

Architectural Planning Criteria for
Pelican Cay Homeowners' Association, Inc.

JULY 2011

I. INTRODUCTION

The purposes of these Planning Criteria (sometime referred to herein as "Guidelines") are to (i) clarify and expand upon the provisions contained in Article 6.23 of the Declaration of Covenants and Restrictions and other documents for Pelican Cay Homeowners Association (collectively, the "Governing Documents") and (ii) to streamline the Architectural Approval application process by setting forth guidelines for any improvements and exterior alterations to the Units, the landscaping and grounds of the Lots.

The Governing Documents and these Planning Criteria may be changed from time to time by the Association as the "Approving Party" in accordance to the procedures set forth in the Governing Documents.

Nothing contained within these Planning Criteria obligates any agency or government to approve any plans submitted to them by Owners, nor shall the approval of an application by the "Approving Party" be interpreted to mean that the requirements of Palm Beach County, State and/or Federal requirements have been met and/or approved.

It shall be the responsibility of an Owner to make sure that before commencing any on-site work, all required permits and/or any other documents required by any or all governmental agencies are obtained.

If an Owner plans on making any exterior changes to his/her Unit and/or Lot, i.e.; alterations, additions, landscaping, etc., he/she must complete and submit an Application for Architectural Approval. If an Owner fails to comply with these requirements, he/she will be subject to the remedies provided for in the Governing Documents.

Terms such as "aesthetic consideration" are difficult to define and even more difficult to legislate. The objective of the Governing Documents and these Planning Criteria is to maintain a superior designed landscaping and excellent quality of homes in Pelican Cay Homeowners Association. Adhering to and complying with these documents would benefit the community by increasing property values and maintaining the quality of life that accompanies a well maintained residential community.

II. ARCHITECTURAL REVIEW

In accordance with the duties and obligations imposed upon the Association by the Governing Documents, the Association, through its Board of Directors adopts these Planning Criteria, a copy of which has been sent to all Owners.

1. Purpose and Responsibility for Architectural Review

The Board wants Pelican Cay to continue to be maintained as a highly restricted community of superior quality Units and Lots. To this end, the Association shall evaluate applications for proposed improvement(s) with an emphasis on evaluating and approving plans and specifications for Units and other buildings on Lots and shall enforce standards governing the external appearance of structures and improvements on Lots in the

community with specific emphasis on external design, location of improvement(s) in relation to the surrounding structures, Lots and/or improvement(s), topography and conformity to the Governing Documents and these Planning Criteria. In accordance with its obligations and duties outlined in the Governing Documents, the Association is committed to use its best efforts to approve requests that give consideration to the spirit and intent of the Governing Documents.

III. RESPONSIBILITIES OF THE UNIT/LOT OWNER

- Owners must abide by the Governing Documents, Planning Criteria and all rules, regulations, policies and procedures of the Association.
- Owners must submit a completed Application for proposed improvements, additions and/or alterations to, in or upon any portion of the external structure of the Units, landscaping and grounds of the Lot.
- Owners ***must not*** begin any on-site work, improvements, additions and/or alterations until an Application has been submitted and approved in writing by the Association.
- During the construction of improvements, additions and/or alterations of the Unit/Lot, the Owner is responsible for keeping any obstructions of view and/or traffic right-of-way on the street clear at all times and for keeping all exterior grounds of the Residence/Lot and common areas clean of debris at all times.
- **The Owner of a Unit/Lot is responsible for all damages to the common areas or Association Property that occur during construction of any Improvements or alterations.**
- Owners must obtain all necessary permits and documentation required by the county, state and/or federal government. This is not the Association's responsibility.

IV. APPLICATION PROCEDURE AND STANDARDS

- 1.0 Owners must complete an Application for Architectural Approval
 - ✓ Three (3) Applications must be submitted for **each** proposed project/improvement, which shall be comprised of:
 - ✓ One (1) original Application with all required attachments;
 - ✓ One (1) copy of the Application including all required attachments for the Homeowner's file; and
 - ✓ One (1) copy of the Application including all required attachments for submission to the Master Association for approval.
- 1.1 Attachments required with all Applications:
 1. All Site Plans and other documents accompanying the application must be in a form acceptable for submission to Palm Beach County.
 2. Site Plan that shows the approximate location and dimensions of all improvements, additions, or alterations, and specifications relating to same.
 3. Site Plan for new or improving Landscape – placement of fences, trees, bushes, shrubs, curbing, garden walls, retention wall, etc., and specifications relating to same.

