



*“Government is best that governs least.”* – Thomas Jefferson

## Monticello Woods Policy Resolution # 2009-3

As revised and approved by the Board of Directors 4-27-11

### **Architectural Review Board Guidelines.**

The ARB shall from time to time prepare written rules and regulations of general application governing its procedures and guidelines for the external appearance of properties in Monticello Woods, which shall take effect upon approval by the Monticello Woods Board of Directors. Such procedures and guidelines shall be reviewed and changed from time to time to accommodate changes in materials, circumstances, and the will of the community. At any given time, the guidelines may or may not be the same as past practices. Because of this, all members must recognize that it will always be possible for alterations approved under prior circumstances may not be compliant with the guidelines currently in force. Therefore, a standing example on a property in the community does not constitute grounds for ARB approval or denial of an application, which must necessarily be judged on standards then in place at the time of application. The ARB review process must necessarily involve aesthetic judgment, and therefore should be expected to render decisions for purely aesthetic reasons.

The goal of these guidelines is to preserve property values in the community by mitigating potentially negative effects of one property owner upon others. The Declaration provides specific restrictions upon all Members. In the event of conflict between these guidelines and the Declaration or any of the other Governing Documents, the Governing Documents shall prevail. The Monticello Woods Architectural Review Board (ARB) is discussed in the Declaration and is given the duty to prepare guidelines for the appearance of the community and for the processes to be followed by Members in making changes to the appearance of structures. The Board of Directors has reviewed and approved these guidelines for all properties in Monticello Woods. For the sake of completeness, a copy of the Declaration pages containing ARTICLE VI, USE OF PROPERTY is attached, as the covenants in the Declaration prevail regardless of these guidelines, which clarify Monticello Woods practice and policy, but do not alter the covenants as contained in the underlying Declaration.

All permanent structures and additions constructed on lots in Monticello Woods shall be constructed and repaired in style, proportion, architecture, and materials similar to or compatible with that of the original home and in similar colors. It is the responsibility of the property owner to ensure that all construction activity upon a lot shall conform to government standards, codes, building permits, and ordinances.

### **I. Structures.**

- 1) Exterior materials: Colors, materials, style, and proportion of the exterior surfaces of all structures must be maintained as originally constructed unless a change approval from the ARB has been obtained. For example, MW homes were built with 40 year architectural shingles and windows with white dividers in the glass. Replacement or repairs shall require similar products.
- 2) Maintenance: Exterior damage such as peeling paint, fallen shutters, gutters, broken windows, storm damage, etc. must be repaired and the property restored to its original colors and appearance within a reasonable time. Exterior surfaces of structures and fences must be maintained in good condition and free of algae, mold, and other discolorations.
- 3) Changes to structures: Room additions, screen porches and other exterior alterations to a home in the subdivision must be compatible in style, color, materials, and appearance with the home as originally constructed.
- 4) Accessory structures: Sheds, playhouses, shelters, etc.
  - a. All accessory structures shall be treated as extensions of the main house. They should be built of the same materials, of compatible proportions and style, and receive the same maintenance. If a material, color, or finish is changed on the house, the same change shall be made on Accessory Structures at the same time.
  - b. No Accessory Structure shall be constructed within 5 feet of side property lines and 10 feet from rear property lines of neighbors..

- c. Accessory Structures must be screened by shrubs and trees so as to be at least 30% screened from the street and other Monticello Woods homes. New plantings are acceptable for screening purposes, but must be planted in type, size and density so as to be reasonably expected to conceal 25% of the Accessory Structure within 3 years from all home, sidewalk, and street views within Monticello Woods. Screening plantings must be maintained for as long as the Accessory Structure is installed.
- d. Accessory structures may be completely removed without obtaining approval.
- 5) Temporary structures.
  - a. Small prefabricated doghouses, garden lockers, containers, etc. which do not stand upon foundations or platforms (not exceeding 8' by 10') are considered temporary.
  - b. Temporary structures must be located at least 5 feet from the side property lines and 10 feet from rear property lines of neighbors.
  - c. Temporary structures must be screened by evergreen shrubs and trees or approved fences to control visibility from the street and other Monticello Woods homes. New plantings are acceptable for screening purposes, but must be planted in type, size and density so as to be reasonably expected to conceal 75% of the Temporary Structure from vantage points on walks, streets, and other Monticello Woods homes within 3 years. Screening plantings must be maintained for as long as the temporary structure is installed.
- 6) Removal of an unapproved condition shall be considered compliance from a property owner.
- 7) Approval by the Architectural Review Board is required as noted in the Declaration Article VI for sheds, structures, walls, decks, additions, driveways, fences, and changes to the exterior surfaces of homes.
- 8) Approval by the Architectural Review Board is not required for patios, swing sets, sidewalks, and ordinary maintenance events (for example, painting the trim in the same color as was previously approved, or replacing roof shingles with identical materials).
- 9) Gutters on front of home can be approved by the Architectural Review Board in cases where they are needed for erosion control, safety, or for prevention of water damage to structures. All gutters shall be installed with downspouts and shall be painted and maintained in colors matching the house trim.

