proposed alterations to docks and moorings. The only specific alteration to a dock recognized in the Covenants is potential addition of a finger dock in the boat lift provisions.

There are considerations other than architectural harmony and consistency when considering dock and mooring proposals— namely, view and safety issues (Article V, Section 11). For example, an application involving electrical alterations should provide enough information to support a finding of a safe installation in the context of a waterfront dock and moorings. In most situations, having the work done by a licensed professional should suffice.

There are a few examples of variations in docks. The 4’ wide dock with a standard height above the water is pictured above for units 504-506. Heights of pilings above the docks vary. This is consistent with the original

installation of all docks. The dock for Units 500-502 pictured above has a unique construction due to its exposed position in deep water. It is 5' wide to promote stability and has the last 50 feet or so stepped down closer to the water to promote hurricane survival from loose boats. Hopefully, the rising water will float loose boats over the outer part of the dock. Repairs to docks may be made without approval of the Association.

### **Satellite Dishes**

Installation of satellite dishes without unreasonable interference by the Association is a protected right under Federal regulations. Section 5 of Article X (Use Restrictions) was adopted to provide the basis for an owner to install satellite dishes and other external antenna and should be consulted..

### **Unit Delivery Boxes**

It is not unusual for notices and message to be hand delivered to the front door area of each unit. An owner may want to provide a small receptacle in the vicinity of the front door for these materials to be deposited. No approval for such boxes at appropriate unobtrusive locations is contemplated. However, owners should be aware that Section 17 of Article X (Use Restrictions) provides that "[n]o letter and other delivery boxes, other than what has been provided by the United States Postal Service, will be allowed on any lot \* \* \* ." This delivery box prohibition is construed to apply only to delivery boxes similar to a mail box place on the street.

### **Gutters and Downspouts**

A survey of the units for gutter and down spout installation basically indicates that whether and to what extent gutters are installed on a unit is at the election of the owner. Most units in the Association have some gutter coverage, but it is not unusual for one or more overhang to be without guttering. The Association has never attempted to regulate the size of gutter, though contractors recommend the larger gutter to prevent water from overshooting the gutter. Gutters and down spout should be dark brown in color similar to the standard unit trim color.

# APPENDIX A

## Architectural Review Application

Water Oaks Regatta Homeowners Association, Inc.

4400 Highway 20 East, Suite 312

Niceville, Florida 32578 Phone: 850-897-9400

E-mail: admin@bwms.gccoxmail.com

Please attach the requested documents for construction, renovations, additions, and roofing projects.

### Important requirements, read carefully!

No work, improvements, or tree removal may commence on the designated lot, until this application has been signed, approved and picked up. Any changes made to previously approved applications must be made in writing, signed and approved by the Board. This application is valid for sixty (60) days from the approval date Applicant must resubmit the application if construction has not commenced within the sixty (60) days. The new approval process must be completed before commencing with the project.

During the construction period, Applicant and Builder are responsible jointly and severally for fulfilling the requirements set forth herein.

However, Applicant acknowledges and agrees that he is solely responsible for repairing any damage to the edges of the roadway abutting the lot and repairing any damage to any roads or landscaping caused by their contractor or subcontractor during the period of construction on the lot. Therefore, it is essential that your builder or contractor acknowledge responsibility by signing in the designated space. All contractors shall have legible lettering on their work vehicles so they can be identified. Such vehicles cannot be left on a homeowner's property between jobs. Owners are responsible for contractor's actions and notifying them of our rules and requirements.

I have read and agree to abide by the requirements set forth in this application and the recorded Covenants and Restrictions of Water Oaks Regatta Homeowners Association, Inc. Please print or type information and then sign on the appropriate line.

Applicant: \_\_\_\_\_ Home Phone \_\_\_\_\_

Work Phone: \_\_\_\_\_

Street Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Builder/Contractor: \_\_\_\_\_ Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Business Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Received: \_\_\_\_\_ Received By: \_\_\_\_\_

Date Picked-up: \_\_\_\_\_ Received By: \_\_\_\_\_

Date Reviewed: \_\_\_\_\_ Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_

By: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Approval does not relieve the Applicant or the Contractor from compliance with all applicable building codes and any County, State and Federal requirements.