4. Other documents to support and clarify the homeowner's request, which may include, but may not be limited to drainage plans, elevation drawings, and description or samples of exterior colors and materials.
- 1.2 Submit the Application to the Association, to be date stamped and logged in by the Association. After the Association approves or denies the proposed application, the Owner will receive an email advising that the project has been approved or denied by Pelican Cay, and that the Application for Approval will be forwarded to the Lakes of Boca Raton (Master Association) for review and consideration. **All proposed projects are subject to review by both Pelican Cay and the Master Association, and no project may commence without the prior written approval of both Pelican Cay and the Master Association.** If approval is granted by both associations, the Owner will receive written notification of such approval. The Association shall have the right to require a deposit to secure against damage to the common areas that may be incurred with regard to a particular project. The amount of the damage deposit will depend upon the scope of the project, and the associated risk of damage to the common areas, as determined from time to time in the sole discretion of the Board of Directors.

1.3 **Approval Requirement**

The following site work will not be permitted to commence, be erected, or maintained without submitting an Application for Architectural Approval and receipt of the Association's written approval (Master and Sub). All improvements, alterations and additions shall also comply with all applicable governmental laws, Florida State Statutes, and County's Ordinances, Rules, Regulations, Orders and Decrees.

Major Landscaping and Removal of Trees	Sidewalks/Walkways
Driveway	Statues, Fountains, Ponds
Swimming Pool	Mailbox
Pool Enclosure or Screen Enclosures	Exterior Lighting (not attached to home, and excluding landscape lighting)
Fence or Railing	Exterior Equipment
Or any other physical or structural improvement in/on the property	Nor any exterior alteration or addition

1.4 **Approval and Disapproval**¹

Architectural approval will be provided if the Application shows that all improvements and exterior alterations and additions conform to the Governing Documents, including but not limited to the Planning Criteria and no Plans shall be approved by the Association if they are not in conformity with the Governing Documents as well as complying with all county, state and federal laws as stated above.

The Association may withhold approval not only for noncompliance with the Governing Documents, but also for:

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| ➤ Location of the improvement | ➤ Alteration or addition on the Lot or Unit | ➤ Design |
| ➤ Elevation | ➤ Color scheme | ➤ Location of vegetation on the Lot or Unit |
| ➤ Finish | ➤ Architecture, drainage plan | |
| ➤ Proportions | ➤ Height | |
| ➤ Shape | ➤ Size | |
| ➤ Materials | | |
- Style and appropriateness of the proposed improvement, alteration or addition, and the materials to be used

A. Submissions and Resubmissions of Plans – The Application must have three (3) copies of all plans. All Plans for additions/alterations of existing structures shall be prepared by an architect or engineer employed by and at the expense of the submitting owner attached to the application. The Association will approve or disapprove all plans within thirty (30) days from receipt of a complete Application for Architectural Approval, including any and all accompanying documents as may be reasonably required by the Association. *Please note that the 30 day timeframe for approval/disapproval shall not begin to run until such time as a complete Application and all required accompanying documents have been submitted to the Association.*

All plans submitted should show the existing residence location on the Lot; what land type is adjacent to all Lot boundaries, and shall also depict the location of all improvement(s) or change(s) contemplated, including but not limited to such items as plant types and sizes, sprinkler systems, driveway(s), walkway(s), path(s), wall(s), fence(s) and types of materials to be used. A comprehensive plan, in a form acceptable for submission to Palm Beach County, shall be submitted to the Association prior to the commencement of any clearing, landscaping, installation or construction.

NOTE: *If any modifications are made to the original application for any reason, the*

¹ ARTICLE 6.23.2 of the Declaration of Covenants and Restrictions.

application must be re-submitted to Association and approved.

1.5 Final Inspection²

The Association or its representative shall have the right to enter upon and inspect any property at any time before, during or after the completion of work for which approval has been granted. The unit/lot owner upon the completion of the improvement shall give notice to the Association. The Association will be allowed to review for compliance with the approved plans. Without the final review and signature (initials) from the Association, the approved plans/project will not be considered as having final approval.

If any damage(s) have occurred during the project construction that is either caused by the unit/lot owner, renter, lessee, or contractor, including but not limited to common areas, landscaping, sidewalks, drainage, streets, curbs, community and street signs, walls, irrigation, sprinkler heads, fences, gates, etc. will be the responsibility of the unit/lot owner to repair or the damage will be repaired by the Association and such costs will be charged to the owner.

