

**Homeowners Guide
To
Bay Gardens Architectural Control,
Occupancy and Use**

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**For Additional Information Please Consult the By-Laws of Bay Gardens Condominium
Owners Association, Inc.**



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Bay Gardens COA, Inc.
Post Office Box 774
Gulf Shores, AL 36547

Dear Owners:

As many of you know, Bay Gardens Condominiums is a unique architectural concept in this area. Because it has many absentee owners and recent turnover due to the economy, the Board felt that the Rules regarding architectural control and occupancy and use, needed to be better defined, clarified and organized. As a result, the attached document called the *Homeowners Guide to Bay Gardens Architectural Control* has been approved by the Board and is being disseminated to you so that each owner and their guests will be on notice of the up-to-date Rules & Regulations of the Association. In the past, enforcement may not have always been consistent but with the dissemination of these Rules, the Association Board wants you to know that it will fairly and consistently enforce this for the benefit of all owners at Bay Gardens Condominiums. Please take the time to thoroughly review the Rules, especially if you anticipate making any changes and/or improvements to your property.

Sincerely,

Daniel H. Craven
Attorney for Bay Gardens
Condominium Owners Association, Inc.

Homeowners Guide to Bay Gardens Architectural Control

ARCHITECTURAL CONTROL

The essence of Bay Gardens lies in its architectural concept which makes it unique and thereby enhances the value of each Unit and the condominium project as a whole. Therefore, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and the location of the same shall have been submitted to and approved in writing, as the harmony of external design and location in relation to the surrounding structures and topography by the Board of Directors of the Association, or by an Architectural Committee comprised of three (3) or more representatives appointed by the Board, one of whom shall be the Board's Vice President and also chairperson of this Committee. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. **THIS PROVISION CONCERNING ARCHITECTURAL CONTROL WILL BE STRINGENTLY ENFORCED AND NO UNIT OWNER SHOULD MAKE ANY ASSUMPTION THAT THE PLANS AND SPECIFICATIONS FOR IMPROVEMENTS TOO BE LOCATED ON ANY UNIT WILL BE AUTOMATICALLY APPROVED.**

The following rules state the requirements and spirit of Architectural Control, but are not intended to represent every detail subject to Architectural Control.

BUILDING SETBACK REQUIREMENTS

1. Front setback (from street side) shall be ten (10) feet minimum from property line.
2. Side and rear line setbacks shall be five (5) feet minimum from property line except for lot 37 through 48 where the minimum rear setbacks must be 10 feet due to the location of existing sewer line.

ARCHITECTURAL STYLE

Architectural Style of homes shall be in harmony with existing homes as determined by the Architectural Control Committee.

1. Porches shall have decorative millwork and/or railings.
2. Wood exterior siding in many styles, such as: Lap pine, cedar, or composition; ornamental shingles, vertical board and batten. Wooden siding or Hardie Plank is preferred, however, any other type siding material must be approved by the Board or its designee, the Architectural Committee.
3. Exterior colors should compliment the other homes and colors with white trim being preferred. Drawings submitted for approval to the Architectural Committee must

include the proposed exterior colors and finishes.

4. All structures are to be built on pilings to the height required by the current building code.
5. Spaces under the home are to be enclosed with vinyl or wooden lattice.
6. Each home shall be augmented to the street by a white picket fence that is within the home owners' property line. A fence may not be constructed between homes from front pilings to rear pilings.
7. Property owners may screen the perimeter or any portion of their porches. The addition of siding, windows or any material other than screening, will be considered an addition and must have Architectural Control Committee approval.
8. Metal roofing is the preferred roofing material.
9. Peripheral pilings must be white.
10. To maintain the consistency of the Bay Gardens Community, construction plans must be approved by the Architectural Control Committee before construction work begins.
11. Exterior lattice, color finishing of pilings, parking area under house, driveway fill, fencing and landscaping must be complete within six (6) months of receipt of occupancy permit.
12. All new home projects must be completed within one (1) year from start of construction unless extended, in writing, by the Architectural Control Committee.

