

SOUTH BAY COMMUNITY ASSOCIATION

South Bay Design Standards

SBCA-ARC

Revision 7.3

6-14-2024

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INTRODUCTION

Port Ludlow is known as one of the finest residential and recreational communities in the Pacific Northwest. Those people who own homes and property in Port Ludlow become parties to a longstanding tradition of exemplary stewardship of some of Washington's most superb natural resources.

The purpose of these Standards is to protect the substantial financial commitment made by the many individual property owners who have chosen to live within the confines of South Bay and, in particular, the area administered by the South Bay Community Association. The Standards attempt to assure the highest quality of living environment, while at the same time, allowing an appropriate degree of individual choice in site planning and residential design and construction.

The information contained herein is derived from the South Bay Master Declaration and is formatted so as to provide clarification and ease of reference.

The South Bay Design Standards are the rules, procedures (including application forms) and standards established by the SBCA Architectural Review Committee and approved by the SBCA Board, and are enforceable in the same manner as the Master Declaration.

1.0 DEFINITIONS

- 1.1 **Board** shall mean the Board of Directors of the South Bay Community Association.
- 1.2 **Common Areas** shall mean:
 - A. All land owned by the South Bay Community Association;
 - B. All land within South Bay which the Declarant makes available to members of the South Bay Community Association and evidences its intent to convey to South Bay Community Association at a later date; and
 - C. All land within South Bay which comprises the trail or pathway system, or which the Declarant indicates on a recorded subdivision plat or within a Supplemental Declaration is to be used for the benefit of all Owners within South Bay, but expressly excluding any Open Space within a subdivision which shall be construed as Limited Common Area.
- 1.3 **Community Association Land** shall mean such part or parts of South Bay, together with the buildings, structures, and improvements thereon, and other real property which the South Bay Community Association owns or may at any time have an easement or leasehold interest, which property is designed for the use and enjoyment of the members of the South Bay Community Association.
- 1.4 **Declarant** shall mean Port Ludlow Associates, its successors, and assigns, but only if such successors or assigns should acquire all or substantially all of the then-developed portions of South Bay from Declarant for the purpose of development.

- 1.5 **Limited Common Areas** shall mean all land within South Bay which the Declarant designates on a recorded subdivision plat as Limited Common Area or Open Space. (See Master Declaration Section 5.5)
- 1.6 **Lot** shall mean any area of real property within South Bay designated as a residential Lot by any appropriate means of governmental approval recorded or approved by Declarant, with the exception of the Common Areas, Limited Common Areas and property dedicated to any governmental entity, but together with all appurtenances, improvements, and residences now or hereafter built or placed on the Lot. Also, for purposes of these Standards, Lot shall include any condominium unit located within South Bay.
- 1.7 **Owner** shall mean the record owner of a fee simple interest in any lot. For the purposes of this document, owner shall also mean homeowner, lot owner or property owner.
- 1.8 **Recreational Facilities** shall mean all real property within South Bay owned by the South Bay Community Association or Declarant for the common recreational use and enjoyment of the members.
- 1.9 **SBCA-ARC** shall mean the South Bay Community Architectural Review Committee.
- 1.10 **South Bay** shall mean all real property subject to the Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements' ("The Master Declaration") recorded under Jefferson County Auditor's No. 324010.
- 1.11 **South Bay Approval Letter** shall mean the Written Approval (including e-mail) obtained from the SBCA-ARC upon satisfaction of the requirements set forth in these Standards.
- 1.12 **South Bay Community Association** shall mean the Association created pursuant to the provisions of the South Bay Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements' ("The Master Declaration") as amended from time to time, recorded under Jefferson County Auditor's No. 324010.
- 1.13 **South Bay Rules** shall mean the rules for South Bay as adopted by the Board of Directors of the South Bay Community Association pursuant to the Declaration.
- 1.14 **Standards** shall mean these South Bay Design Standards adopted pursuant to the Declaration.
- 1.15 **Supplemental Declarations** shall mean a Supplemental Declaration recorded pursuant to the terms of the Declaration to which portions of South Bay, or certain villages may be subjected.
- 1.16 **View** A view shall mean a vista observable from the residence of a property. The view can be either unobscured or partially obscured by an adjoining building or natural vegetation. The view may change in time by the natural growth of vegetation.

- 1.17 **Village-ARC** shall mean the individual or group responsible for the administration of these Standards and Supplemental Declarations within their respective Villages. Each Village HOA may designate one or more individuals as a Village-ARC.
- 1.18 **Visible from Neighboring Property** shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall, standing at ground level on any part of a lot, Common Area, or Limited Common Area neighboring that on which such objects exists.
- 1.19 **Written Approval** shall mean a communication expressed on paper or electronically (e.g. e-mail).

2.0 AUTHORITY AND APPLICATION

- 2.1 **Authority.** The authority for these Standards is set forth in the South Bay Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitude, Liens, Reservations, and Easements' (hereinafter "Declaration") as recorded under Jefferson County Auditor's File No. 324010, records of Jefferson County, Washington.
- 2.2 **Scope-Applicability.** These Standards apply to that portion of the South Bay subject to the above-referenced Declaration and are wholly in addition to applicable standards set forth in federal, state, county and local regulations. With the exception of structures designed and/or constructed by Declarant, no alteration or modification to an existing dwelling unit or other structure, which in any way alters the exterior appearance of the structure, shall be made without SBCA-ARC approval, unless the alteration or modification is exempt from approval requirements. (See DS 4.2.2)

Once a Lot has been conveyed by the Declarant to an owner, all subsequent structures, improvements, alterations and landscaping are then subject to the Design Standards and require approval by the SBCA-ARC.