## II. Landscaping Guidelines

- 1) Lawns: All lawns must have regular periodic mowing and removal of unsightly debris.
- 2) Trees, Shrubs, and Planting beds: Open areas between plantings should be mulched and free of weeds and debris. Dead trees and shrubs in landscaped areas shall be removed.
- 3) Natural areas: Natural areas on lots shall be left undisturbed where possible. Community property and vacant lots shall never be used for dumping or storing anything, including refuse, landscaping debris, equipment, or construction materials.
- 4) Per the Declaration, Article VI, Section 8, landscaping approval by the Architectural Review Board must be obtained for:
  - i. Removal of trees in excess of 8" in diameter.
  - ii. Altering the grading of any lot if it may cause changes to water flows across adjacent properties.
  - iii. Landscaping changes which may violate the Monticello Woods Water Conservation Regulations for Residential Properties, other governmental ordinances, or cause an impact upon the preservation or conservation areas as identified in the Monticello Woods subdivision plan.
- 5) Grass and weed growth shall be controlled on concrete and other paved areas visible from Monticello Woods streets, public areas, and adjacent properties. Encroachment by growth of six inches or more onto concrete or other paved surfaces shall be considered "excessive" for enforcement purposes.
- 6) **Miscellaneous (added 4-27-11)**
  - 1) Exceptions: An approval by special exception may be granted by the ARB for improvements or changes which cannot be seen from public areas, streets, sidewalks, or other Monticello Woods homes.
  - 2) Future changes: Proposed changes to the ARB guidelines shall be announced to members at least two weeks prior to approval by the Board of Directors.
  - 3) Antennas/satellite dishes. Antennas are permitted under current FCC guidelines, and an ARB application is not ordinarily required. Where possible, antennas should be installed to minimize visibility from the street, located along the side or rear of the house, not mounted on the roof or trim, and no closer to the street than 25 feet behind the front house corners.

- 4) Holiday decorations: Temporary outdoor decorations associated with a holiday or special event are permitted without an ARB application when displayed for a period not to exceed 45 days.
- 5) Flags: Flags of all kinds on any one property shall not exceed four in number and all flags displayed may together not exceed 50 total square feet. Display of the United States flag shall be in accordance with *United States Code Title 4 Chapter 1 — The Flag*. Permanent flagpoles must be approved by the ARB and may not exceed 10 feet in height.

Section 9. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (i) all properties to the extent of any easement or other interest therein dedicated and accepted by a public authority and devoted to public use; (ii) all Common Areas; and (iii) all properties exempted from taxation by the state or county government upon the terms and to the extent of such legal exemption, provided that no property utilized for residential purposes shall be exempt.

## ARTICLE VI USE OF PROPERTY

Section 1. Residential Use. Each Lot is limited to one (1) single family dwelling house ("Dwelling") for the use and occupancy of one (1) family and attendant domestic servants, and no such building shall exceed two and one-half (2 1/2) stories in height, in addition to any basement. Each Dwelling shall have an attached or detached three-car or less garage unless otherwise specifically approved in writing by Declarant. Except as otherwise specifically approved in writing by Declarant, other improvements, including, but not limited to, storage areas, tool cabins, garden houses, etc., must be attached to the Dwelling or garage. No Lot shall be permitted to be resubdivided into additional building sites, except by Declarant and only if approval from the County of James City is obtained.

Section 2. Minimum Size and Setbacks. Any Dwelling constructed on any Lot shall have a fully-enclosed gross living area of not less than two thousand three hundred (2,300) square feet, exclusive of all garages, steps, stoops, breezeways, porches, and all patios, whether covered or uncovered. Minimum side yard setbacks shall be five feet (5'). Minimum front yard setbacks shall be twenty feet (20'). Minimum back yard setback shall be ten feet (10').

Section 3. Mandatory Inspection and Approval. Whether or not provision therefor is specifically stated in any sales contract, deed, deed of conveyance, or other conveyance or record made by the Declarant, each Owner, by acceptance of title thereto or by taking possession thereof, covenants and agrees that no Dwelling, building, wall, fence, mailbox, swimming pool, pool house, garage, aerial, antenna, dog house, tool shed, gazebo, deck, or any other structure of any description whatsoever shall be placed upon any Lot unless the plans and specifications therefor and a site plan, in such form and in such detail as the Architectural Review Board shall require to describe fully the Dwelling or improvements, shall be approved in writing by the Architectural Review Board.