Applicant or Contractor must also be in full compliance with all Water Oaks Regatta

restrictions and covenants unless specifically waived by the Board in writing.

On page two please check the applicable box, answer all questions pertaining to your particular type of request and follow instructions, carefully.

**Addition**

Provide site map with the location of the improvements with all setbacks, architectural drawings and exterior material list with samples. Permits must be posted on the property during construction.

**Renovation**

Provide a list of improvements, exterior material list with samples, site drawings, and contractor information. Permits must be posted on the property during construction.

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Please use the space below to add any other pertinent information.

## **Appendix B**

### **WaterOaks Covenants**

#### **Article V – Architectural Control**

Section 1. PURPOSE OF ARCHITECTURAL CONTROL. A guiding purpose of architectural control is to maintain consistency of building appearance on the street side of the Association, along the bayou to conserve the view from units and access to the water, to minimize adverse impact upon privacy and to promote the safety of persons and property.

Section 2. PRIOR ASSOCIATION APPROVAL REQUIRED; SUBMISSIONS. No building, fence, wall or other structure however described or of whatever kind or nature shall be commenced, erected or maintained upon the property, nor shall any exterior addition to or change or alteration therein be made (including reconstruction) until the plans and specifications shall have been submitted to the Association and approved in writing as to harmony of external design and location in relation to the surrounding structures and topography: PROVIDED temporary measures to mitigate the damages or effects of casualty or water intrusion into buildings or units from other causes need not be submitted. However such measures shall be abated with thirty (30) days after the need for the same has passed. The Association may act by the Board of Directors of the Association, or by an Architectural Committee composed of three or more representatives appointed by the Board.

Section 3. SPEEDY APPROVAL RIGHTS. In the event said Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been presented to it, approval will not be required. In the instance of emergency reconstruction after natural disaster, action shall be taken within ten (10) days from submission.

Section 4. APPEAL FROM ARCHITECTURAL COMMITTEE. If there is an Architectural Committee, appeals from its decisions may be made by an applicant or voting owner who filed an objection with the committee either in writing or by personal appearance to the Board of Directors within thirty days (30) from written notification by hand delivery or mail of the decision. The appellant shall have the right to appear before the Board and be heard at a special meeting time fixed by them [it?], which time shall be expedited. Failure of the Board to act on the appeal within forty five (45) days from receipt by the President of the appeal notice shall be automatic approval, provided in the case of untimely appeals the time for the Board to act on the appeal shall not begin to run until it has acted upon any application made in the appeal for waiver of the time requirement for good cause shown in writing if such is included in the appeal notice itself. No oral hearing need be granted on any such application for time waiver.

Section 5. OTHER PARTIES TO PROCEEDING. Voting owners who filed a written objection with the architectural committee or board may also be present at either such proceeding and shall if they request also be heard.

Section 6. TIME TO ARBITRATE BOARD DECISIONS. Decisions of the Board (including decisions in architectural appeals) must be submitted for final binding arbitration by an applicant, objecting voting owner, or other voting owner adversely affected in fact within thirty (30) days of written notification by hand delivery or mail, or when the same was earliest known or should have been known in accordance with the arbitration provisions hereto.

Section 7. UNIFORM ARCHITECTURAL STANDARDS. The Architectural Committee may adopt uniform standards, after notice to the membership and opportunity for comment, which standards shall be subject to approval by the Board. After approval, they shall be published as an appendix to the minutes of the meeting, and shall come on as a special order of business at the next membership meeting which shall be set no sooner than thirty (30) days from distribution thereof. Unless amended by a majority of a quorum at the next ensuing meeting they shall be deemed approved. A member intending to seek amendment thereof shall give fifteen days prior notice of and a copy of such proposed amendment to the President. The standards shall take effect immediately upon conclusion of such a meeting. Any amendment relating to

electrically operated boat lifts or electrically operated wave runner lifts must be adopted by 2/3 of the voting members.