- 2.3 **Health, Safety, and Welfare.** In the event additional uses, activities, and facilities other than those regulated by these Standards are deemed by the Board to be a nuisance or to adversely affect the health, safety, or welfare of Owners, Residents, or Occupants, the Board may make rules restricting or regulating their presence in South Bay as part of the South Bay Rules or it may direct the SBCA-ARC to make rules governing their presence on Lots as part of these Standards.
- 2.4 **Lot and Common Area, Architectural Control.** No improvements, alterations, repairs, excavation, grading, removal of trees with base trunk diameter exceeding six inches (6"), or other work which in any way alters the exterior appearance of any Lot or Common Area within South Bay, or the improvements located thereon, from its natural or Declarant improved condition (existing as of completion of Declarant's construction thereon or improvements thereto) shall be made or performed without prior approval of the SBCA-ARC, except as otherwise expressly provided in these Standards. Other than as constructed

by Declarant, no building, or structure, shall be commenced, erected, maintained, painted, improved, altered, or made without the prior written approval of the SBCA-ARC (other than those exempted in DS 4.2.2). All subsequent additions to, changes or alterations in any building or structure, including exterior color scheme, and all changes in the grade of Lots, Master Association Land, Common Areas or Recreational Facilities, shall be subject to the prior written approval of the SBCA-ARC. No changes or deviations in or from the plans and specifications once approved by the SBCA-ARC shall be made without prior written approval of the SBCA-ARC. All original construction as well as any modifications or additions thereto as shall be constructed by Declarant shall be exempt from the provisions of this Paragraph. Landscaping will be controlled as defined in section 4.2. For further information refer to section 11.2 of the South Bay Master Declaration.

- 2.5 **Supplemental Declarations.** In addition to the Master Declaration, individual villages may have Supplemental Declarations regulating aspects of construction and landscaping. A Supplemental Declaration takes precedence over the Master Declaration only insofar as it pertains to the maintenance, regulation and administration of any Limited Common Areas, facilities, amenities and Lots owned by the village association (See MD 5.5). In performing its functions the SBCA-ARC applies the Master Declaration and these South Bay Design Standards. The SBCA-ARC does not apply or enforce village Supplemental Declarations or village rules. Villages are responsible for applying or enforcing their own governing documents or rules.
- 2.6 **Village Association Recommendations.** The SBCA-ARC is normally very interested in receiving recommendations or other comments from Village ARCs or Village HOAs on applications coming before the SBCA-ARC for decision.

3.0 RESPONSIBILITIES

- 3.1 **South Bay Architectural Review Committee.** The South Bay Architectural Review Committee (hereinafter "SBCA-ARC") is that group responsible for the administration of these Standards. The SBCA-ARC was established to administer the architectural control provisions of the Declaration and these Standards as provided for in Section 11.1 of the South Bay Master Declaration. The SBCA-ARC has the right to adopt rules and regulations for preparation, submission, and decision-making procedures relating to application of these Standards. The SBCA-ARC shall consist of not less than three (3) or more than five (5) members.

Members of the SBCA-ARC should avoid conflicts of interest and should decide matters coming before the Committee fairly and impartially. A member of the Committee should recuse himself or herself from participating in any consideration of or decision on any application or complaint coming before the Committee if:

1. The Committee member or any member of his/her immediate family is a party to or has a direct interest in the outcome of the particular application or complaint;
or

2. The ability of the Committee member to decide the matter fairly and impartially may reasonably be questioned. The mere fact that a Committee member may be a neighbor, acquaintance or friend of a party having a direct interest in a matter coming before the Committee does not necessarily constitute a basis for reasonably questioning the ability of the Committee member to decide the matter fairly and impartially.

If a member of the Committee recuses himself or herself from acting on a particular matter, the matter will be handled by the remaining Committee members or alternates. A Committee member may be deemed disqualified from acting on a particular matter by a majority vote of the other Committee members, applying the standards for recusal set forth above.

Any member of the SBCA-ARC, by written notification to the Board, may resign from the SBCA-ARC at any time. The Board shall have the power to appoint all of the members of the SBCA-ARC. The Board may ask the Declarant to assign a member from the Declarant's staff to serve on the SBCA-ARC. Decisions of the SBCA-ARC shall be by a majority vote of its members. The SBCA-ARC approval of plans shall not constitute a representation, warranty, or guarantee that such plans and specifications comply with good engineering or design, or with zoning or building ordinances, or other governmental regulations or restrictions.

By approving such plans and specifications, neither the SBCA-ARC, the members thereof, the Master Association, any member thereof, nor the Board, assumes any liability or responsibility therefore for any defect in the structure constructed from such plans or specifications. None of the above stated entities or individuals shall be liable to any Member, Owner, Resident, Occupant, or other person or entity for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, and specifications, whether or not defective, or (b) the construction or performance of any work, whether or not pursuant to the approved plans, drawings, and specifications.

- 3.2 **Village-ARC Responsibilities.** Village-ARC member(s) may assist a Lot owner in securing the proper project application form and may assist the owner in filling it out and submitting it to SBCA-ARC for decision, may do an initial review of all projects to help ensure the Lot owners project is compliant with SBCA rules, and may also help ensure that the notice provisions under section 4.1.2 have been satisfied. Village-ARC member(s) may give an informal personal opinion about the likelihood of receiving SBCA-ARC approval of the lot owner's project application, but any such opinion is not binding upon SBCA-ARC. To avoid future disputes about what was said, it is recommended that any such opinion be expressed in a written format (like an email, text, or letter) that can be preserved, and that the opinion provider keep a copy of it. Village-ARC members (or, if there is no village-ARC, the village HOA) are encouraged to submit their recommendations or other comments on any application affecting their village, for consideration by the SBCA-ARC. Village-ARCs (or village HOAs) should promptly forward to SBCA-ARC any applications for projects requiring SBCA-ARC approval.