2.1 DISPOSAL OF CONSTRUCTION MATERIALS

No Lot, nor any portion of any Lot, shall be used or maintained as a dumping ground for rubbish, trash or other waste, including construction materials and waste associated with an approved architectural project.

Disposal of all project related waste must be in accordance with the provisions of the Declaration and the guidelines set forth herein.

If a project requires use of a dumpster, such dumpster shall be kept on the Lot, and removed within a reasonable period of time, not to exceed five (5) days after completion of the project.

The Owner of the Lot shall be responsible for any damage to the common areas incurred as a result of the use or placement of a dumpster.

2.2 EXTERIOR EQUIPMENT - An Application for Architectural Approval must be submitted for the following:

Exterior/Central Air Conditioners, if changing the location from that of the original placement	
Water Treatment Systems	All Exterior Fuel Tanks
Pool and Spa Equipment & Heaters	Other Storage Receptacles
Sprinkler Pumps	Other Mechanical Fixtures & Equipment

Any exterior equipment shall be located adjacent to existing sidewall of the unit (home), placed on a concrete slab, concealed by means of a hedge, privacy screen.

² See, Article 6.23.3 of the Declaration of Covenants and Restrictions

All exterior equipment shall not be visible from the street or from any Lot or Unit. They shall comply with any additional standards established from time to time by the Board and applicable law.

Privacy panels and/or maintained and trimmed hedges shall be not more than 6 feet along boundary lines.

➤ Window Air conditioning units are not allowed.

A. **Satellite Dish.** In accordance with FCC rules and Florida Statutes, BOARD approval will not be required for equipment measuring one meter (or approximately 3 feet) in diameter or less. Any satellite dish over one meter in diameter must be approved by the BOARD prior to installation..

B. **Hurricane Shutters.** Hurricane shutters must be approved by the BOARD prior to installation. The styles that will be considered include any and all products that meet the South Florida Building Code, and those that meet the product approval requirements for Miami-Dade County. All hardware for Accordion and Removable Panel styles may be permanent and must be painted to match the color to which it is being attached (typically the base or trim color). Materials must be commercial standard products.

C. Hurricane shutters may be in place only during the threat of a tropical storm or hurricane and should be removed within a maximum of ten (10) days after a tropical storm, hurricane, or other severe weather Warning has expired. Exceptions will be allowed in cases of multiple, sequential storm or hurricane threats.

D. **Flagpoles**

1. **Location** – One (1) flagpole per lot is allowed either in the front or back of the unit. Front location must be mounted to the left or right of the front door, or garage door

2. **Style** - Flagpoles may be a wall mounted removable style or a free standing collapsible or telescoping pole. Free standing/collapsible poles must not exceed the height of the highest point of the roof of the house or a maximum of twenty feet (20') in height and made of rust proof aluminum gauge only. Maximum flag size for a twenty (20) foot flagpole will be 4 1/2 feet by 6 feet.³In all cases, the BOARD must approve the specific plans for pole location, design, and landscaping (if any).

3. **Installation** - Wall mounted, removal style must be mounted to the unit directly to the left or right of the front door or the garage door. Free standing collapsible or telescoping pole – must be in the vicinity of the front door to the unit.

4. **Display of flags** - Display of the U.S. flag must adhere to United States Code Title 36. Any homeowner may display one portable, removable United State flag, official flag of the State of Florida and a Military Flag in a respectful manner. On Armed Forces Day,

³ FL State Statute 720.304 Right of owners to peaceably assemble; display of flag; SLAPP suits prohibited.-
- (2)

Memorial Day, Flag Day, Independence Day, and Veterans Day may display in a respectful manner portable, removable official flags, not larger than 4 1/2 feet by 6 feet, which represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless of any declaration rules or requirements dealing with flags or decorations.

A. Display of state or military flags must comply with applicable state and/or federal requirements.

B. Non-federal, non-state and non-military flags or banners may be displayed at the resident's discretion until and unless a written complaint is received by the Board of Directors. In the event the Board determines a complaint to be valid, the resident will immediately change the display or remove the flag or banner. Only complaints that provide valid documentation of an offensive, malevolent, or disrespectful display will be considered by the Board.

C. The display of a flag on a BOARD-authorized flag pole shall not be considered to be a sign and will not count towards the limitation on signs discussed in Section 6.17 of the Declaration pertaining to Signs.

2.3. **TEMPORARY STRUCTURES**

No portable, storage, temporary or accessory buildings or structures of a temporary character such as a camper, trailer, mobile home, motor home, recreational vehicle, trailer, tent, shack, garage or shed, shall be installed or used on a Lot at any time either temporarily or permanently, for storage or otherwise, without the prior written approval of the BOARD.