Section 8. VARIANCES. In instances of demonstrated hardship, special circumstances, or manifest and innocent error the Architectural Committee may allow departures or variances from its standards, either with or without agreement limiting the use to which alterations can be put. In the former case, such agreements shall be specifically enforceable by the Association by mandatory injunction in addition to the enforcement provisions otherwise provided in this declaration. The granting of such departure or variance shall not be a basis for a contention that there has been a general waiver of the standard. Such a variance shall not prevent enforcement of any substantive restriction or provision of the covenants relating to architectural control by an individual voting owner hereof within thirty (30) days of written notification by hand delivery or mail. Notice of any variance and basis for the same shall be distributed by verified mail to the membership by the party obtaining the same which notice shall advise the membership of their right to appeal within ten (10) days. Proof of such mailing shall be filed with the secretary of the board and ten days (10) there after the applicant may proceed unless there has been an appeal filed within that time with the Board. Any voting member may within ten (10) days from mailing file a written appeal with the Board from the granting of such a variance. The time periods and procedures specified in section 4 through 7 above shall apply to such an appeal. The Board may at its option in lieu of a hearing refer with ten (10) days the matter to arbitration, which arbitration shall be expedited.

Section 9. STANDARDS FOR GRANTING VARIANCES. The Architectural Committee shall adopt standards for granting variances, after notice to the membership and opportunity for comment, which standards shall be subject to approval by the Board. After approval, they shall be published as an appendix to the minutes of the Directors' meeting, and shall come on as a special order of business at the next membership meeting which shall be set no sooner than thirty (30) days from distribution of the standards. Unless amended by a majority of a quorum at the next ensuing meeting they shall be deemed approved. A member intending to seek amendment thereof shall give fifteen days prior notice thereof and a copy of such proposed amendment to the president. The standards shall take effect immediately upon conclusion of such a meeting. PROVIDED HOWEVER that if the standards include any provision for granting a variance for an electrically operated boat lift or electrically operated wave runner lift, that standard shall require a 2/3 approval of the voting members.

Section 10. FORBEARANCE FROM ENFORCEMENT. Failure or forbearance by the Association in enforcing a standard, restriction or covenant relating to architectural control in an isolated instance or instances shall not be a general waiver thereof, nor shall it prevent an individual voting owner from seeking enforcement through arbitration commenced within one (1) year of the violation or thirty (30) days after such owner became aware of the violation whichever occurs first. If the remedy for the violation requires that work be undone or expense incurred that would have been avoidable had the objecting party acquired knowledge of the violation through due diligent, the arbitrator may require that the objecting owner participate in a part, or all, of the expense required to cure the violation. The Board at its option may intervene in such an arbitration to protect the interest of the Association.

Section 11. DOCKS AND MOORINGS. Inasmuch as the boat docks are on sovereign submerged land and are the subject of consent letters allowing the same at sufferance without fee, alterations therein potentially affect all owners. The electrical systems on docks pass through load centers in multi-unit buildings, and can pose both fire and shock hazards. Docks also affect view, light pollution, and water access considerations which impact the value of all units. Accordingly any reconstruction, alteration or addition to the boat docks, their electrical systems, or adjacent mooring systems are subject to architectural control.

Section 12. APPLICATION OF USE RESTRICTIONS. The provisions of this Article are subject to the requirements of Article X where applicable.

## **End of Article V— Architectural Control**

## **Appendix C**

This appendix lists use restriction in the covenants that have some architectural or other matter subject to exterior approval, such as external modification of units and associated structures, landscaping, changes to docks and boat lifts.