All plans, specifications and site plans shall be submitted in triplicate, and two sets shall be retained by the Architectural Review Board, which shall include a floor plan drawn to scale, exterior elevations, roof pitch, exterior building material, and a landscaping plan providing for a reasonable number of trees and shrubs, and in addition, specifying all existing trees over 8 inches in diameter proposed to be removed from the Lot. In addition to these plans, specifications and site plans, building material samples shall also be submitted to the Architectural Review Board for approval, including but not limited to, all proposed exterior brick, roof, shingle and paint

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samples, if applicable, or such other materials as the Architectural Review Board may desire to inspect based upon the proposed plans and specifications of such building or structure. Each such Dwelling, wall, fence, mailbox, swimming pool, garage, or other such structure shall be placed on the premises only in accordance with the plans, specified site plans and with the materials specifically approved by the Architectural Review Board. Refusal or approval of plans and specifications by the Architectural Review Board may be for any reason, including purely aesthetic grounds, which determination shall be in the sole, absolute and uncontrolled discretion of Declarant, its successors and assigns.

The Architectural Review Board, through a designee or otherwise, shall have the right to inspect construction of any Dwelling or other structure while under construction to determine if this Declaration is being adhered to and shall have the right to stop any construction which does not conform to the plans and specifications which have been submitted and approved as herein required.

Section 4. Foundations. No Dwelling shall be constructed upon a slab foundation. Each Dwelling shall have a crawl space with crawl space vents between the ground floor and the supporting foundation for such Dwelling. All plumbing and roof vents and stacks for the Dwelling or structure shall be in the rear and side of the Dwelling or structure. No outside stairway leading to the second story or above of the Dwelling, which can be viewed from the street, shall be permitted for any Dwelling or structure. No storage tank or container shall be installed, placed or maintained above the ground on any Lot without the prior written consent of Declarant.

Section 5. Fence or Wall. No fence or wall shall be placed or erected on any Lot without the prior written approval of the Architectural Review Board pursuant to paragraph three above. A ny fence or wall which the Architectural Review Board may approve to be placed or erected on any Lot shall only be composed of wood, vinyl and/or brick and shall have a minimum height of three (3) feet and a maximum height of five (5) feet unless otherwise specifically approved in writing by the Architectural Review Board or assigns. No chain link fence shall be allowed. The height of any fence or wall shall be measured from the existing elevation of the Lot along any such fence or wall.

Section 6. Driveways and Parking. No driveway shall be constructed so as to interfere with the normal drainage of the street on which the Lot fronts. The driveway entrance to each Lot shall intersect the public street at the predetermined "driveway wipe down" in the curb and gutter for that Lot. No other driveway location will be permitted without the express written permission of Declarant.

No driveway or parking area which may be in front of, adjacent to, or highly visible part of any Lot shall be used for commercial vehicles, mobile homes, recreational vehicles, boats, trailers, campers or trucks other than pickup trucks, for a period in excess of twenty-four hours.

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The term "commercial vehicles" shall include all commercial trucks and shall also include all other motor vehicles and vehicular equipment which shall bear any sign imprinted, painted or placed on any exterior surface of said vehicle containing any reference to a commercial business or undertaking.

The term "recreational vehicles" shall include all motorized vehicles used or designed primarily for recreational purposes except for jeeps and other four-wheel drive vehicles of a similar type and size. Nothing in this paragraph shall be construed to prohibit or limit the parking of any vehicle of any kind or nature in a closed garage.

The "parkway" (that area between the street pavement and the front lot line of each Lot) of each Lot shall not be used for the parking of commercial vehicles, boats, trailers, or recreational vehicles.

The "parkway" section of any driveway shall be, stamped concrete, brick pavers, or exposed aggregate concrete.

Section 7. Utilities. All electrical, gas, telephone, cable television and other wires, lines, cables and pipes used for utility services, either at the Lots or any buildings or structures on said Lots, shall be placed underground.

No antenna, aerial, dish receiver, transmitter or other electronics or communication equipment or device shall be constructed, erected, or placed on the exterior surface or the roof of a Dwelling or structure or on other exterior surfaces of any Dwelling or structure or on other exterior surfaces of any Dwelling or structure on any Lot or on the Lot itself in such a way that such equipment or device can be seen from any public street or adjoining Lot, except for antennas as permitted by FCC regulations and rules without written consent of Declarant. No transmitting equipment or communication equipment shall be operated from a Lot that will in any manner interfere with standard electronic equipment, radio or television reception used in neighboring residences within the subdivision.

Section 8. Trees, Grade and Landscaping. Owners must conform to the County of James City tree ordinance and the Chesapeake Bay Preservation Act.

The grading and/or landscaping of any Lot may not be carried out in such a manner as to alter or change materially the flow of surface water across the Lot onto the adjoining Lots or to cause any portion of the drainage system for the Lots to overflow.

