

**ARCHITECTURAL AND  
LANDSCAPE DESIGN  
GUIDELINES**

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**YARMOUTH WAY CONDOMINIUM ASSOCIATION**

*Adopted June 2011*

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**I. INTRODUCTION.**

- 1.1 **Purpose.** The purpose of architectural and design review is to preserve and enhance the view of the properties in the community. The maintenance of harmonious relationships among structures vegetation and topographic features, both public and private, serves to facilitate the sense of unique community. These guidelines set forth specific criteria regarding residential building construction and site development. The purpose is to establish a standard of quality and to ensure adherence to the following general principles. Yarmouth Way is truly a unique community. Its highly desirable location offers residents the benefits of urban living in a tranquil, pastoral setting. The planning and design philosophy of Yarmouth Way is to encourage consistent quality and design expression throughout its boundaries, while allowing for individuality of architectural expression by its Owners. The Guidelines, procedures and information herein define the means by which homes built at Yarmouth Way can be compatible with each other and with their unique setting. These Design Guidelines are the criteria for judgment and form the basis of control by the Architectural Review Committee. Compliance with the spirit of these guidelines is crucial to the mutual enhancement and protection of the qualities of Yarmouth Way. These Design Guidelines may change from time to time to reflect new experiences and changing conditions without modifying their overall intent. Owners contemplating activities covered herein should obtain the most recent approved version of the Design Guidelines.
- 1.2 **Granting Clause.** Per the Declaration of the Covenants, Conditions and Restrictions for Yarmouth Way Subdivision (the “Declaration”), the Board of Directors hereby adopts these Design Guidelines (the “Guidelines”) for the purposes of guiding the Architectural Review Committee (the “Committee”) in the performance of its duties. The Declaration will control if there are any discrepancies between the Guidelines and the Declaration. The approval of the Committee shall be required for any Improvement (as the term is defined in the Declaration) to property on any site. Except (a) for any Initial Improvement to property made or approved by Declarant, or (b) for any Improvement to property which may be exempted in writing or under these Guidelines because approval in such case is not reasonably required to carry out the purposes of the Declaration.
- 1.3 **General Purpose.** The Committee has adopted the Guidelines to maintain consistency in the use and development of Yarmouth Way (the “Property”), and to avoid unnecessary and unreasonable interference with the views, natural beauty, and ecological integrity of the Property and the homesites therein. The Guidelines are subject to the Committee’s supervision and approval, and to the zoning and planning regulations of the local jurisdictional agency, and applicable federal and state statutes, rules and ordinances.
- 1.4 **Effect of Governmental and Other Regulations.** Use of property and Improvements to Property must comply with applicable building codes and other governmental requirements and regulations. Approval by the Architectural Committee will not constitute assurance that improvements comply with applicable governmental requirements or regulations, nor does approval assure that a permit or approvals are not also required from applicable governmental bodies.
- 1.5 **General.** As indicated in the listing of specific types of improvements, there are some cases in which advance written approval of the Architectural Committee is not required if the

guidelines for that specific type of improvement are followed. In a few cases, as indicated in the listing, a specific type of improvement is not permitted under any circumstances. IN ALL OTHER CASES, INCLUDING IMPROVEMENTS NOT INCLUDED IN THE LISTING, ADVANCE OR PRIOR WRITTEN APPROVAL BY THE ARCHITECTURAL COMMITTEE IS REQUIRED BEFORE AN IMPROVEMENT TO PROPERTY IS COMMENCED. All Improvements made after the effective date of these Guidelines, including alterations or improvements to pre-existing structures or Improvements, shall comply with these Guidelines.

- 1.6 **Architectural Review Committee.** The Committee shall consist of a minimum of three and maximum of seven members, initially appointed by Declarant, to review, study, and approve or reject proposed Improvements upon the Property. Until all Lots have had a Unit constructed thereon, the initial Committee shall be appointed by Declarant and shall consist of three members. The terms of the members of the initial committee shall be at Declarant's discretion. After all Lots have had a Unit constructed thereon, all subsequent appointments and the terms thereof shall be at the discretion of the Board of Directors. The Committee shall meet at the convenience of its members or may utilize the mail or phone as necessary to transact its business.
- 1.7 **Right of Waiver.** In accordance with the Declaration, the Committee maintains the right to waive or vary procedures or standards and criteria when conditions such as topography, location of property lines, trees, vegetation, and other physical limitations or architectural appropriateness require it. Any waiver or variance granted shall be considered unique and will not set a precedent for future decisions.
- 1.8 **Enforcement and Non-Liability.** These Guidelines may be enforced as provided in the Declaration. Neither the Committee, the Board of Directors for the Yarmouth Way Condominium Association, Inc., the Association itself, Declarant, the management company, nor any of their respective individual members, employees, agents, successors or assigns shall be liable for any loss, damage or injury arising out of or in any way connected with the performance and duties of the Committee unless due to the willful misconduct or bad faith of the party to be held liable. Every Owner of other person who submits plans to the Committee for approval agrees, by said submission, that he will not bring action or suit against the Committee, the Board of Directors for the Yarmouth Way Condominium Association, Inc., the Association itself, Declarant, or any of their respective individual members, employees, agents, successors or assigns to recover damages or otherwise. Approval by the Committee shall not be deemed to constitute compliance with the requirements of any local building codes and development regulations, and it shall be the responsibility of the Owner to comply therewith. Subject to the provisions of the Declaration, the Committee will be the sole judge of compatibility, the meaning of the terms herein, and whether these Guidelines have been properly followed.
- 1.9 **Information Submitted by An Owner.** Any Owner submitting Plans for Committee approval shall be responsible for the verification and accuracy of all dimensions, grade, elevations and the location of key natural terrain features, easements and utilities for the site.