LANDSCAPING

1. The planting of at least one flowering shrub and one flowering tree is required.
2. Any planting on common areas must be approved by the Beautification Committee.
3. A landscaping plan/drawing should be submitted to the Beautification Committee at the time construction plans are submitted to the Architectural Control Committee for approval. Extensive landscape changes of existing Home Owner property must also have Beautification Committee approval.
4. Any landscaping changes that may impact neighboring properties (such as ground elevations effecting water flow, plants obstruction views) must be approved by the Architectural Control Committee and have adjacent effected property owners signature approval.
5. Driveways shall be constructed of crushed stone, shell or pea gravel. The City of Gulf Shores and the Corp of Engineers are in agreement that homes in the Wetland areas may not have a

concrete slab, wooden deck, stones, shell or fill of any kind for driveway or under home parking.

6. Any use of concrete needs approved from the Architectural Control Committee and may need approval from the City Drainage Engineer. Walkways and patios may be constructed with driveway material or pressure treated wood, as long as building codes are followed.
7. Property owners must keep their landscaping reasonably maintained, including lawn maintenance. In case of non-compliance, the Architectural Control Committee will give written notice to the property owner to comply within twenty (20) days. If the property owner refuses to comply, the Architectural Control Committee has the right to perform such services and collect costs from the property owner or it may immediately refer the matter to the Board of Directors who shall vote on the institution of fines as setout herein. The property owner has the right to ask for more time or appeal to the Board of Directors. (See Article XII of the Bay Gardens C.O.A. Documents, page 20).
8. Grade, topographical or fill changes of any kind may not be made to a property owner's lot without the written approval of the Architectural Control Committee and potentially adversely affected property owners.
9. No elevated brick, block, rock or wooden wall or enclosure may be constructed without written permission from the Architectural Control Committee and potentially adversely affected property owners.
10. Hurricane plywood must be removed from doors and windows after the end of a hurricane season.

APPROVAL PROCESS

As stated in the Bay Gardens Declaration page (page 20), before any change, alteration or addition is made to a property, one copy of plans and specifications showing the nature, kind, shape, height, materials, color and location of same need to be submitted in writing to the Architectural Control Committee.

In the event the Architectural Control Committee or the Board of Directors fail to return written disapproval within sixty (60) days from receipt of plans, such approval will not be required and the covenant shall be deemed to have been fully complied with, and nothing herein contained shall prevent, or is intended to prevent a property owner from maintaining, or making repairs to his home unless prohibited by building codes or ordinances.

OCCUPANCY, USE AND RESTRICTIONS

No owner, tenant or other occupant of the Properties herein described shall, without prior written consent of the Board of Directors: Paint or otherwise change the appearance of any exterior wall, door, window, terrace, balcony or any exterior surface; erect any exterior lights or signs; place any signs in windows; erect or attach any structures or fixtures to the Common Area; not make any structural additions or alterations (except the erection or removal on non-support carrying interior partitions wholly within the unit) to any Unit or to the Common Area. Any Unit Owner who wishes to accomplish any of the forgoing shall make such request in writing to the Board of Directors together with, if necessary, one (1) copy of the plans and specifications for the work proposed by the Unit Owner. In the event the Board of Directors shall fail to approve or disapprove such request by a Unit

Owner within sixty (60) days from the submission of same to the Board of Directors or of its designated representative, such approval will not be required and this covenant shall be deemed to have been fully complied with; and, nothing herein contained shall prevent, or is intended to prevent, a Unit Owner from maintaining or making repairs to the Unit so as to maintain the Unit in the condition existing at the time of purchase. The following use and restrictions are not intended to represent every detail subject to control.