### **Article X—Use Restrictions**

Section 1. APPLICABILITY OF RESTRICTIONS; INTERPRETATION. These restrictions shall apply to all the land in the recorded plats of Water Oaks Townhomes, Plat Book 7 page 67, Water Oaks II Townhomes, Plat Book 8, pages 19 & 20, Water Oaks III Townhomes Plat Book 8, page 86, Water Oaks IV Townhomes, Plat Book 9 page 66, all in the Public Records of Okaloosa County Florida, the common elements associated therewith, the “buffer area” (as hereinafter defined) which consists of certain property deeded by First Mutual Savings & Loan Association of Florida to Water Oaks Regatta Homeowners Association Inc. by a deed dated May 28, 1987 recorded at Official Records Book 1404 pages 1-3 but which “buffer area” has never prior hereto been annexed in accordance with Article XI, Section 3 of the original covenants, and all the docks and moorings, appertaining to lots or common elements in any of the foregoing. With the exception of restrictions upon uses made within individual townhomes, the interpretations of the terms used herein shall be as broad and expansive as may be consistent with common understanding of such terms, it being the intent that everything is prohibited except what is duly approved through established procedures except that the things enumerated in section 7 hereof shall be absolutely prohibited without a power to grant approval or exception.

### **Conformity of Structures Required**

Section 3. REQUIRED CONFORMITY OF STRUCTURES. Unless approved for construction by the board of directors or its delegate committee, no structure shall be erected, placed or altered on any—(a) lot which is not in conformity with and in harmony with the external design of existing structures, and in accordance with the original plans and specifications; or (b) any dock or mooring which in not in conformity with and in harmony with the design of existing docks and a simple dock environment.

### **Exterior of Townhouses**

Section 4. EXTERIOR OF TOWNHOUSES. The exterior of any townhouse shall not be changed structurally, nor shall any attachment be made to such exterior without the approval of the architectural committee or board of directors nor shall the existing color design nor [sic] shade be changed except that the architectural committee shall have jurisdiction through rules ratified by the membership in accordance with Section 26 hereof to change the colors in a fashion that is uniform throughout the entire development. The intent hereof is that the colors and shades shall remain uniform throughout in all buildings on the premises.

### **Dish Antennas**

Section 5. TV DISHES /DATA TRANSMISSION DISHES

- (a) SAFETY PREAMBLE. This section is for the legitimate and clearly defined purposes of ensuring that shock hazards are eliminated, and danger of impact damage to persons, roofing tiles or other property from falling or windblown objects in hurricanes mitigated, and the health, physical injury and property damage hazards from water intrusion into building attics from improper installations are avoided. It is the agreement of all parties that this area of Florida has been noted for the frequency of lightning strikes, Hurricane, Flood and windstorm risks.
- (b) APPROVAL. No installation of any antenna, T.V. Dish in excess of one meter in diameter (or such lesser diameter as may hereinafter be provided by Title 47 Code of Federal Regulations section 1.4000), data transmission dish, or other attachment to receive electronic transmissions to any of the roofs or other portions of the structures, any dock, deck, lot, common area, or the buffer area, will be made unless and in every instance until the prior consent of the board of directors is obtained as to the placement,

location, and orientation thereof. Initial submission shall be made to the Architectural Committee, and they shall promptly make their recommendations to the board. The application for such shall not only include a sketch showing the size and location, but also shall include details as to how the power and signal cables shall be routed, details on faring installation and other provisions made to exclude water intrusion into the building, and where applicable power wiring schematics including provisions to prevent fire damage to the structures from potential lightening strikes.

- (c) APPEAL. An appeal from the ruling of the board of directors shall be prosecuted directly to the United States District Court for the Northern District of Florida, Pensacola Division as an original declaratory judgment action under Title 28 USCA Section 1331, rather than to the Federal Communications Commission. The prevailing party shall be entitled to costs and attorneys fees in the appeal, but not in the initial application to the board of directors.

Section 7. STRUCTURES PROHIBITED WITHOUT EXCEPTION. No structure of a temporary or permanent character, such as a tent, shack, barn, tree house, or storage shed shall be used, constructed or maintained on any lot or dock at any time. The listing of structures or things prohibited in this section shall not be exclusive, or all inclusive, of other such items within that generic class, it being the intent to prohibit all such facilities on or upon exterior to the units or their lots or docks.

## **Hurricane and Storm Shutters**

Section 11. HURRICANE AND STORM SHUTTERS.