## II. ADOPTION BY BOARD OF DIRECTORS

These Design Guidelines and Appendix A and B attached hereto are hereby adopted by the Board of Directors of Yarmouth Way Condominium Association, Inc., on the 15th day of June, 2011.

### III. DEFINITIONS

- 3.1 “Architectural Review Committee” (“Committee”) means the Committee appointed by the Board of Directors to review, and approve or disapprove plans for Improvements submitted by any Owner.
- 3.2 “Association” means the Yarmouth Way Condominium Association, Inc.
- 3.3 “Board of Directors” means the Board of Directors of the Association.
- 3.4 “Declarant” means Thistle Community Housing, a Colorado nonprofit corporation and Investment Management Beneficiary, a Colorado limited liability company, and successors, assigns, and grantees.
- 3.5 “Improvements” or “Development” shall have the same meaning as “Improvements” as defined in the Declaration, and shall include, but not be limited to the construction of any building, outbuilding, shed, pen, doghouse, tennis court, porch, patio, gazebo, excavation, landscaping, pit, cave, bridge, dog run, fence, wall, or any other structure of any kind, and exterior additions to or changes or alterations thereto.
- 3.6 “Utility Lines” or “Utilities” shall mean all water, sewer, and under-drain pipelines which lie beneath the surface of the ground and also all electric, telephone, gas and other wire lines, with poles and other necessary appurtenances which run above or below the surface of the ground.
- 3.7 “Owner” or “Homeowner” means the record owner, whether one or more persons or entities, of the fee title to any Unit.
- 3.8 “Lot” or “Site” means any numbered lot shown on the recorded subdivision map of Yarmouth Way, but shall not include the Common Areas.
- 3.9 “Unit” means any dwelling unit on the recorded subdivision map of Yarmouth Way, but shall not include the Common Areas.
- 3.10 “Plans” means the totality of an Owner’s application for review by the Committee, including, without limitation, site plan, architectural or engineering drawings, specifications, materials and color samples, and a table of vegetation types.

### IV. GENERAL REQUIREMENTS AND CONSIDERATIONS

- 4.1 Unless otherwise specifically stated drawings or plans for a proposed improvement must be submitted to the architectural committee and the written approval of the architectural committee obtained before the improvement is made.
- 4.2 Only in cases, where it is specifically so noted, may a homeowner proceed with the improvement without advance approval by the architectural committee if the homeowner follows the stated guidelines. Any other improvement not specifically listed herein requires committee review and written approval.
- 4.3 All guidelines set forth pertinent to the construction or installation of Improvements on an Owner’s Site shall be incorporated into the Plans submitted for review in the form of general notes, details or drawings. The Committee will review all Plans in consideration of the following guidelines:
  - A. **Relationship to Surroundings.** Special consideration will be given to the relationship of the proposed Improvements to existing Improvements, grades, landscaping and the relationship to neighboring Lots. Plan submittals should use existing topographic features to enhance building design and Site Improvements. The Site should be an extension of the home, including outdoor living spaces. The design of such spaces should coordinate with the building construction and design, extending similar materials

- where feasible, and using creative paving compatible in color and texture to the residence (e.g., brick, concrete pavers, slate, and treated wood).
- B. **Minimize Disturbance**. Plans should minimize disturbance of existing terrain and drainage patterns, while taking full advantage of any short and long views and solar exposure. Respect for adjacent residences is stressed, as is coordination of building massing, material compatibility, sun/shade patterns, indoor/outdoor relationships, drainage and access.
  - C. **Consistent Architectural Treatment**. Improvements will have details that are coordinated and consistent in their architectural treatment. Care should be given to proportion, scales and massing qualities.
  - D. **Building Height**. Considerations should be given to the view from neighboring Sites. Building height limits are as defined by the applicable zoning codes for the City of Longmont, Colorado.
  - E. **Massing**. In reviewing overall building forms, the Committee will consider massing, proportions and overall scale of the building in relation to the Site and existing Improvements. Designs that balance the desire for distinctive form with a subtle impact on the immediate environment will be encouraged.
  - F. **Exterior Material and Finishes**. Proposed Improvements should be compatible with existing Improvements, including a high level of detail and a sophisticated combination of quality materials. Natural stone and brick masonry, acrylic based stucco, textured cementitious siding, and selected use of natural wood will be encouraged to maintain the upscale image of the community and the desire for visual harmony. Vinyl, aluminum and other synthetic siding of any type are not permitted. Without Committee approval, fences colors may not be changed from original.
  - G. **Color**. Exterior Improvement colors shall generally be complementary to the Owner's home. Multi family homes will utilize the original colors scheme for the development unless a change is approved by the Committee and reviewed in the context of the overall development. The use of decorative accent colors and color-blocking will be reviewed for location and application. The Committee will consider all coloration schemes based on their architectural merit and compatibility to the community as a whole. Repainting using the same colors as previously approved shall not require further approval of the Committee. Adjacent homes shall not have the same color schemes.
  - H. **Setbacks and Side Yards**. Building envelopes, minimum setbacks and Side Yard Easements are defined for each Site. The purpose and intent of the building envelopes, setbacks and Side Yard Easements is to ensure that development within individual Lots occur in a logical, harmonious manner. All permanent Improvements except fences shall be constructed within the setbacks and Side Yard Easements specified by the recorded plat and the Side Yard Easement documents. No Improvement shall be constructed so as to impede access to or utilization of any easement or Utility without the consent of the affected easement beneficiary or utility.
  - I. **Drainage**. No Owner shall interfere with or redirect the natural course or intended flow of any drainage and runoff, nor construct any improvement, place any landscaping, or allow the existence of any condition which will alter the drainage pattern as intended, except to the extent such alteration is approved in writing by the Committee, and any other public authorities having jurisdiction. Any change in the drainage or runoff patterns shall be designed by a registered professional engineer. Upon completion of any

