

## ARCHITECTURAL GUIDELINES AND PROCEDURES

### I. OVERVIEW

The Board of Directors of the Association (hereinafter "the Board") has established the following outline of architectural guidelines and rules and regulations in accordance with the authority granted to them by the provisions of the Restated Covenants and Restrictions for Bal Harbour Subdivision, as amended (the "Restated Covenants") and the Texas Property Code. The guidelines are established to assure a uniform and fair interpretation of the Restated Covenants and to promote uniformity of appearance throughout the Bal Harbour community, in keeping with the powers of the Association related to architectural control and regulation of the appearance of the Subdivision. The guidelines are intended to provide all lot owners in the Subdivision with information relating to (i) the design, color, location and grade of materials which may be used in the construction of various kinds of structures and improvements, (ii) the size and location of such improvements and structures and (iii) the procedure utilized by the Association with respect to applications for proposed improvements and structures and allocations thereto.

These procedures and guidelines may be amended by the Board from time to time as the Board deems necessary and appropriate.

### II. ARCHITECTURAL REVIEW PROCEDURES

- 2.01 **Applications.** In accord with Article VII, Section 3 of the Restated Covenants, of all application for approval to make any exterior changes, additions or improvements must be submitted to the Board in writing by completing the application form currently in use by the Association. Clear, complete and final plans, drawings, and specifications for any exterior addition, change, alteration or improvement should be attached to the application. All owners are responsible for ascertaining whether or not a building permit from the City of Nassau Bay is required for the change and, if necessary, obtaining the permit. The Board reserves the right to see a copy of the permit prior to the beginning of construction, but the Association shall be in no way responsible for assuring that the new structure is built to comply with any guidelines or codes other than the Bal Harbour Subdivision Restated Covenants and these Architectural Guidelines. Any application for the addition of year-round heated or air-conditioned floor space to a townhome must include an architectural blueprint of the intended improvement. All applications, additional information, or requests for appeal shall be mailed or delivered to the office of the Association.
- 2.02 **Additional Information.** The Board reserves the right to request any additional information it deems necessary to properly evaluate any application. In the event that the Board requests additional information, the applicant shall be considered incomplete and denied until such information is submitted to the Board. The time allowance for approval shall not begin until such information is received. In the event that the Board requests additional information and the information is not received within thirty (30) days from the date of the request, the application shall be considered denied; however, the applicant may thereafter submit a new application with the requested information to the Board for its review.
- 2.03 **Board Decisions.** The Board shall consider each application for compliance with the Restated Covenants and with these guidelines. The decision of a majority of Board members to approve or disapprove an application shall be considered the decision of the Board. Board

decisions shall be conveyed in writing by the Board or the manager of the Association to the applicant and shall include a statement of the conditions under which the application is approved, if any, or the primary reason(s) for disapproving the application.

- 2.04 **Automatic Approval.** Subject to Section 2.02 above and as provided in Article VIII, Section 3 of the Declarations, any application that is not approved or disapproved within forty (40) days of the date of its receipt shall be deemed to have been automatically approved provided, however, that any such approval shall extend only to compliance with these architectural guidelines and in no event shall non-action be deemed to constitute approval of an application for any change, addition, or improvement or any other item that would violate any of the terms in the Restated Covenants.
- 2.05 **Appeal Procedure.** If an application is denied, the owner has the right to appeal the decision by requesting a hearing in person before the Board.
- 2.06 **Construction.** Construction must begin within ninety (90) days of the date of approval and be completed in a timely fashion. If the ninety-day deadline is not met, a new application must be submitted for action by the Board.

### **III. GENERAL GUIDELINES**

- 3.01 **Board Approval Guidelines.** The Board shall consider the following factors upon the review of each application for an exterior addition, change, or alteration:
- a. conformity and harmony of external design and location in relation to surrounding structures and topography;
  - b. quality of workmanship materials;
  - c. dimension, shape, height, and location;
  - d. harmony and appeal of exterior design;
  - e. structural, mechanical, electrical, and plumbing details;
  - f. nature, kind, type, and color of materials; and
  - g. such other factors as the Board may deem appropriate.
- 3.02 **Maintenance of Modifications.** All modifications and additions to existing buildings must be maintained at all times by the Owner of the Lot in a good, attractive and neat condition, as determined by the Board. As part of the approval process, all owners will be required to sign an agreement acknowledging the owners' responsibility to maintain any modifications and to make this transfer of responsibility known to any future owners.
- 3.03 **No Warranty.** The approval of an application shall not be construed as a warranty or representation by the Board that the change, addition or improvement, as proposed or as

built, complies with any or all applicable statutes, ordinances or building codes, or as a warranty or representation by the Board of the fitness or adequacy of the design.