- 3.3 **Owners.** Owners are required to strictly adhere to the procedural and substantive standards contained herein, as well as any specific conditions prescribed on a South Bay Approval Letter. It is also the responsibility of Owners to comply with all governmental, village and other requirements.

In addition, each owner who receives approval from the SBCA-ARC will ensure the following:

1. Toilets will be made available by the Owner at the job site for workers;
2. All materials, vehicles, and associated apparatus will be stacked or stored on the job site only, unless otherwise approved by the SBCA-ARC;
3. There will be no trespassing onto adjoining Lots or common areas, or golf course;
4. Provisions will be made for trash accumulation on the job site and for frequent removal; and
5. Exterior construction will occur only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday and 10:00 a.m. to 6:00 p.m. on Sunday.

Individual property Owners will ensure compliance with these Standards.

- 3.4 **Inquiries from realtors, prospective buyers or other persons who are not Lot owners.** It is SBCA-ARC's policy not to give advice to realtors, prospective buyers, or other persons who are not existing Lot owners about whether an application for a particular project would or would not be approved. Village-ARC members are encouraged to comply with this policy. Owners are required to strictly adhere to the procedural and substantive standards contained herein, as well as any specific conditions prescribed on a South Bay Approval Letter. It is also the responsibility of Owners to comply with all governmental, village and other requirements.

4.0 PROCEDURES

4.1 Applications

- 4.1.1 All applications should generally be submitted to SBCA-ARC through the Village-ARC Representative or Village HOA. If there is no Village-ARC or Village HOA, applications are to be submitted to: South Bay Community Association, 120 Spinnaker Place, Port Ludlow, WA 98365, Attention SBCA-ARC or via email to gm@sbca.club

The homeowner may also submit the application directly to SBCA-ARC.

Note that SBCA-ARC will only evaluate applications submitted to it for compliance with SBCA rules, and will not attempt to interpret or apply (a) the Village rules under the Village Supplemental Declarations, (b) any governmental rules, or (c) other requirements. It is always the responsibility of Owners to comply with all governmental, village and other requirements.

Submission of an Application to any individual SBCA-ARC member will NOT be deemed submitted to the South Bay Community Association. All submissions must be made through proper channels, as described herein.

4.1.2 **Notice to Neighbors.** The Applicant should give notice, as described in this DS 4.1.2, to all “Direct Neighbors” and anyone else who might reasonably be expected to be materially impacted by the work requested in the application. (collectively referred to as “Notice Neighbors”).

a) **Direct Neighbors.** A Direct Neighbor is any neighbor whose Lot (or any portion thereof) is directly next to, or directly across from, any portion of the Lot on which the work requested in the application is to be performed.

b) **Village Boundaries Ignored.** The determination of whether or not a neighbor is a Notice Neighbor is made without regard to Village boundaries. A Notice Neighbor may be in any Village.

c) **Notice to Notice Neighbor.** The Notice given to a Notice Neighbor may be written, by email, oral or a combination (SBCA-ARC encourages Notice to be written, to document the communications).

d) **Notice to South Bay Community Association or its agents.** Applicants are encouraged to give to SBCA-ARC a copy of any notices given to Applicants neighbors, as part of the application process. However, giving copies of such notices to SBCA-ARC does not satisfy the requirement to give notice to Notice Neighbors.

e) **Purpose of Notice.** The purpose of giving notice of the requested work is not to give the potentially impacted neighbor a “veto” right, but rather to encourage advance communication between neighbors, to help avoid or resolve possible “surprises” and/or disputes when the work is performed, if approved.

f) **Content of Notice.** The Notice given to a neighbor under this DS 4.1.2 should include all of the following:

(1) the street address of the Lot where the work will be performed;

(2) a description of the work to be performed under the application, which can be written, pictures, verbal or a combination; and

(3) the date Applicant expects or requested that SBCA-ARC review the application, including any expedited review requests.

g) SBCA-ARC determination that Applicant is required to notify one or more neighbors. SBCA-ARC may, but is not required to, take such other actions as it determines, in its sole discretion, is appropriate, including:

- (1) require Applicant to give notice to one or more neighbors and/or a Village Board or Village-ARC;
- (2) reject an application for failure to give adequate notice;
- (3) issue a conditional approval letter, requiring one or more neighbors and/or a Village Board or Village-ARC be notified before the project may begin;
- (4) give notice, on behalf of Applicant, to any neighbor(s) and/or Village Board or Village-ARC that SBCA-ARC deems appropriate under the circumstances; and/or
- (5) take such other actions as it determines, in its sole discretion, is appropriate to help ensure all Notice Neighbors have been properly notified of Applicants project.

4.1.3 Application Process. The application process is as follows:

- a) [Download an application](#) from the South Bay; direct [link to SBCA-ARC webpage](#). obtain an application from the Village-ARC Representative or Village HOA; or pick up an application from the Bay Club Front Desk Receptionist.
- b) Submit completed application to Village-ARC or Village HOA (If no Village-ARC or Village HOA then submit to SBCA-ARC Office), so that the Village-ARC representative or Village-HOA has an opportunity to advise the SBCA-ARC of any village recommendations or comments on the application.
- c) The Village-ARC Representative or Village HOA should promptly forward the application, along with a recommendation, to the SBCA-ARC for review.
- d) The homeowner may also submit the application directly to SBCA-ARC for evaluation under SBCA rules. For limitations on scope of SBCA-ARC evaluations and determinations, see for example DS 4.1.1.
- e) Application forms, check lists and assistance can be obtained from your Village-ARC Representative.