Improvement, the lot shall be final graded to ensure positive drainage away from the structure's foundation. Drainage swales shall have a minimum grade of 2 ½ percent. As a general rule, swales shall be no closer than 5' from any foundation wall. Minimum slopes away from the foundation should be 5% for the first 5' in accordance with the Owner's soils engineering report, whichever is most restrictive.

- J. **Grading.** All graded slopes should be "rolled" back into existing slopes, so that no sharp contrast exists between existing and disturbed slopes. No final grading shall extend beyond existing lot lines without consent of the adjoining Site Owner, but coordination of grades at lot lines is required.
- 4.4 **Licensed Engineers and Architects.** The Committee reserves the right to require Owners to utilize a licensed architect, structural engineer, civil engineer, and/or landscape architect.
- 4.5 **Exterior Hardware.** The Committee, at its sole discretion, shall have the authority to approve all exterior fastening hardware.
- 4.6 **Changes.** No substantial changes in plans or materials previously approved may be undertaken without approval of the Committee. No work shall be undertaken (other than routine maintenance and repair) which will result in substantial changes in the exterior appearance of an approved residence, including painting (except as specified in paragraph 8 above) or re-staining, without prior, written approval of the Committee.

## V. DESIGN GUIDELINES

This section contains a listing of restrictions as well as a wide variety of specific types of improvements which homeowners typically consider installing, with pertinent information as to each.

- 5.1 **Accessory Buildings.** Committee approval is required. Accessory buildings or facilities such as utility sheds, gazebos, greenhouses, cabanas, hot tubs, etc., shall adhere to the guidelines for installation of Improvements set forth herein. Massing and scale, as well as forms, materials, and other detailing should be coordinated with the main structures on the Site. Utility sheds, in particular, shall comply with the following restrictions: All such sheds shall (1) be constructed within the private courtyard area on a level concrete pad; (2) not alter drainage patterns of a Site; (3) not exceed 8' x 10' in size; (4) not exceed 7' in height; (5) be located so as not to be viewed in full from the front of any residence in the community; (6) be constructed of materials and colors that match or are compatible with the residential structure. If possible, such sheds shall be affixed to the residential structure.
- 5.2 **Additions and Alterations.** Committee approval is required. An addition should look like the original structure with matching architectural style and rooflines. All materials and colors shall match the existing house.
- 5.3 **Address Numbers.** There shall be no more than two (2) sets of house address numbers on each residence, placed at the curb and on the residence. The individual numbers shall not exceed 5" in height.
- 5.4 **Air Conditioning Equipment.** Committee approval is required. Air conditioning units, where possible, must be incorporated into the main building or with other detached structures, and be architecturally compatible (including color) with the residence. Air conditioning units shall be ground mounted and must be fully screened from the view of the street as approved by the Committee. Air conditioning units shall not be allowed on rooftops or in front of residences. All air conditioners will be located as far from the front and side property lines as reasonably possible. Owners are required to submit the design and location of any equipment and screening methods to the Committee for approval. Evaporative coolers (swamp coolers) are encouraged over air conditioners.