#### **IV. SPECIFIC GUIDELINES**

##### **4.01 Paint Color.**

- a. All external building walls and structural components shall be painted Bal Harbour gray. The information on this color and paint type is available in the Association office.
- b. Horizontal deck surfaces and stair treads may be sealed with a clear, semi-transparent sealer or transparent stain. Information on approvable sealers and stains may be obtained in the Association office. No vertical surface such as deck sides and handrails may be stained, only painted with Bal Harbour gray.

##### **4.02 Fences, Decks, and Privacy Walls.**

- a. For the purpose of this document, the term 'fences' refers to vertical structures arising from the ground for the purpose of enclosing or dividing space. The term 'rallings' refers generally to vertical structures associated with the edges of decks, balconies, or stairs for the purpose of safety. In any case, the Board shall have the right to determine whether a structure is considered a fence or a railing.
- b. No application for installation of a deck or fence extending more than five feet into the common area shall be approved.
- c. Color, Height and Materials.
  - i.) Wooden Fences. Only wooden fences are permitted, unless otherwise approved by the Board. No wooden fence may be painted, stained, or varnished.
  - ii.) Balcony Rallings. Wooden balcony rallings shall be painted Bal Harbour gray. Metal or aluminum railing shall be painted black or smoke gray, as applicable for the original appearance and/or appearance of rallings on adjacent townhomes.
  - iii.) Chain Link and Wire Fences. Chain link and wired fences are not permitted.
- d. Maintenance of Fences. All fences shall be properly maintained by the Owner and portions replaced as originally constructed or approved to prevent fading, mildewing or disrepair.
- e. Deck Height. Current building codes require decks of a certain height to be equipped with handrails. The Owner is responsible for ensuring that any deck is in compliance with all Codes. This information may be obtained from the City of Nassau Bay.

- f. **Divider and Privacy Walls.** Privacy/ divider walls shall not be modified or extended on second and third level decks.

4.03 **Exterior Doors and Windows.**

- a. Exterior front doors shall be painted or stained in shades of white, gray, black, or medium to dark brown that are complementary to Bal Harbour gray. Approval of color choice is at the final discretion of the Board. These doors may be sealed with transparent stain. Because stain can degrade quickly when exposed to the elements, a stained door must be maintained by the homeowner in an attractive condition and refinished when deemed necessary by the Board.
- b. All other exterior doors shall be painted white or Bal Harbour gray as determined by original appearance.
- c. Subject to approval of the Board, front entry doors may have leaded glass inserts. Applications for approval must include a picture of the proposed door.
- d. Change from a sliding glass door to French doors requires ACC approval. French doors must be painted white or Bal Harbour gray. The Board has sole discretion to determine whether white or Bal Harbour gray is to be used on any particular door, and its decision shall be final and conclusive.
- e. Replacement of any windows in the townhome requires approval. Window frame color must remain the same as the original windows. Front windows must contain the same number of lights as in the original. If an owner is replacing a sliding glass door, it shall be replaced by the same type and color as the original.
- f. Any solar film applied to windows must receive prior approval, must be made of nonreflective materials and must be maintained, replaced or removed as necessary.
- g. Storm doors must match existing frames. All permanently attached hurricane protection devices must be approved by the Board. All temporarily attached hurricane protection installations, including masking tape and duct tape, must be removed within fourteen (14) days of the passing of the storm.
- h. Window air conditioners are not allowed in any windows. If approved by the Board, air conditioners that are not visible from any street or part of the properties may be placed in a wall.

4.04 **Exterior Lighting.** No exterior lighting shall be installed by a homeowner in such a way as to shine directly into a neighbor's window.

4.05 **Satellite Dishes.** Satellite dishes shall be attached to the least conspicuous site available. If damage results to a unit from the attachment of a satellite dish, the owner shall be responsible for all costs of repair.

4.06 **Awnings.** An awning consists of a sheet of canvas or other material mounted on a frame and used to keep the sun or rain off a window, doorway, or deck. The Board may consider requests to install permanent awnings for protection of doors or windows only in the following circumstances: the awnings must be limited in size to the width of the door or windows; installation of permanent awnings will only be considered on the rear side of townhomes; and the proposed installation must not adversely impact neighboring units. Requests to install larger, retractable awnings may be considered for cover over decks in the following circumstances: the awnings must be retracted at all times when the deck is not in use; the awning shall not adversely impact neighboring units when in use; and requests will only be considered for decks on the rear side of townhomes. In all instances, color of awning frames and cover shall be identical, or closely complementary, to Bal Harbour gray. Approval of color choice and style is at the final discretion of the Board.