- (a) POLICY AND INTERPRETATION OF RULES. In recognition of the individual and collective benefits of property protection during an emergency, owners are encouraged to take all reasonable precautions to protect their units and grounds in the face of severe weather or other imminent danger. There is nothing in the policy of this section that is intended to discourage or prohibit the installation or use of permanent or temporary storm shutters/panels or the implementation of other reasonable protective measures.
- (b) INSTALLATIONS THAT ARE A CHANGE TO BUILDING. Permanent installation of shutters/panels, shutter/panel hardware or other permanent protective device is considered a modification of the building structure subject to architectural committee review and action prior to installation.
- (c) WHEN SHUTTERS MAY BE USED. Commercially installed or homeowner prepared shutters/panels may be put up when a tropical severe weather watch, warning or similar advisory is declared for the area by the national weather service and/or local emergency management officials. Shutters/panels are to be taken down within seven (7) days after the event occurs or the watch/warning is lifted, or seven days after access to the area is allowed, whichever is later. Although the practice is not encouraged, commercially installed transparent/plastic/Lexan™ shutters may be left in place for longer periods of time, as needed by the owner.
- (d) TEMPORARY VARIANCES. The chairman/co-chairmen of the architectural committee, his/her designee or any other member of the architectural committee, has the authority without a committee meeting to grant temporary variances to the requirements of section © hereof on an as needed basis. Such temporary variance can be arranged in writing or by telephone. If, after a good faith effort, the owner is unable to remove the shutter panels in a timely fashion, such a variance is warranted. The variance however, is a temporary expedient, and not intended as a continuing approval for departure from these guidelines or as a substitute for a formal approval, or other resolution through legal processes.

## **Trees, Landscaping and Gardens**

### Section 13. TREES, LANDSCAPING AND GARDENS.

- (a) **EXISTING TREES AND NATIVE GROWTH.** It is the intent of these restrictive covenants that the trees and other native permanent growth now on the property including the lots thereof, common area, or buffer area shall not be removed unless same become diseased, are a evident danger to the any structure and/or other good cause all as determined in their sole discretion by the board of directors.
- (b) **NEW PLANTING.** All new plantings such as shrubs, hedges etc. on any lot, the common areas, or buffer area must be previously approved by the yards and grounds committee to ensure they will not obstruct neighbors view, or access to the association or its yards and grounds contractors, maintenance, drainage, or affect the irrigation systems. New plantings of trees on a lot which will not endanger a building or its associated structures may be made **ONLY** with prior consent of yards and grounds and are subject to the provisions of subsection (c). New plantings between buildings which hinder ingress for purposes of repairing damage to or perform maintenance upon structures, lots or docks will not be approved. Vegetable gardens are prohibited as well as are all illegal, noxious or obnoxious odor producing vegetation. Vegetation used for erosion control will not be removed from any lot. There shall be no planting in the common areas except with the consent of the association.
- (c) **AUTHORITY OF ASSOCIATION TO CONTROL LANDSCAPING.** The Association shall have control of landscaping upon each lot, and the yards and grounds committee, or its delegates, have the right to prune, cut, transplant, or remove any unauthorized planting, or any newly planted tree or vegetation upon any lot which adversely affect the considerations set forth in subsection (b) above after reasonable prior notice to the owner thereof, except that no prior notice shall be required for routine maintenance of now existing landscaping.

## **Fences**

Section 16. **FENCES.** No fences shall be allowed in either the front yard or the back yard of any lot, except for Lot #1, Water Oaks Townhomes, which shall contain a fence to protect the swimming pool on that lot that will be maintained in a form approved by the Association. No fences shall be erected on the lot lines between end units.

## **Mail Boxes**

Section 17. **MAIL BOXES.** No letter and other delivery boxes, other than what has been provided by the United States Postal Service, will be allowed on any lots or on the common areas.

## **Patios, Docks and Additions**

Section 22. **REQUIRED APPROVAL; PATIOS, DOCKS, ADDITIONS.** No structural alterations, erection or expansion of patios, decks or docks wherever situated, or additions/changes to the exterior of the basic structure of the units including the garages shall be made except by prior approval of the plans and specifications in writing by the Homeowners Association in accordance with the provisions for architectural control. Each unit owner or renter shall keep their portion of the building, patio, and lot neat and attractive, and perform such maintenance, both interior and exterior, as is reasonably necessary to protect the value of neighboring property.