- 5.5 **Antennas/Satellite Dishes.** Antennas and Satellite Dish availability and installation shall comply with the Antenna and Satellite Dish Rules and Regulations attached as Appendix A hereto.
- 5.6 **Basketball Backboards, Portable Basketball Goals and Permanent Basketball Backboards.** Permanently installed, commercially manufactured backboards of standard design and color may be mounted above the garage or mounted on a pole located in an appropriate place on the property, and painted the same color as the residence without Committee approval. Portable basketball backboards may be allowed with Committee approval if they are placed in an appropriate location on the property that does not obstruct traffic or parking patterns.
- 5.7 **Commercial Vehicles/Trailers.**
- A. All commercial vehicles shall be parked in the garage unless Committee approval has been given to park in the driveway. Such approval will be based upon but not limited to curb appeal, effect on safety and street traffic, size and type of vehicle, signage and attached appurtenances. Commercial vehicles will not be given approval to be parked in the street. A commercial vehicle is defined as, but is not limited to, a vehicle that has a business name or logo on it, and/or has equipment racks or equipment attached. Trailers used to carry equipment or tools are considered commercial vehicles.
- B. Emergency vehicles may be parked on a street or driveway if the owner is required, as a condition of his/her employment, to keep the vehicle available at his/her residence during certain times as an emergency service provider, and all of the following criteria are met: 1. The vehicle has a gross vehicle weight rating of 10,000 pounds or less; 2. The Owner is a member of a volunteer fire department or is employed by an emergency service provider; 3. The vehicle bears visible designation of the emergency service provider; and 4. The parking of the vehicle does not obstruct emergency access or interfere with the reasonable needs of other Owners within the Community. Emergency service provider is defined as a primary provider of emergency firefighting, law enforcement, ambulance, emergency medical, or other life-safety emergency services.
- 5.8 **Construction Debris.** Builders and Owners shall be responsible for containing trash on their property. Any wind blown trash or debris shall be collected. Failure to control such debris shall render Owner liable for any resulting damage and the costs of collecting of debris.
- 5.9 **Doors.** Solid core wood, plank, or hollow metal doors are acceptable for exterior doors. Any painted materials must be of approved color and all row homes with common entrances visible from the street shall all have the same door and storm door style and color. Door designs complementary to the overall residence design are required. Overly ornate, gaudy or period designs are not allowed. One or more standard storm doors may be allowed on a case by case basis.
- 5.10 **Drainage.** Committee approval is required for any change affecting drainage. No interference with the established drainage pattern over any property is allowed except as approved in writing by the Architectural Committee. The established drainage pattern means the drainage pattern as engineered and constructed by Developer/Builder prior to conveyance of title from Developer/Builder to the individual homeowner. Landscaping should conform to the established drainage pattern. When installing landscaping, it is very important to ensure that water drains away from the foundation of the house and that the flow patterns prevent water from flowing under or ponding near or against the house

foundation, walkways, sidewalks and driveways. Water should flow fully over walkways, sidewalks and driveways into the street. The Architectural Committee may require a report from a Colorado registered civil engineer as part of landscaping or improvement plan approval.

- 5.11 **Driveways**. Driveway paving shall be accomplished with materials such as concrete or brick pavers. Approval by Committee shall be required.
- 5.12 **Fences**. Fences constructed by the Declarant to define the private courtyard areas shall not be removed, replaced, painted a different color or altered from existing construction without approval of the Architectural Committee. If any gates on such fences constructed by the Declarant, which are located upon a homeowner's property, are damaged or destroyed, the homeowner shall repair or recondition the same at the homeowner's expense. Construction of any other fencing requires Committee approval.
- 5.13 **Firewood Storage**. Committee approval is not required for storage of one (1) cord or less. All Firewood must be located in the "side" or "rear" yard, must be neatly stacked, and must be located so as not to block established drainage patterns. All other wood must be stored in an approved enclosure or "screened" from view.
- 5.14 **Flag Displays**.
- A. **Flagpoles**. Committee approval is required. Approval shall consider the following criteria: 1) Shall be a minimum of five feet from all property lines; 2) Must be mounted to the ground, not on a deck, patio, or retaining wall; 3) Must be silver or bronze in color and a residential style, not commercial grade; 4) May not exceed the roofline of the house; 5) May not be illuminated without prior Architectural Committee approval.
  - B. **Service Flags**. A single Service Flag no larger than 18 inches by 32 inches that signifies the service of a homeowner or homeowner's immediate family in the active or reserve military service of the United States during a time of war or armed conflict is permitted on the inside of a window or door large enough to accommodate the entire flag.
- 5.15 **Inoperable Vehicles**. Inoperable vehicles (legally and/or mechanically) shall not be allowed to remain on any portion of the Property or on any private or public street or any portion of the landscape. Vehicles may stored or repaired in garages, or on the driveway, if such activity will continue no longer than seventy-two hours.
- 5.16 **Landscaping**. The purpose of landscaping is to produce visual unity along the streetscape, create an image of quality for the development, and to maintain and enhance property values.
- A. **Owner Responsibility**. All installation and maintenance of landscaping within a Unit's fenced area is the responsibility of the Owner.
    - 1. **Landscape Plan**. When preparing to landscape or amend existing landscaping within the Lot's fenced area, an Owner must submit a complete landscape plan and schedule per the review process as described herein. The review process for landscaping are set forth in Appendix A herein. Committee approval is required for any change from the landscape plan as approved by the Committee.
    - 2. **Date of Completion**. All areas landscaped by Owner inside fenced areas must be completed within six months of the closing date the home is purchased in compliance with the landscape plan. Failure to comply with this time frame will authorize the HOA to proceed with the landscape plan and bill the Owner for the costs of landscaping.
    - 3. **Water Conservation Methods**. The use of water conserving irrigation systems, i.e., automatic controls, drip systems, and low volume heads is encouraged. Using drought tolerant plantings and other water conservation methods of landscaping is encouraged. Water-intensive plantings and irrigation systems within ten feet of foundation walls are



discouraged. Tree staking and guy wires shall be removed within one year of installation. The use of plant materials which are hardy or are native to this climate is encouraged.