1. Permit loud and objectionable noises or obnoxious odors to emanate from the Unit or from vehicles which may cause a nuisance to the occupants of other Units;
2. Make any use of a Unit which violates any laws, ordinances or regulations of any governmental body or governmental agency;
3. Failure to conform to and abide by the By-Laws and the uniform rules and regulations in regard to the use of the Common Area, which may be adopted from time to time, by the Board of Directors of the Association;
4. Erect, construct, or maintain any wire, radio, television or other type antennas, garbage or refuse receptacle, or other equipment or structures on the exterior of the building or on the Common Area, except with the written consent of the Board of Directors. Satellite dishes 36 inches in diameter or less do not require the Board's consent;
5. Permit or suffer anything to be done or kept on the properties which will increase insurance costs on any other property;
6. Commit or permit any nuisance upon the Properties herein described;
7. Divide or subdivide a Unit into a smaller Unit or Units as to create a Unit smaller in size than that shown by plat of the properties; provided, however, that an entire Unit may be combined with an entire adjacent Unit and occupied as one Unit;
8. Obstruct the common way of ingress and egress to the other Units or to the Common Area;
9. Place or allow anything to remain in or on the Common Area which would be unsightly or hazardous;
10. Allow any rubbish, refuse, garbage or trash to accumulate in the places other than the receptacles provided therefore, and each Unit and the Common Area shall, at all times, be kept in a clean and sanitary condition. Garbage shall be placed in waterproof bags or similar containers before being placed in the appropriate receptacles;
11. Allow any fire or health hazard to exist;
12. Make use of the Common Area in such a manner as to abridge the equal rights of the other Owners to the use and enjoyment of same;
13. Use the unit for anything other than for residential purposes; said Properties are hereby restricted

to residential dwellings for residential use only;

14. Erect buildings or storage buildings of any kind upon the Properties;
15. No unsightly conditions shall be maintained on any porch or under house area;
16. Cut or otherwise destroy any growing tree which is four (4) feet in height or more unless said growing tree becomes diseased or a hazard to persons or property;
17. Other than "For Sale" or "Open House" signs, no advertising devices or political signs or signs of any kind, shall be displayed which are visible from the exterior of a home;
18. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Unit Owner or Unit Owners in favor of the other Unit Owners.

YARD ART

Yard Art may be defined as any decorative type item in a yard including but not limited to birdbaths, fountains, sculptures, iron pieces, birdfeeders, flowerpots, flags and benches. The Architectural Control Committee has the final determination of what is acceptable yard art.

If a non-compliance situation is detected the Architectural Control Committee will bring the issue to the Association Board. The Board, with a 2/3 vote and adequate notice to the owner, may then issue a fine based on the Association fine schedule.

VEHICLES

1. No Unit Owner shall repair a motor vehicle, boat or other vehicle upon any portion of any Unit except for emergency repairs thereto and then only to the extent necessary to enable movement thereof to a proper repair facility.
2. Boat, personal water craft, boat trailers, ATV's and golf carts are to be kept or maintained under property owner's house parking area.
3. No house or camping trailer, motor homes, oversized boats, or similar vehicles may be parked upon any properties unless specifically approved by the Architectural Control Committee.
4. Non-operational vehicles and vehicles with expired license plates shall not be parked or stored on properties without permission of the Architectural Control Committee.
5. The Architectural Control Committee may cause vehicles parked or stored in violation of the rules to be removed and the cost of such removal may be assessed and collected from the violation owner.

ANIMALS

1. No resident may raise, breed or keep snakes, reptiles or live stock for any purpose.
2. No more than a total of two (2) animals (dogs or cats) shall be kept or brought on to the Properties by any person unless approved in writing by the Architectural Control Committee.
3. All dogs, not on home owners property, must be kept on a leash or hand carried. Violations will be subject to a fine.
4. No vicious or dangerous animal shall be allowed on Properties. Any owner shall indemnify and hold harmless the Bay Gardens C.O. A. for loss, threat, damage or liability (including costs and attorney fees) which the Bay Gardens C.O.A. may sustain as a result of the presence of such animal on premises. The animal owner shall assume the full cost of defending any personal injury action.
5. Pet owners shall be responsible for the collection and disposal of fecal mater deposited by any pet maintained by such pet owner.

LEASING

1. A home Owner may lease his home for a minimum term of not less than thirty (30) days.
2. No rooms in a home may be leased/rented and no transient tenants will be allowed.
3. An acknowledgement in writing that the tenant must abide by all terms and conditions of the Bay Gardens C.O.A. Documents, including rules and regulations shall be provided by the Home Owner to the Bay Gardens C.O.A. prior to tenant occupancy.

MAINTENANCE, ALTERATIONS AND IMPROVEMENTS BY THE ASSOCIATION

Commons Areas: Except as provided in the next Section, the Association shall provide exterior maintenance upon each improvement located on the common areas designated in the plat of the properties which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, down spouts, exterior building surfaces, walks, drives, parking areas, and other improvements. The association shall also trim, cut, prune, fertilize, water, weed and otherwise maintain trees, shrubs, and grass located in the Common Area designated in the plat of the properties.