2.4. **FENCES AND HEDGES**

There shall be no hedge or fence constructed or installed on any Lot or other portion of the Property unless the height, location, design and component materials are first approved by the BOARD in accordance with Article 6.23 of the Declaration. Hedges, fence need BOARD approval before on-site work commences. No walls are permitted except as authorized pursuant to Article 6.16 of the Declaration.

A. **Fences** – The composition, location and height of any fence to be constructed on any Lot shall be subject to the prior approval by the BOARD. No fence shall be constructed greater than six feet (6') high on all sides and all new fence construction shall be of PVC or metallic, such as aluminum, steel or polymer. New fences made of wood, chain link, wire or other material is not permitted. View blocking new fences must be made of PVC. See-through rail fences can be made of either metal or PVC.

Decorative fence tops are permitted, provided that they meet county code and stay within the maximum allowable fence height of six feet.

Permissible colors for fences are white, black, bronze, and a color that closely resembles that of wood. Any other fence color must be approved by the BOARD.

On zero lot-line properties, a side fence can extend to the neighbor's wall but cannot be attached to that wall. That neighbor has an easement right to enter the fenced property for the purpose of painting or other maintenance of their dwelling. There must be at least one unlocked gate on any such side fence.

When replacing fifty (50%) percent or more of a damaged fence, the repaired fence is

deemed a new fence and must comply with our current fence rules. That means if the old fence was wooden, it must be replaced by a metal rail or PVC fence. If less than fifty (50%) percent of the old fence is being replaced, the same fence material can be used as long as it matches the existing fence. An application for approval must be submitted and approved by the BOARD prior to any fence repairs being made.

B. Hedges—No hedge or shrubbery with a height of more than six (6) feet will be permitted upon or along any Lot or Unit boundary line without the prior written approval of the BOARD.

The following restrictions shall be applicable to all fences and hedges:

- i. Homeowners should give consideration to the consistency and design within the community; and to the existing Unit color scheme, as well as any previous exterior improvements.
- ii. Fences shall not extend past any portion of the front of the house, nor past the front of adjacent houses.
- iii. All fences must meet the minimum setback requirements per Palm Beach County Code.
- iv. Fences being replaced require BOARD approval in advance of fence replacement.
- v. If a BOARD-approved fence is currently in place on the adjacent property, homeowners should give consideration to aligning the front portion of the fences on adjacent properties. Applications should indicate existing fences on adjacent properties.
- vi. Fences erected on lots adjacent to sidewalks (corner lots), may extend no more than five feet (5') out from the base of the home. The side yard fence of a corner lot will be limited by the location of the front wall on the adjacent interior lot home. Landscaping approved by the Board shall be placed in front of all fences facing street view.
- vii. No fence or hedge shall be constructed or planted on any lot, tract, or parcel unless its height, length, type design, composition, material and location shall have first been approved in writing by the BOARD, and the Master Association.
- viii. BOARD may impose conditions and requirements applicable to such hedge, or fence, such as but not limited to a requirement for a landscape buffer on the exterior side of the exterior side of the fence or wall.

2.5 SWIMMING POOLS AND SPAS:

Any swimming pool or spa to be constructed on any Lot shall be subject to the prior approval of the BOARD.

2.6 ROOF: ALL ROOFS MUST BE TILE. NO FLAT ROOFS SHALL BE PERMITTED IN THE COMMUNITY.

2.7 **LANDSCAPING**

- A. Any change to the size, location, or design of landscaping beds requires the advance approval of the BOARD. Similarly, the addition of new trees and/or shrubs/bushes outside of existing landscaping beds requires approval from the BOARD.
- B. The replacement of plantings in existing beds with items of similar nature and size is considered normal maintenance and does not require advance approval of the BOARD.
- C. Replacing or refreshing mulch and/or stone covering in landscape beds may be done without BOARD approval. Mulch shall be natural colored or red bark - shredded wood, plastic or rubber. Stone ground covering shall be white or natural colored rock.
- D. With the exception of trees, all landscape plantings shall be no more than six (6) feet in height and must be maintained with proper trimming.
- E. No tree shall be removed from a Lot without the prior approval of the BOARD.
- F. No lawn statues, lawn decorations, fountains or ponds may be constructed or placed on any Lot without the prior approval of the BOARD.

2.8 **HOUSE PAINTING**. All painting of homes must be approved by the BOARD. Applications must consist of approved color schemes as determined by the Board from time to time.