4. **Landscape Maintenance.** All landscaping shall be maintained in a neat and attractive condition, and in a manner that is considered proper given the nature of the local climate. Minimum requirements include watering, regularly scheduled mowing, edging, pruning, removal and replacement of dead or dying plant materials and the removal and/or elimination of weeds and noxious grasses. During drought conditions when watering restrictions are imposed by Longmont Public Works and Water Utilities Department, or such other government body empowered to declare water restrictions, homeowners will be excused from their obligation to keep landscape alive. Once watering restrictions are lifted, homeowners shall be allowed a reasonable and practical opportunity, as defined by the Architectural Committee, with consideration of applicable local growing seasons or practical limitations, to reseed and revive turf grass before being required to replace it with new sod.

B. **Common Areas.** All landscaping outside of a Lot's fenced area is the responsibility of the Association and is not to be altered by the Owner in any form. This includes mowing, snow removal, tree trimming, post mailboxes, public play structures etc.

5.17 **Lights and Lighting.** Committee approval is required to modify or add exterior lighting. Therefore, the use of motion detector spotlights, floodlights or ballasted fixtures requires Committee approval. Lights must be functional and enhance the overall appearance of a residence, but must not be disturbing to neighbors or motorists. All exterior lighting fixtures, used for illumination of driveways, walks, address signage, and general landscape purposes, shall be compatible with the design of the structures. Exterior lighting for security and/or other uses must be directed at the ground and house, whereby the light cone stays within the property boundaries and the light source does not cause glare to other properties. No lights shall be emitted from any Site which are unreasonably bright or cause unreasonable glare. The Committee has the right to review seasonal light displays. Such displays shall be turned off at 10pm so as to not interfere with the neighbors' quiet enjoyment.

5.18 **Motor Vehicles/Recreational Vehicles.** No recreational vehicles, campers, boats, mobile homes, horse trailers or other trailers, tractors, motor homes or trucks (other than a pickup truck that is not oversized) may be stored in such a manner as to be visible from any other property for longer than 72 hours in a seven (7) day period, except as may be approved in writing by the Architectural Committee for reasons such as out of town guests with a recreational trailer. For the purposes of this guideline, all of the above referenced vehicle types shall be considered "recreational vehicles". The application of this guideline shall not be limited to only those types of vehicles listed. The Architectural Committee shall review any other vehicle type not listed on a case-by-case basis. Such vehicles may be kept only within garages or enclosed structures approved by the Committee. Periodic movement of the vehicle for the purpose of circumventing this standard shall not qualify the vehicle for exception from this standard. The purpose of the 72 hours is to load and unload the RV, not to provide storage/parking for the unit. RVs must be stored/parked in the garage, off-site, or as otherwise approved in writing by the Architectural Committee. No vehicles shall be parked on landscaped areas.

5.19 **Patios.** Committee approval is required.

5.20 **Pet Runs, Pet Enclosures and Pet Houses.** Committee approval is required. All pet/dog houses, shelters, and runs shall reside within the Lot's private fenced area and screened from view of the public right-of-way through the use of deciduous and evergreen trees shrubs or

- fences, and shall be built from materials compatible with the residential improvements installed on the Lot. In addition, dog runs shall be maintained at a reasonable and acceptable level of cleanliness. Pet enclosures must be built in side or rear yards only.
- 5.21 **Play Structures.** Play structures are allowed without Committee approval, but shall not exceed 8 feet in height and shall be earth tone in color. Other colors may be allowed with Committee approval
- 5.22 **Ponds and Water Features.** Committee approval is required.
- 5.23 **Pools.** Committee approval is required.
- 5.24 **Privacy Screens.** Privacy screens may be used to screen privacy areas, including decks, patios, and hot tubs, and except for hot tubs, these areas may not be fully enclosed. Screening of these privacy areas requires use of materials and finishes that are consistent with the residential structures constructed on the Site, with overall harmony and compatibility between the physical structure and the landscaping encouraged. These screens shall be limited to the private courtyard area and shall not exceed 6 feet in height.
- 5.25 **Refuse Disposal.** Dumping of trash, grass cuttings or debris on common property or undeveloped lots is prohibited.
- 5.26 **Roofs.** Roof replacement requires Architectural Committee approval. Roofing material color and texture should be compatible with other materials on the homes and adjacent properties.
- 5.27 **Rooftop Equipment.** Committee approval is required. Rooftop equipment must be submitted for Architectural Committee approval and must be painted a color similar to or generally accepted as complementary to the exterior of the house. All rooftop equipment shall be installed so as to minimize its visibility. Examples include skylights, vents, wind-vanes and lightning rods.
- 5.28 **Shutters and External Window Coverings.** The Committee, at its sole discretion, shall have the authority to approve all exterior fastening hardware.
- 5.29 **Siding.** The Committee, at its sole discretion, shall have the authority to approve all exterior fastening hardware.
- 5.30 **Signs and/or Advertising Devices.**
- A. For Sale or Lease: One (1) temporary sign advertising the property for sale or lease, which is ground mounted, no more than four (4) feet high, and no more than two (2) feet by three (3) feet in dimension, and which is conservative in color and style, may be installed on the property without Architectural Committee approval.
  - B. Temporary Trade Signs: A temporary trade sign pertaining to, but not limited to, contractors, landscapers, painters and roofers, may only be displayed while work is in progress. This signage must meet the specifications in subsection 'A' above.
  - C. Signs identifying security alarms: Signs identifying security alarms may be placed on the property without Architectural Committee approval.
  - D. Political Signs: Political signs may be displayed on a homeowner's property or in a window no earlier than 45 days before and no later than seven days after an election day. The maximum size of political signs is 36 inches by 48 inches. Signs may be displayed in the front or side yard or in a window which is visible from the street. The number of signs is limited to one sign per political office or ballot issue that is contested in the pending election. No other signage shall be permitted without Committee approval.
- 5.31 **Solar Energy Devices.** Committee approval is required. While the Association encourages the use of energy devices that are based on renewable resources, it must balance that use with its responsibility to improve and enhance the attractiveness, desirability and safety of the community. Therefore, consistent with Colorado Revised Statute § 38-30-168, and the terms and conditions of the Declaration, Committee approval is required for all roof-