4.2 Approvals

- 4.2.1 Approval *is* required for all types of construction and landscaping except as set out in 4.2.2. Appendix A shows examples of requirements.

4.2.2 Approval is *not* required for the following:

- a) Planting annuals in existing cultivated areas;
- b) Planting perennials, which do not exceed forty-two (42) inches in height at maturity;
- c) Replacement in kind of existing plants;
- d) Trim or remove dead or wind-felled trees of any size, provided a photo of the fallen tree, before the tree is cut, is available for subsequent review by the Village-ARC, Village HOA or SBCA-ARC;
- e) Trim or remove live tree(s) that meet the following conditions – 1) the tree’s trunk has a diameter less than 6 inches at a height of 5 feet above the ground, and 2) the tree’s base is farther than 15 feet from the shoreline of marine waters;
- f) Routine maintenance of lawns, gardens and shrubbery;
- g) Repainting exterior of house or trim the same color as previously;
- h) Replacing heat pump in same location;
- i) Replacing emergency generator in same location;
- j) Replacing hot tub with same size and in same location;
- k) Add or replace satellite dish less than 1 meter in diameter;
- l) Replacing propane tank in same location;
- m) Replacing exterior light fixtures with same size and style in same location;
- n) Replacing skylights with same size and style in same location;
- o) Replacing solar panels with same size and style in same location;
- p) Replacing siding or roof with same or similar material and same color and footprint as previously;
- q) Painting or staining deck or railings the same color as previously;
- r) Repairing exterior of house or deck, retaining same footprint, design and appearance;
- s) Repairing walkway or driveway, retaining same footprint, design and appearance;

- t) Making interior alterations or repairs that do not alter the exterior appearance of a house or structure;
 - u) Installing a video doorbell;
 - v) For fire safety, trimming limbs and branches of trees, growing on one's own Lot, which overhang roofs, decks, and porches, or are within five feet of the house, regardless of the tree diameter. Trees may be limbed up to six feet from the ground. In addition, tree limbs overhanging a roof may also be trimmed or removed.
- 4.2.3 Approval *is* required for the following:

- a) Landscaping associated with new home construction. The initial submittal should be included with the Building Construction/Modification Application and may be in the form of a preliminary sketch. The final design shall be submitted prior to the start of installation.
- b) Additions to landscaping with exception of those listed in 4.2.2 above. Applications for landscaping must contain sketches showing existing and proposed location of types of plants and hard features such as ponds, arbors and rockeries. Changes in grade (filling and grading) must provide detailed information on drainage, erosion and possible impact on surrounding lots, common areas, drainage ditches and ponds.

4.2.4 Applications for all work other than landscaping must contain a site plan, 1 set of drawings and specifications, and job site provisions as called for in the Application Form.

- 4.3 **Timetable.** Completed Applications submitted to the Village-ARC or Village HOA will be reviewed and referred to the SBCA-ARC as expeditiously as reasonably possible.

Applications submitted to the SBCA-ARC will be reviewed and acted upon as expeditiously as reasonably possible depending upon the complexity of the project, time required for site inspections, and cooperation of the applicant in submitting necessary information.

Normally the application will be acted upon at the next regularly scheduled monthly meeting, provided the application was submitted by the second Friday of that month. Applications submitted after the second Friday of the month will generally not be reviewed by SBCA-ARC at that month's SBCA-ARC meeting, but rather be reviewed the following month (unless an expedited review is requested by applicant and granted by SBCA-ARC).

The SBCA-ARC may approve, disapprove, or conditionally approve plans and specifications which have been submitted, or refer the application back to the requesting owner for completion or additional information necessary for arriving at a decision. Such action will be by a majority vote of the SBCA-ARC and will be transmitted to the Village-ARC or Village HOA and Owner. No prior approval or failure to disapprove similar projects will constitute a controlling precedent.

- 4.4 **South Bay Approval.** A South Bay Approval Letter will be issued once all project review has been completed and approved by the SBCA-ARC. Approval by the SBCA-ARC does not constitute compliance by the owner with governmental, village and other requirements. The General Manager, in his capacity as acting secretary to the SBCA-ARC, may sign the Approval Letter on behalf of the committee.

Work as delineated in the Project Application package must be fully completed within one (1) year after issuance of a South Bay Approval Letter for new construction and within three (3) months for all other projects. Projects not completed within the allotted time require an approved Request For A Time Extension. Upon written notice of this request to the Bay Club General Manager, the Owner has the right to a one time automatic 90 day approval. Any additional extensions will require SBCA-ARC review. The SBCA-ARC has the absolute discretion to approve or deny any extension request.

- 4.5 **Non-Compliance.** As stated in detail in sec/on 11.6 of the Master Declaration, failure to comply with the Declaration, any Supplemental Declaration, or these Standards, or with specific conditions attached to an approved South Bay Approval Letter, shall constitute grounds for immediate revocation of said South Bay Approval. In the event of revocation of a South Bay Approval, or any construction or improvement where a South Bay Approval has been denied, the SBCA-ARC or Board may seek injunctive relief or any other legal remedy available under Washington State law. Any complaints that work on any Lot has not been completed in compliance with the final plans approved by the SCBA-ARC shall be submitted to the SBCA-ARC. All other complaints regarding non-compliance with the governing documents shall be submitted to the SBCA Board. Providing false or misleading information on an Application or on a Notice to a Neighbor may be deemed by SBCA-ARC as a failure to comply with these Standards.