No brick mailboxes, columns, endwalls, sprinkler heads or shrubs, may be located within the VDOT right of way as defined on the existing plot plan. If this provision is not adhered to, the costs to enforce this provision and all costs of enforcement, including reasonable attorney's fees, shall be assessed against the landowner. An additional penalty for this violation shall be \$50.00 per day ten days from the date of notice of the violation from Declarant.

Section 9. Preservation Areas. No Owner shall engage in or cause any land disturbance of any areas or any Lot designated as a "Preservation Area" "Natural Open Space" "Open Space" or "Delineated Wetland Area" without first obtaining permission from Declarant and without applying for and obtaining a Chesapeake Bay Preservation Act variance from the County of James City Chesapeake Bay Preservation Area Board. "Land disturbance" shall mean any activity which causes, contributes to or results in the removal or covering of the vegetation upon such land, including, but not limited to, clearing, dredging, filling, grading or excavating. The term "land disturbance" shall not include minor activities such as home gardening, individual home landscaping and home maintenance.

Section 10. Miscellaneous Prohibitions. Nothing shall be done on any Lot which may become an annoyance or nuisance to the neighborhood. No horses, cattle, swine, goats, poultry or fowl or any other animal not customarily a household pet shall be kept on any Lot. No manufacturing trade, business, commerce, industry, professional office or other occupation whatsoever shall be conducted or carried on or upon any Lot or any part thereof or in any Dwelling or other structure erected thereon.

All outside lighting shall be non-obtrusive to the neighboring Lots.

No trash shall be allowed to accumulate on a Lot so as to be unsightly, a detriment to the area, or a fire hazard. In the event that any Owner or occupant shall fail or refuse to keep his premises free of weeds, underbrush, refuse or other unsightly growth or objects, Declarant, its successors or assigns may enter upon said lands to remove the same at the expense of the Owner.

No trash, rubbish, refuse, garbage, leaves or other waste material shall be kept or stored on any Lot except in covered sanitary containers hidden from view of the Owners of adjoining Lots and the public. During construction, a dumpster shall be provided as the builder determines is reasonable and the Lot shall be kept clear of construction debris.

No trailer, tent, shack, detached garage, barn or other improvement placed or erected on any Lot shall be used temporarily or permanently as a residence, except as a sales center or construction trailer utilized by the builder upon the approval of the Declarant.

Construction of garden sheds, greenhouses, garbage enclosures or other similar accessory structures shall only be permitted subject to the prior written review and prior approval of the Architectural Review Board. No above ground structures of any type will be permitted in front yards bordering the street. Inground pools are permissible with the approval of Declarant.

No statues, monuments or other decorative or ornamental personal property or words, symbols, or other drawings or writings, other than the residence number and the names of the residents of a Dwelling, shall be displayed on any portion of any Lot or on the Dwelling or other

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structure constructed on such Lot which is observable from any adjoining Lot or street without the prior written review and prior approval of the Architectural Review Board.

No sign of any kind shall be displayed to the public view on any Lot except one (1) sign of not more than six (6) square feet advertising the property for sale or rent, or a sign used by a builder to advertise the property during the construction and sales period. All signs must be approved as provided in paragraph three (3) as set forth above.

## ARTICLE VII EASEMENTS

Section 1. Utility Easements. There is hereby created an easement of five (5) feet in width along the front side and rear lines of each Lot, unless a greater width is shown on the Plat, upon, across, over, through and under each Lot for drainage, ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including, but not limited to water, sewers, gas, telephones, electricity, television, cable or communication lines and systems. By virtue of this easement, it shall be expressly permissible for Declarant or the providing utility or service company to install and maintain facilities and equipment on each Lot, provided such company restores disturbed areas to the condition in which they were found.

Notwithstanding anything to the contrary contained in this paragraph: (i) no sewers, electrical lines, water lines or other utility service lines or facilities for such utilities may be installed or relocated on said premises except as approved by Declarant or by the Association after Declarant control expires, and (ii) it shall not be construed to apply to the relocation, installation or removal of utility lines within a Lot that serve only that Lot. This easement shall in no way affect any other recorded easements on the Property.

Section 2. Declarant's Easements to Correct Drainage. For a period of five (5) years from the date of conveyance of each Lot, Declarant reserves an easement and right on, over and under the ground within that Lot to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any grading of the land, or to take any other similar action reasonably necessary, following which Declarant shall restore the affected property to its original condition as near as practicable. Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of Declarant an emergency exists which precludes such notice.

Section 3. Construction Easements and Rights. Notwithstanding any provision of this Declaration or of any Supplementary Declaration, so long as Declarant is engaged in improving any portion of the Subdivided Property, Declarant shall have an easement of ingress, egress and use over any lands not conveyed to an Owner for occupancy for (i) movement and storage of building materials and equipment, (ii) erection and maintenance of directional and promotional signs and

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