mounted devices, including solar devices, and the following standards shall apply with respect to the installation, maintenance, and use of roof-mounted devices and solar devices. For purposes of this Section "solar device" shall mean a solar energy device as defined in Colorado Revised Statute § 38-32.5-100.3(2).

- A. **Location; Installation.** In connection with obtaining the Committee's approval of any roof-mounted device or solar device, the Owner shall provide the Committee with the following information: (i) the location that the device is to be installed on the property/structure, (ii) the type of device to be installed, (iii) the dimensions of the device, (iv) the proposed color of device, and (v) a pictorial/brochure of the device (if available). Following the Owner's submission of the required information, the Committee will either approve or deny the specific location for the installation of the device as requested by the Owner, or, if feasible, determine an alternate location, based on the following criteria: • To the maximum extent possible, a roof-mounted device or solar device shall be installed so as to minimize its exposure when viewed from any other Privately Owned Site, Common Area, Community Association Properties, street, or from the surrounding community unless to do so will have the effect of substantially interfering with the use of the device or significantly increasing the cost of the device. • The preferred location of the device shall be on the back roof of the residence and below the peak of the roof. Alternatively, the device may be pole-mounted in the rear area of a private yard below the fence-line and, to the maximum extent possible, shall be screened from the view of others by landscaping materials. • All devices shall be installed flush with the roof unless to do so will have the effect of prohibiting the collection of solar energy. • The total number of solar panels and other apparatus installed shall not cover more than 75% of any given roof section, unless to do so will have the effect of prohibiting the collection of solar energy. The Committee will review other suggested locations/installations if the above are not feasible; provided, however, the Committee may require the applicant to provide the Committee with a written statement by a solar energy expert that the restrictions imposed by the Committee will have the effect of (i) substantially interfering with the collection of solar energy, and/or (ii) significantly increasing the cost of the device. In that case, the Committee will permit variances to these requirements to the minimum amount as is reasonably required to allow the device to function properly and to minimize any increase in the cost of the device to the Owner. All installations must comply with all applicable building codes and other governmental regulations, and must be secured so that they do not jeopardize the safety of residents or cause damage to adjacent properties.
- B. **Aesthetics.** The Association encourages the Owner to select equipment that is aesthetically acceptable in the community and integrates with the residence and surrounding landscape to the maximum extent possible, keeping in mind the design and roofline of the residence on which the device is to be installed. The color of the device and exposed pipes, panels and other apparatus must be approved by the Committee. The device shall have flashing colored or painted to closely match the adjacent roof color. Poles shall be painted a matte color to blend with surrounding landscape. All glazing shall be solar bronze or black with no white or clear glazing allowed.
- C. **Removal.** Equipment removal requires restoration of the installation location to its original condition. Owners shall be responsible for all costs relating to restoration.