- 4.6 **Request for Reconsideration.** Any Owner who wants to request reconsideration of the original decision may proceed as follows:

4.6.1 Owner submits letter to SBCA-ARC stating reasons for grievance within 30 days of notification of decision.

4.6.2 The SBCA-ARC will attempt to contact the Owner within 15 days of receipt of the grievance letter to discuss the Owner's contentions.

4.6.3 The SBCA-ARC will use its best efforts to render a decision promptly.

4.6.4 If the Owner chooses, they may appeal directly to the SBCA Board for review.

- 4.7 **Appeal to SBCA Board.** A party who wishes to appeal a decision of the SBCA-ARC, under Design Standard 4.6, may appeal to the SBCA Board. The following rules apply to any such appeal to the SBCA Board:

1. Within 15 days after receiving the ARC decision, a party who wishes to appeal the ARC decision to the SBCA Board (the “appellant”) must submit the appeal in writing to the

Board and must provide copies to all other parties who were directly involved in the matter.

2. Any other person who was directly involved in the matter may respond to the appeal by submitting a written response to the Board, to the appellant and to all other parties who were directly involved in the matter, within 7 days after receiving a written copy of the appeal.

3. Within 5 days after receiving any response, the appellant may submit a written reply to the Board, and must provide a copy of the reply to any person who submitted a response to the appeal.

4. The Board will normally rule on the appeal without oral argument, based on the written submissions of the parties. However, the Board may, in its sole discretion, schedule a special meeting to hear oral argument from the parties or their counsel, to allow the parties to present additional evidence, or to ask the ARC members about how or why they reached their decision or for their responses to arguments made by the appellant or other parties.

5. Unless their participation in ruling on the appeal is necessary to achieve a quorum of the Board for purposes of deciding the appeal, members of the Board who participated in reaching the ARC decision, or who recused themselves or were deemed disqualified from participating in the ARC decision under the ARC Conflicts of Interest Policy, will not participate in deciding the appeal to the Board.

6. The Board will grant relief from the SBCA-ARC's decision on the appeal only if it determines that:

- a) The ARC decision was in violation of the Master Declaration, the South Bay Rules or the Design Standards;
- b) The ARC decision was outside the authority or jurisdiction of the SBCA-ARC;
- c) The ARC engaged in an unlawful procedure or decision-making process, or has failed to follow a prescribed procedure, resulting in unfair prejudice to the appellant;
- d) The ARC decision was arbitrary or capricious or was not supported by substantial evidence or authority;
- e) The ARC decision did not decide all issues that were raised in the appeal to the ARC and that needed to be decided in reaching a proper disposition of the matter; or
- f) The appellant requested that an ARC member be disqualified from ruling on the matter due to a conflict of interest, and the request was improperly denied, or, if no such request was made, sufficient facts are shown to support the grant of such a request and that such facts were not known and were not reasonably discoverable by the challenging party at the appropriate time for making such a request.

5.0 STANDARDS

The purpose of the Standards is to preserve and promote the character and orderly development of South Bay. All project applications will be evaluated on such factors as site, design, height, square footage, orientation, color, mode of architecture, landscaping design, compatibility with natural and manmade surroundings, and relevant criteria deemed important by the SBCA-ARC for the construction of improvements. In addition to the specific criteria, which follow, the SBCA-ARC reserves the right to judge project applications on the basis of other aspects that it deems as pertinent to its general responsibilities. During reasonable hours and upon reasonable notice to the owner, resident or occupant of a lot, any member of the SBCA-ARC, any member of the Board, or any authorized representative of any of them, shall have the right to enter upon and inspect any lot and the improvements thereon, except for the interior portions of any dwelling unit, for the purpose of ascertaining compliance with this design criteria. (See MD 4.2.20)

5.1 Buildings

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5.1.1 **Clearing and Grading.** No improvements, alterations, repairs, excavation, grading or other work which in any way alters the exterior appearance of any Lot or Common Area within South Bay, or the improvements located thereon, shall be undertaken without approval from the SBCA-ARC. Each Owner and Village-ARC or Village HOA shall bring to the attention of the SBCA-ARC any special standards for clearing, grading, and vegetative removal contained within applicable Supplemental Declarations.

5.1.2 **Building Size.** The square footage of the proposed home shall be 1500 square feet or greater.

5.1.3 **Building Style.** Modular, sectional, or other factory-built or preconstructed homes will not be approved.

5.1.4 **Building Height.** No building, structure, or other improvement of any Lot shall exceed 35 feet in height. The height shall be defined as the vertical distance to the highest point of the building, structure, or improvement including equipment and appurtenances thereon, when measured from grade. Grade shall be defined as the highest point of elevation of the existing natural surface of the ground immediately adjacent to the foundation of said building, structure, or other improvement before grading. Refer to Jefferson County Unified Development Code section 2 for a detailed description of reference datum point.

5.1.5 **Garages.** It is the intent to restrict on-street parking as much as possible. Vehicles of all Owners, residents, and occupants, and their employees, guests, and invitees, are to be kept in the garages and residential driveways of Lot Owners, and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles at a Lot. Each single-family residential structure shall allow for the off-street parking of at least two automobiles. If a garage is provided, regardless of its size or automobile capacity, that structure will fulfill the requirement of one space; at least one additional open, off-street parking space must be provided.