## **Boat Lifts and Personal Water Craft Lifts**

### Section 24. BOAT HOUSES, BOAT LIFTS AND PERSONAL WATER CRAFT LIFTS.

- (a) **PURPOSE AND INTENT.** It is the purpose hereof to provide the framework for the Association to manage the installation of boat lifts under this section and rules promulgated by the Directors and ratified by the membership as per Section 26 hereof that reasonably protect the interest of owners in water view, safety, and a simple dock environment. This section and those rules should be interpreted in light of that intent and applied accordingly.
- (b) **GENERAL RULE.** Boat houses of whatever type and in whatever form and whether free standing or associated with a boat lift are prohibited without exception. Except as otherwise provided in this section, boat lifts and personal water craft lifts are prohibited.
- (c) **LOW-PROFILE BOAT LIFTS FOR POWER BOATS.** An Owner must apply to the association on its form and obtain its prior written consent to install a low profile boat lift for a power boat with respect to the dock and slip associated with such owner's unit. Upon submission of a boat lift installation application to, and approval and issuance of an Association Consent by the Board of Directors upon the advice of the Docks Committee composed of three or more members appointed by the board, installation may commence. Such proposed boat lift installation shall comply with specific limitations that:
  - (1) Such lifts shall conform to the design concept of low profile boat lifts without sides or a roof and shall not extend seaward beyond the end of the dock without the consent of the adjacent owner of the common dock accessing the lift.
  - (4) The piling supporting the lift or any part of the lift mechanism shall not exceed forty- two (42) inches above the floor of the associated common dock. Said dock floor shall be maintained at the same level as those of other docks in the development.
  - (5) The lifting cross beam shall not be raised higher than the floor of the common dock, except temporarily for maintenance on the boat or lift. If the vessel has a Flying Bridge the Directors may as a matter of administrative enforcement upon application duly made require the cross beam to be raised to a lesser extent except during inclement weather.
  - (6) Such lift shall not be rated at more than 12,500 pound lifting capacity; and
  - (7) Such installation shall comply with all applicable electrical codes with appropriate inspections and other safety requirements reasonably required by rules adopted as described in subsection (a) of this section.
- (d) **PERSONAL WATERCRAFT, DAVIT LIFTS, SAILBOATS UNPOWERED VESSELS, AND FINGER DOCKS.** Personal watercraft lifts shall be installed on a piling separate from pilings supporting the common dock and shall not rotate over the common dock. Finger docks and manually operated davits restricted to less than 500 pounds shall be considered separately. Lifts for sailboats and unpowered vessels, and powered vessels with flying bridges will be considered separately under the lift specifications in subsection © of this section with due concern for the special view obstruction problems presented by such boats. All such lifts shall meet related Safety and electrical service requirements reasonably required by applicable rules.
- (e) **FORM OF APPLICATION AND CONSENT.** There shall be a boat lift application and consent form contained in a single recordable instrument which shall be in a form prescribed by the Board of Directors. The original of this form shall be notarized and witnessed by all parties in a form recordable in the public records of Okaloosa County, and shall when granted in each instance shall be recorded by the association at the applicant's expense.

- (f) ADMINISTRATIVE ENFORCEMENT. Any owner may seek administrative enforcement of the provisions of this section pursuant to procedures adopted by the Board of Directors that shall include initial review and recommendations by the Docks Committee, followed by review and, in appropriate cases, action by the board of directors. Nothing herein shall abridge a member's right to access to court to enforce this section or rules adopted there under either as an initial recourse or subsequent to the administrative enforcement process.
- (g) CHOICE OF LAWS. Florida Law rather than Admiralty Law or Federal statutes limiting damages shall govern liability and damages in claims between members, or a member and the Association and the application shall contain a prominently displayed provision to such effect in capitalized text immediately above the line for applicant's signature.
- (h) AFTER THE FACT APPLICATIONS. Because of lift safety and property damage considerations after the fact applications may not be entertained unless the prior installation is first completely removed.

**End of Architectural Related Article X Use Restrictions**