- D. **Effect of Approval.** Committee approval in no way should be construed as a representation, guarantee, or warranty, etc. by the Architectural Committee or the Association that collection of solar energy shall be adequate for the Owner's needs or that roof-mounted or solar devices will remain undisturbed by vegetation or improvements located on surrounding properties.
- 5.32 **Spas, Saunas and Hot Tubs.** Committee approval is required prior to installation which should include plans for drainage, cleaning and use of chemicals. Spas (including saunas, hot tubs) shall reside within the Lot's private fenced area. Spas shall be located in the side or rear yards in such a way that they are screened from public view. Spas shall be constructed with materials and colors that are in harmony with the architecture of the home. Such amenities shall be designed as an integral part of any associated deck or patio. Consideration shall be given to potential noise impacts to neighboring properties. Special attention shall be given to the safety of private spas. Any fencing determined to be necessary must abide by all setbacks and fencing guidelines.
- 5.33 **Temporary Structures.** Committee approval is required. Tents, shacks, temporary structures or temporary buildings are prohibited without the prior consent of the Architectural Committee. Camping tents for occasional overnight sleeping do not require Committee approval if left up for no longer than a total of 72 hours in any seven (7) day period.
- 5.34 **Trash Containers, Enclosures, and Pick Up.** Trash receptacles will be kept from view and/or enclosed in the garage or accessory building, and screened from view. All receptacles and storage enclosures shall be planned as a part of the total fencing and landscape design, and subject to Committee approval.
- 5.35 **Vehicles.** Automobiles shall be the only vehicles parked in the street or in visible areas on private property within Yarmouth Way. All recreational vehicles, motorcycles, boats, campers, trailers etc., shall be parked in garages. See Sections Motor Vehicles/Recreational Vehicles, Inoperable Vehicles, and Commercial Vehicles/Trailers.
- 5.36 **Windows.** Windows for the development are manufactured by Atrium. Comparable vinyl framed thermopane windows can be substituted with application and approval of the Committee. Reflective glass is not acceptable.
- 5.37 **Window Coverings.** Permanent draperies or suitable window treatments shall be installed on all front-facing windows within sixty (60) days of occupancy. All first floor windows visible from the street must have customary window treatments.

## VI. REVIEW COMMITTEE PROCEDURE AND SUBMITTAL REQUIREMENTS

- 6.1 **Review Process.** These Design Guidelines provide a framework for the Committee to review, process and approve residential construction in Yarmouth Way. An Owner (inclusive of the Owner and his architect, contractor, and/or other representatives) must follow these procedures to secure the necessary approvals.

Plans for all Improvements shall be submitted to the Yarmouth Way Architectural Review Committee, Attn: \_\_\_\_\_. The Committee will attempt to respond to all written submittals within 30 days of their receipt.

- 6.2 **Preliminary Review.** It is suggested that the Owner submit preliminary or conceptual designs for review prior to the development of working drawings. The Preliminary Review is intended to provide guidance to the Owner prior to the expense of providing working drawings. This preliminary design can be artist's or architect's renderings, unscaled

drawings, photographs etc. Preliminary Review must be given to the Committee Secretary no later than 12:00 noon on the Monday preceding a regularly scheduled meeting. The Preliminary Review shall not constitute an approval.

6.3 **Plan Review.**

A. **Purpose:** To ensure document conformity with the Design Guidelines

B. **Form of Submittal:** Two (2) copies of the following items:

1. Plans including accurate dimensions and location of the Site boundaries and Improvements, existing and proposed at a scale of 1" = 10' or 1" = 20'; exterior elevations details, and building sections at 1/4" = 1'. The Committee may require Plans to include the following information, as necessary to fully evaluate the proposed Improvements: all existing conditions, including house, walks, driveways, patios, decks, walls, elevations if appropriate, drainage ways, neighboring landscape plantings along the property lines, natural features, easements, property lines, and other legal restrictions that may exist.

2. For structural additions, a 24" x 36" color board 1/8" thick with samples of all exterior materials and colors specifications shall be submitted. A typed schedule of samples or specifications of exterior materials and colors must be included on the Final Plans.

3. A construction schedule to include construction start and completion dates.

Construction must not begin prior to receiving a written approval from the Committee.

4. Contract for construction from Builder/Architect.

6.4 **Construction Progress Review.** A Committee member or its agent may periodically visit the construction site to monitor compliance with the approved Plans and construction period regulations. Items of non-compliance must be immediately corrected or removed by the Owner. Absence of such inspection or notification during the construction period or upon completion of the work (except in strict conformance with the Declaration) does not constitute either Committee approval or work in progress or completed work or compliance with these Guidelines.

6.5 **Project Completion Review.** If the Owner chooses, the Owner may inform the Committee in writing 15 days prior to final completion of the work so it can meet with the Owner to review the final construction and ensure the final exterior building form is substantially in accordance with the approved Final Plan. Non-conforming improvements shall be promptly removed or corrected by Owner.

6.6 **Review Fees.** The Committee reserves the right to charge review fees for submissions. This would normally involve complex improvements that might require professional opinions.

6.7 **Committee Records.** Copies of all requests for review will be filed by block and lot number. Copies of all letters from the Committee to the Owner shall also be filed in this manner.

6.8 **Other Conditions.** The Architectural Review Committee shall not be responsible for reviewing, nor shall its approval of an improvement be deemed approval with respect to:

A. The requirement of any jurisdiction to obtain building permits or the satisfaction of applicable building codes;

B. Structural integrity or the existence or absence of design defects;

C. The existence or absence of construction defects;

D. The quality of construction; or

E. The effects of the improvement on other improvements or alterations to the property.

Approval of plans by the Committee shall not be deemed to constitute compliance with the requirements of any local building, zoning, subdivision, sign, safety, health, public works or fire codes and regulations, nor shall approval waive any requirements on the part of the Owner to comply with setbacks, height restrictions, or requirements unless such waiver or variance is specifically requested at the time of submittal and granted by the Committee and local jurisdictions, where applicable. Approval by the Architectural Review Committee is made in reliance on the Applicant having consulted with, and obtained advice from, such engineers, architects, contractors and other professionals as Applicant deems appropriate or necessary, with respect to construction of the improvements, including without limitation, soil, structural, drainage, construction quality, permitting, safety and aesthetic matters. The covenants, conditions and restrictions as established by the Declarant shall remain in force as the legal restrictions governing all construction.