5.1.6 **Setbacks.** Setbacks apply to any part of any building, including overhangs, eaves, and decks. The minimum setback for front property lines is twenty (20) feet from the adjacent road right-of-way. The minimum setback for rear and side yards is five (5) feet, unless adjacent to a road right-of-way in which case the twenty (20) foot setback will apply. In addition, structural setback provisions contained in any Supplemental Declaration, or on any subdivision plat map, shall control.

5.1.7 **Exterior Finishes.** Structures shall be of new construction. No asphalt, fiberglass, metal or hollow back vinyl shall be used as finished exterior siding. The use of transparent wood stains in lieu of paints is acceptable.

5.1.8 **Roof Materials.** No particular type of material is preferred and each will be judged by the general criteria noted in Section 5.0. Regardless of the type of material used, the color must be earth tone and muted. No reflective metal roof material may be used.

5.1.9 **Driveways and Walkways.** Driveways, walkways, and paths made of asphalt, stone, concrete, bark chips, and gravel are preferred. Surfacing material which is reflective, such as white stone chips, is prohibited.

5.1.10 **Walls.** Unless authorized by a Supplemental Declaration, and other than as initially constructed by Declarant, no walls of any type exceeding 36” in height shall be constructed or maintained on any Lot. At its sole discretion the SBCA-ARC may approve walls that are architecturally integrated and physically connected to the main structure. The SBCA-ARC will consider variances, e.g., retaining walls

5.1.11 **Drainage.** No roof drains or driveway drainage shall be directed as to adversely impact neighboring properties.

5.1.12 **Service Areas.** No trash or other debris shall be placed or kept on any Lot, except in covered sanitary containers. Proposed plans must provide for screening of garbage cans and trash areas, propane or oil tanks, heat pumps, generators, and air conditioner condensing units from the view of the adjacent property, roads, and paths. Such screening shall be of materials and finish consistent with the principal structures on the site or plantings of suitable plant materials whose growth patterns will screen the height, density, and noise levels. Trash containers may only be visible while available for collection and then only for a period of time not exceeding fifteen (15) hours which is deemed to be a reasonable time to effect collection. No outdoor incinerators shall be kept or maintained on any Lot. No plan will be considered without location of garbage/trash enclosure being shown.

5.1.13 **Utilities.** No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed, or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or on buildings or other structures initially constructed by Declarant, or subsequently approved by the SBCA-ARC and any governmental or public authority with jurisdiction. The erection of temporary power or telephone structures incident to the construction of buildings or structures by Declarant or as approved by the SBCA-ARC is permissible.

5.1.14 **Exterior Lighting.** Artificial outdoor lighting shall be arranged so that the light is shaded or otherwise directed so that excessive light does not reach adjoining properties. For purposes of this DS 5.1.14, the term “excessive light” means lighting that unreasonably illuminates neighboring property. Whether lighting “unreasonably” illuminates neighboring property depends on the specific circumstances, but light bulbs that are rated to produce not more than 1100 Lumen with a temperature rating not more than 3000 K (“Kelvin temperature”) shall generally be deemed not to produce “excessive light” within the meaning of this provision. The type and placement of exterior lighting devices is an integral part of a Project Application to be approved by the SBCA-ARC.

5.1.15 **Porches and Decks.** All porch and deck additions, if approved, shall have an appearance consistent with the exterior of the dwelling. No patio or deck addition shall

extend beyond that dwelling's property setback line. No post or supports may be installed on common areas or designated open spaces.

5.1.16 **Solar Equipment.** Solar equipment, whether active or passive, must be architecturally consistent with the structure which it serves, must be attached thereto, and must comply with any height restrictions.

5.1.17 **Animals.** No provision for the care, housing, or confinement of any pet shall be constructed so as to be visible from neighboring property. Homeowners must refrain from feeding or attracting wild animals or birds (including waterfowl) in such a manner that creates an unreasonable disturbance or accumulation of droppings on their lot or surrounding properties as this may cause a health, safety or nuisance concern. Bird feeders should be used with care, as they may also attract nuisance animals and vermin.

5.1.18 **Additional Wells.** No water wells shall be placed on any Lot by any Owner.

5.1.19 **Antennas.** Unless specifically permitted by a Supplemental Declaration or placed by Declarant, or its duly delegated representative, no antenna, satellite dish (greater than one (1) meter in diameter), or other device for the transmission or reception of television or radio (including ham radio) signals or any other similar device shall be erected, used, or maintained outdoors on any Lot, unless approved by the SBCA-ARC. If approved, the installation shall be as unobtrusive as possible consistent with good reception.

5.1.20 **Clothes Drying Facilities and Playground Equipment.** Unless specifically permitted by a Supplemental Declaration, the following shall not be erected or maintained on any Lot if visible from neighboring property.

- A. Outside clotheslines or other outside facilities for drying or airing clothes;
- B. Playground equipment including, but not limited to, swing sets, slides, and sandboxes.

5.1.21 **Exterior Signs.** No signs whatsoever which are visible from neighboring property shall be erected or maintained on any Lots, Common Areas or Recreational Facilities within South Bay except;

- A. Signs required by legal proceedings, and then the sign shall not exceed 18" by 24" unless mandated by Court or Washington Law;
- B. One "For Sale" or "For Rent" sign not exceeding 18" by 24";
- C. One identification sign for individual residences not exceeding 18" by 24";
- D. No more than two emergency services address plates, which are issued by Jefferson County;
- E. Signs of Declarant or signs authorized by Declarant for placement on any property within South Bay;
- F. Signs receiving prior written approval from the SBCA-ARC specifying the size, colors, design, message content, location, and period for which said sign may be displayed; and
- G. Political yard signs on private property, which may be displayed for no more than 60 days prior to any primary or general election and must be removed

within 3 days after said election. Such signs shall be no more than 24" x 24" in size, with the top of the sign no more than 42" above the ground and shall be placed neatly on the property so as not to unreasonably obstruct traffic lines of sight. For purposes of this paragraph G, a "political yard sign" means a yard sign about a candidate or an issue that is on the ballot for an upcoming primary or general election.