OWNERS OBLIGATIONS TO REPAIR AND RESTORE

Except for those portions which the Association is required to maintain and repair hereunder, each Owner shall at his sole cost and expense, maintain and repair his Unit keeping the same in good condition and making all structural repairs as they may be required.

In the event an Owner of any Unit in the Properties shall fail to maintain the premises and the improvements situated thereon, as provided for herein and should any fail to maintain the premises and improvements situation thereon, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Unit and repair,

maintain and restore the Unit and the Building and any other improvements erected thereon. The cost of the same shall be added to and become part of the assessment to which such Unit is subject.

All fixtures and equipment installed with a Unit, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Unit shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act more any work that will impair the structural soundness or integrity of another Unit or impair any easement or hereditament adversely affect the other Units or their Owners.

Except as specifically modified by this instrument, all other terms, covenants, conditions and provisions contained in the original By-Laws of Bay Gardens Condominium dated April 28, 1987 and recorded in the Office of the Judge of Probate of Baldwin County, Alabama in Miscellaneous Book 59, Pages 1678-1711, be and the same hereby ratified, approved and confirmed and the same shall remain in full force and effect.

A \$500.00 refundable cash deposit will be required from each property owner prior to beginning construction. This deposit is fully refundable once such construction is completed and verification that no damage to the Common areas has occurred. Costs, if any, for damage to the Common areas will be deducted from the deposit and the remaining balance will be refunded within 30 days. Costs for repairs exceeding the deposit will be billed to the property owner as an assessment which shall constitute a lien as provided for in the Declaration, in the event payment is not received within 60 days.

All pilings shall be installed using "fresh water" not "bay water" and shall meet all current building code requirements.

VIOLATION OF ARCHITECTURAL CONTROL RULES

If the Architectural Control Committee determines that a Property Owner, tenant or visitor has failed to comply with the conditions of the Condominium By-Laws, the Architectural Control Committee shall take the following action:

1. The Architectural Control Committee shall notify the Property Owner by e-mail and/or first class mail advising of the alleged violation.
2. The Property Owner shall have fifteen (15) days after receipt of notice to investigate and correct the violation(s) or advise the Architectural Control Committee that a violation has not occurred or that corrective action has been taken.
3. If after fifteen (15) days the Architectural Control Committee believes that the alleged violation is not cured or may be repeated, it may institute legal action against the Property Owner or assess for liquidated damages against the Property Owner in addition to actual legal fees incurred by the Bay Gardens C.O.A. in connection with legal action or it may immediately refer the matter to the Board of Directors who shall vote on the institution of fines as setout herein.

ASSESSMENT OF COST OF ENFORCEMENT

Any action proposed or taken against Property Owners by the Architectural Control Committee requires notice to the Board of Directors. No less than three (3) Property Owners may submit written

protest to the Board of Directors requesting that action by the Architectural Control Committee be held in abeyance or placed on hold. The Board of Directors, within sixty (60) days shall render its decision in writing, with specific instructions to Property Owners filing the protest and to the Architectural Control Committee.

FINE SCHEDULE

Pet leash or Waste Violation - \$75.00 per occurrence.

Lawn Mowing Violation - \$50.00 per occurrence.

Other Landscaping, Structural Issues or Yard Art Violations:

\$10.00 per day for the first 30 days

\$20.00 per day for the next 30 days

Then \$50.00 per day until resolved

The property owner has the right to meet with the Board to discuss or dispute the non-compliance notification and or the fine. A meeting with the Board will be scheduled when a meeting with the Board is requested.

Unpaid fines may be turned over to the Board Attorney for collection

EXISTING VIOLATIONS PRIOR TO 2009

ALL EXISTING VIOLATIONS TO THE APPROVED 2009 ARCHITETURAL CONTROL BY-LAWS ARE CONSIDERED "GRAND FATHERED" AND WOULD NOT BE SUBJECT TO PENALTIES. HOWEVER, PROPERTY OWNERS ARE ENCOURAGED TO RECTIFY VIOLATONS, WHEREVER POSSIBLE, WITH THE ASSISTANCE OF THE ARCHITECTURAL CONTROL COMMITTEE, BOARD OF DIRECTORS AND BEAUTIFICATION COMMITTEE.