*Neither the Committee, the Association, the Board of Directors of the Association, nor any of their respective individual members, employees, agents, successors or assigns shall be liable for any loss, damage or injury arising out of or in any way connected with the performance and duties of the Committee unless due to the willful misconduct or bad faith of the party to be held liable. Every Owner or other person who submits plans to the Committee for approval agrees, by submission of such plans and specifications, that they will not bring an action or suit against the Committee, the Association, the Board of Directors of the Association, nor any of their respective individual members, employees, agents, successors or assigns based on mistake in judgment, negligence, or nonfeasance arising out of, or in connection with, the approval or disapproval or failure to approve any plans or specifications.*

The Committee reserves the right to waive or vary any of the procedures or Design Guidelines at its discretion, for good cause shown. A waiver of strict application, in whole or in part, of any provision of these Design Guidelines or the Declaration, shall not be deemed a waiver at any other time of any other requirement of these Design Guidelines or the Declaration.

6.9 **Additional Guidelines, Standards, Criteria, Rules, Regulations and Procedures.** The Committee may, from time to time, adopt, promulgate, amend or otherwise revise additional guidelines, standards, criteria, rules and regulations and procedures governing its responsibility for the purposes of:

A. Further enhancing, defining, or interpreting what other items or improvements are covered by these Guidelines; and Providing for changes in technology, industry standards, style, materials, safety issues, consistency with updated building codes or other laws or ordinances, or for any other reason that the Committee, in its sole discretion, deems to be proper, necessary, or in the best interest of the Association.

In determining what is the best interests of the Association, the Committee may, but shall not be required to, solicit input from: (1) Owners whose Lots are in close proximity to the proposed Improvements or alteration to Improvements; or (2) the entire Association. The Committee shall not be bound by said input but shall use its best judgment in approving or disapproving the proposed Improvements or alteration to Improvements.

Any additional guidelines, standards, criteria, rules and regulations, procedures or amendments thereto, shall apply to Improvements, construction, alterations or additions occurring after the date such additional guidelines, standards, criteria, rules and

regulations, procedures or amendments are published or otherwise made available to all Owners.

## APPENDIX A

### Antennae/Satellite Dish Rules and Regulations

#### 1. Definition

ANTENNA – Any device for the receipt of video programming services, including direct broadcast satellite (DBS), television broadcast, and multichannel multipoint distribution service (MMDS). A mast, cabling, supports, guy wires, conduits, wiring, fasteners, or other accessories necessary for the proper installation, maintenance, and use of reception antenna shall be considered part of the antenna.

#### 2. Standard Installation

Any Owner who wishes to install an antenna may proceed without approval of the Committee if the installation is standard within Antenna Standard Installation Location Guidelines and is of standard size and type. If these standards are not met, a Committee request must be submitted for approval.

#### 3. Standard Antenna Size and Type

DBS and MMDS antennae larger than one meter in diameter are prohibited. Transmission-only antennas are prohibited.

#### 4. Standard Installation Location Guidelines

The standard installation shall be:

- a. Antennae must be installed solely on the Lot Owner's property.
- b. No Antenna shall encroach on common property.
- c. If a quality signal can be obtained from an indoor location, the antenna must be placed in such a manner.
- d. If an exterior installation is required, the antenna must be located in the backyard or the rear side of the home in as inconspicuous position as possible. If located in the backyard and not on the home, the antenna shall be placed below the fence line and located in such a manner so as to not be visible from the street.
- e. If a quality signal cannot be obtained within these standards, the Owner must submit written certification from a qualified installer, stating that a quality signal cannot be obtained within these standards and recommending a secondary location. The Committee reserves the right to require additional screening, if necessary.

#### 5. Antenna Installation

Antennas must not create a potential hazard to any of the common areas or neighbor's Lots. Furthermore, all installations shall be adequately secured so as not to pose a potential hazard to any person and/or structure. All installations will comply with all applicable codes.

Wiring shall be installed in such a manner as to be minimally visible and in the most concealed location possible.

#### 6. Maintenance and Repair of Antenna

Maintenance and repair of antenna are:

- a. Absolutely the responsibility of the Owner.
- b. To be properly maintained so as not to pose a potential safety hazard to any person or structure.



- c. To be dealt with quickly and properly by the Owner when maintenance or repair is required. Maintenance and repair needs may be determined by the Association. In the event an antenna requires attention, an Owner shall be notified in writing by the Board of Directors that they must resolve the problem within the time frame determined by the Board of Directors.

**7. Responsibility**

The Owner of the antenna shall be responsible for any and all real or personal property, or for any injury resulting from the installation of the antenna and/or its use, including but not limited to:

- a. Damage to any real or personal property caused by, related to, or arising from the installation due to dislodgement, use, or maintenance of any antenna.
- b. Injury to any person resulting from the installation of the antenna or its use.