All signs allowed under subparagraphs A through F above, with the exception of the emergency services address plates, shall be removed by the Owner promptly when they are no longer needed for their intended purpose. A decision whether to approve, under subparagraph F above, a sign expressing a political message shall be based on considerations other than the political content of the message.

5.1.22 **Repair of Structure.** No structure on any Lot shall be permitted to fall into disrepair and each such structure shall at all times be kept in good condition and repaired and adequately painted or otherwise finished. In the event any structure is damaged or destroyed, then, subject to the approvals required herein, such structure shall be immediately repaired and rebuilt or shall be demolished.

5.1.23 **Storage Sheds and Outside Storage.** No storage building or sheds, whether prefabricated, metal, or any other construction whatsoever, whether permanent or temporary, shall be moved, placed, assembled, constructed, or otherwise maintained on any Lot. Furniture, fixtures, appliances, or other goods not in active use shall not be stored on any Lot in such manner that such items are visible from neighboring property or Common Areas.

5.1.24 **Temporary Occupancy and Temporary Buildings.** No trailer, recreational vehicle, boat, basement of any incomplete building, shed, tent, shack, garage, or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of improvements on any Lot shall be removed immediately after the completion of construction.

5.1.25 **Trucks Trailers, Recreational Vehicles, Campers, or Boats.** Any truck, recreational vehicle, boat, etc., ("vehicles") may be stored in a garage approved by the SBCA-ARC, providing said vehicles are not visible from neighboring property or Common Areas. The SBCA-ARC may, however, at its discretion, determine limitations as to the size and shape of such vehicles to be stored, and such storage areas may not be permitted on Lots solely on the merits of the overall aesthetic impact for the Lot. This Subsection shall not apply to cleaning, loading or unloading and short-term parking which shall be permitted for a cumulative period not to exceed seventy-two (72) hours in any calendar month.

5.1.26 **Security Cameras.** Video doorbells do not require ARC approval. Installation of perimeter security cameras do because they could invade a neighbor's privacy. Placement of a security camera needs to be in a nonintrusive location and should be focused on owner's property – never directed at windows or decks of adjacent structures. Applications to install a home security camera must include a plat map showing the camera's location

in relation to neighboring structures, and specifications on the size, shape and angle of view of the camera.

5.1.27 **Flagpoles.**

A. The flag of the United States may be displayed in a manner consistent with the federal flag display law, 4 U.S.C. §1, et seq., provided that the flag does not obstruct or otherwise interfere with sightlines for pedestrian or vehicular traffic. Any nighttime illumination of the flag must comply with Design Standard 5.1.14.

B. A flag about a candidate or issue on the ballot for an upcoming primary or general election may be displayed, subject to the same restrictions as set forth in Design Standard 5.1.21.G for political yard signs.

C. Except as set forth in paragraphs A and B, above, flags that are visible from neighboring property may be displayed only with prior ARC approval and subject to such limitations as to size, height, location, and time of display, or other conditions, as ARC may impose. A decision by ARC whether to approve display of a flag expressing a political message shall be based on considerations other than the political content of the message.

D. Installation of any permanent flagpole visible from neighboring property, or any temporary flagpole longer than six feet that is visible from neighboring property, requires prior ARC approval. ARC approval for installation of a flagpole for display of the flag of the United States shall not be unreasonably withheld, provided that a flagpole shall be no more than twenty feet high (measured from ground level) and no closer than ten feet to a neighboring Lot, nor shall it obstruct or otherwise interfere with sightlines for pedestrian or vehicular traffic.

5.1.28 **Outdoor Fireplaces and Barbecues.** No open fires shall be lighted or permitted on lots, except in a contained outdoor fireplace or barbecue.

A. Contained Outdoor Fireplaces: A contained outdoor fireplace is a fireplace no larger than three feet wide, three feet deep, and three feet high (exclusive of legs and chimneys) which is capable of fully enclosing the fire by means of screening or other non-combustible materials with sufficiently small openings to contain embers. Lighted fires must be attended at all times until the fire is extinguished and cold to the touch. A fire extinguisher with at least a 4A rating, garden hose or other means of extinguishing a fire must be at the site at all times the fireplace is lit. The fireplace and its use must comply with all applicable governmental regulations.

B. Barbecues: A barbecue may be open or contained: Lighted fires must be attended at all times until the fire is extinguished. A fire extinguisher with at least a 4A rating, garden hose or other means of extinguishing a fire must be at the site while the barbecue is lit. The barbecue and its use must comply with all applicable governmental regulations.

5.2 **Landscaping**

5.2.1 **Landscaping.** No landscaping other than that defined in section 4.2 or other work which in any way alters the exterior appearance of any Lots, Master Association Land, Common Area and Recreational Facilities within South Bay, or the improvements located thereon, shall be undertaken without approval from the SBCA-ARC. Landscaping shall be in accordance with any restrictions provided in the Master Declaration. The SBCA-ARC has the right to use its discretion regarding plantings and vegetation which it deems to be consistent with the existing character of South Bay. On new construction an Owner shall, within one hundred eighty (180) days after the issuance of a Certificate of Occupancy from Jefferson County, substantially complete all landscaping of the Lot. Approved landscaping shall be maintained as required to provide a neat and attractive appearance (e.g. control weeds, etc.). The SBCA-ARC shall be the sole and final judge as to whether or not landscaping meets the approved criteria and whether or not it is, at any given time, properly maintained.