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01/21/2020 12:06 PM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
DIANE TRAUTMAN  
COUNTY CLERK  
Fees \$44.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



*Diane Trautman*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

**RESOLUTION REGARDING AMENDMENT TO  
ARCHITECTURAL GUIDELINES AND PROCEDURES FOR  
BAL HARBOUR ASSOCIATION  
A TEXAS NON-PROFIT CORPORATION**

WHEREAS, the By-Laws governing Bal Harbour Association ("the Association"), as well as the Association's Articles of Incorporation, the Restated Covenants and Restrictions for the Bal Harbour subdivision (the "Declaration") and all amendments and/or supplements thereto, Chapter 204 of the Texas Property Code, and the Texas Business Organizations Code, authorize the Association, acting through its Board of Directors, to exercise all powers reasonable and necessary for the governance and operation of the Association;

WHEREAS, the Texas Property Code further authorizes the Association to regulate the use, maintenance, repair, replacement, modification, and appearance of the subdivision;

WHEREAS, the Texas Property Code provides that the Association may implement written architectural control guidelines for its own use or record the guidelines in the real property records of Harris County, Texas, and modify the guidelines as the needs of the subdivision change;

WHEREAS, the Board of Directors has adopted Architectural Guidelines and Procedures governing the Bal Harbour subdivision (hereinafter "the Guidelines"), which Guidelines may be amended at any time by the Board of Directors;

WHEREAS, the Association's Board of Directors has determined that amendment of such Guidelines is necessary and desirable to preserve the uniformity and continuity of homes and other structures within the Bal Harbour community, thereby enhancing and maintaining the aesthetic appearance of the subdivision, as well as the values of properties located within it, and in order to comply with recent changes in Texas Law;

NOW, THEREFORE, BE IT RESOLVED that the attached Architectural Guidelines and Procedures for the Bal Harbour subdivision are hereby adopted on behalf of the Association.

Adopted on this 2 day of December, 2019.

**BAL HARBOUR ASSOCIATION**

Patricia Lotz  
Signature

PATRICIA LOTZ  
Print Name


PRESIDENT  
Position

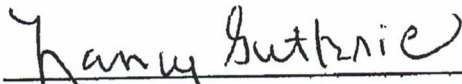
MPA  
Signature


Michael Petroski  
Print Name

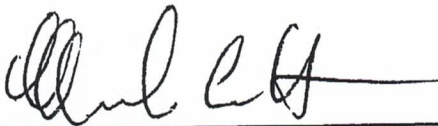
Director  
Position

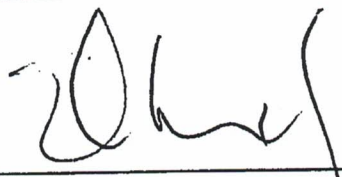
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Signature  
JOHN C. WARREN  
Print Name  
TREASURER  
Position

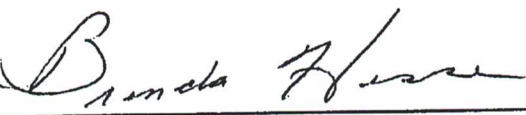
  
Signature  
NANCY GUTHRIE  
Print Name  
VICE PRESIDENT  
Position

  
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Jim Ross  
Print Name  
director  
Position

  
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MARK E. HESSE  
Print Name  
TREASURER  
Position

  
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ED MURRELL  
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DIRECTOR  
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ROY NELSON  
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Director  
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Brinda Hesse  
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Director  
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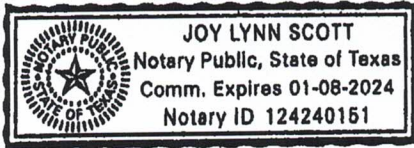
STATE OF TEXAS

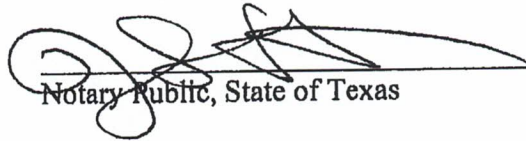
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COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared Aricia Lopez, President of Bal Harbour Association, a Texas non-profit corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he/she had executed the same as the act of said entity for the purpose and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 2 day of December, 2019.



  
Notary Public, State of Texas