5.2.2 **Trees and Vegetation.** Removal of trees with trunk diameter exceeding six inches (6") measured at a height of five feet (5') above ground requires approval of the SBCA-ARC. Trees that are diseased or dangerous to people or property may be cut down with prior approval of the SBCA-ARC. The SBCA-ARC may request the applicant to obtain the opinion of a Licensed Arborist.

5.2.3 **View Maintenance.** Property Owners may maintain views in accordance with the following guidelines: bushes or low growing vegetation on Property Owners Lot may be trimmed as necessary. Trees on Property Owners Lot with base trunk diameter exceeding six inches (6") at a height of five feet (5') above ground may be pruned in accordance with SBCA-ARC approval and where necessary in the opinion of a licensed Arborist. Property Owners may not enter upon other property to perform these activities without the written permission of that property Owner. Lot Owners should make a sincere effort to resolve view maintenance problems on an Owner-to-Owner basis. The affected lot Owner will control any work done on his or her property. Lot Owners may be able to maintain or improve their own views by trimming or removing trees on their own property subject to prior approval of the SBCA-ARC.

5.2.4 **Fences and Hedges.** Unless authorized by a Supplemental Declaration and other than as initially constructed by Declarant, no fences or hedges of any type shall be constructed or maintained on any lot. Fences and hedges are defined as structures or growths that exceed a height of more than 3 feet or divide property in one continuous length. Separate plantings, which over time grow large enough that they form a de facto hedge, need to be pruned as necessary to restore spacing between the plants.

6.0 **VARIANCES**

Variations from these Standards may be granted when in the judgment of the SBCA-ARC, extraordinary or unusual circumstances exist. Variance requests should be noted by the applicant on a Project Application. In granting variances, the SBCA-ARC may require conditions that will, in its judgment, secure substantially the objectives of the Standards so varied.

Appendix A: Examples of Projects that Don't Require SBCA-ARC Approval

This is not an inclusive list of projects, only common examples.

Check the SBCA Design Standards and with the Village-ARC/Village HOA for more information.

1. No Application is Necessary. No SBCA-ARC Approval is Required for the following. See DS 4.2.2 (note that the homeowner is still responsible for obtaining any permit required by governmental authorities):

- Planting annuals in existing cultivated areas
- Planting perennials, which do not exceed 42 inches in height at maturity
- Replacement in kind of existing plants
- Trim or remove dead or wind-felled trees (or trees felled by other sudden acts of nature) of any size, **provided** that a photo of the fallen tree, **before the tree is cut**, is available for subsequent review by the Village-ARC/Village HOA or SBCA-ARC
- Trim or remove live tree(s) that meet the following conditions - a) the tree's trunk has a diameter less than 6 inches at a height of 5 feet above the ground, and b) the tree's base is farther than 15 feet from the shoreline of marine waters*
- Routine maintenance of lawns, gardens and shrubbery
- Paint house/trim exterior - same color
- Replace heat pump - same location
- Replace emergency generator - same location
- Replace hot tub - same location
- Add or replace satellite dish less than 1 meter in diameter
- Replace propane tank - same location
- Replace exterior light fixtures - same style and location
- Replace skylights - same size, style and location
- Replace solar panels - same size, style and location
- Replace siding or roof with material, like or identical to original - same color and footprint
- Paint or stain deck/railings - same color
- Repair exterior of house or deck - keep same footprint, design and appearance
- Repair walkway or driveway - keep same footprint, design and appearance
- Making interior alterations or repairs that do not alter the exterior appearance of a house or structure
- Install video doorbell

*For shoreline lots, the applicant must ensure that the project is consistent with the Jefferson County Vegetation Management Formula.

Many projects may require a permit from Jefferson County or other governmental authorities.

Appendix A: Examples of Projects that Require SBCA-ARC Approval

2. Submit Application to the Village-ARC or Village HOA. Projects that are to be reviewed by the Village-ARC or Village HOA and approved by the SBCA-ARC include, but are not limited to, the following examples. If there is no Village-ARC or Village HOA, then submit to SBCA-ARC Office. Submit applications using the following forms:

Building Maintenance/Repair Project Form:

- Paint or stain house exterior new color
- Paint or stain deck new color
- Replace siding or roof with material or color different from original or current
- Replace exterior light fixtures with ones different from original or current

Building Construction/Modification Form:

- New home construction and landscaping
- New or expanded room, if it changes the exterior footprint, including sunrooms or conservatories
- New or expanded garage
- New or expanded deck
- New or modified retaining wall
- New or expanded pet containment
- Add heat pump or change location
- Add emergency generator or change location
- Add or remove hot tub or change location
- Add propane tank or change location
- Add skylights or replace with different size, style or location
- Add solar panels or replace with different size, style or location
- Add exterior light fixtures or replace with different size, style or location
- Add security camera (other than video doorbell)

Landscape Form:

- Modify landscaping (other than what does not require approval: See Part 1)
- New or expanded patio
- New or altered drain system
- New or expanded water feature
- New or expanded walkways or driveways
- Add flagpole
- Trim or remove a tree with a trunk diameter greater than 6 inches at 5 feet above the ground

Many projects may require a permit from Jefferson County or other governmental authorities.