

# The Delray Estuary Homeowners Association, Inc.

## ARCHITECTURAL & LANDSCAPE GUIDELINES



A Guide Published by the Board of Directors  
The Delray Estuary Homeowners Association, Inc.  
Approved: June 9, 2009

### **FORWARD:**

The principle purpose of this Guide is to assure residents that the standards of design and quality will be maintained, which protects property values and enhances the **Delray Estuaries', (DE)**, overall environment.

An essential element of the **Architectural & Landscape Committee (ALC)** is the recognition by all homeowners of the importance of maintaining the general plan of development of the Community. This should be viewed as a benefit and not a burden to the Community.

These guidelines represent an overall summary of the Architectural & Landscape Rules as promulgated by the Architectural & Landscape Committee (ALC) and approved by the Board of Directors through the issue date referenced on this document. This document is intended to facilitate the review and processing by the ALC of any applications for approval by the Board of Directors of new construction, proposed modifications or landscape changes. This document is also intended to facilitate the identification, enforcement and resolution of any architectural, landscape or site violations of the architectural and landscape rules as outlined in the various governing documents of the DE with which the residents are required to comply. These guidelines are not intended to include all of the requirements stipulated in the Declaration of Covenants, Conditions and Restrictions for the DE, but rather should be considered as a supplement to those covenants.

### **INTRODUCTION TO THE ARCHITECTURAL & LANDSCAPE COMMITTEE**

#### **PURPOSE:**

The Declaration of Covenants, Conditions and Restrictions (Declaration) of the DE assures each Owner that the quality of the design of the DE will be maintained. The Homeowners Association Board of Directors is responsible for administering the Declaration and providing administrative support to the Architectural & Landscape Committee (ALC).

The ALC must ensure that exterior alterations in the DE comply with the provisions in Section 6 and 7 of the Declaration, community-wide standards and this document. ALL requests for exterior alterations MUST be submitted to the ALC and its approval received BEFORE they may be undertaken. Absence of such approval does not relieve the homeowner, contractor or other party from the requirement to comply with all the requirements of the Declaration. If unapproved work is constructed or implemented, removal of or repair to such work will be at the sole expense of the homeowner, including, without exception, all legal fees and other costs required to defend the homeowner or the Association from any legal matters arising from any unapproved work.

The purpose of this Guide is to inform the homeowners of the Design Requirements for the Delray Estuary and the procedures to be followed when requesting an exterior modification to their property.

#### **AUTHORITY:**

The authority for the ALC is set forth in Section 7 of the Declaration of the Association, which was received by all homeowners in 2008 when the Documents were amended and approved by the membership. The Declaration encompasses all of the homes within the DE. See section 7.1.D of the Declaration.

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The Declaration is a contract between the homeowners and the Association, under which each homeowner agrees to refrain from making any modifications to the exterior of the home and property without first receiving approval from the ALC which is responsible to the Board of Directors of the Association. "Modifications to the exterior of the home and property" shall include, but not be limited to, construction of improvements (including without limitation, pools, saunas, spas, jacuzzis, screened enclosures, fences, hurricane shutters, exterior lighting, and decorations, attachments, fixtures, alterations, repairs, pressure cleaning, or other work. Construction of improvements also includes, without limitation, staking, clearing, excavation, grading, and other site work, and the planting or removal of plants, trees or shrubs. No construction of improvements shall be erected, constructed, affixed, placed, or altered on any unit until the proposed plans, specifications, exterior colors and/or finishes, landscaping plan, and plot plan showing the proposed location of such improvements shall have been approved by the ALC. Approval by the ALC must be in writing except as provided below in the section dealing with "Time Limitations".

### **ALC MEMBERS:**

The Architectural & Landscape Committee shall consist of no less than three (3) members. The ALC shall meet as necessary to review applications received and present its findings within sixty (60) days of receipt of a completed application. The Board of Directors has the right, power, authority and obligation to appoint members of the ALC. (Bylaws, Section 4.15)

### **ALC GUIDELINE PROCEDURES:**

**AN APPLICATION IS REQUIRED WHENEVER A HOMEOWNER SEEKS TO CHANGE ANY LANDSCAPING, ADD ADDITIONAL OR REMOVE LANDSCAPING, BUILD ANY STRUCTURE OR MAKE ANY EXTERIOR CHANGES TO THE EXISTING UNIT UNLESS NOTED IN ANOTHER SECTION.**

### **HOW TO MAKE APPLICATION TO THE ARCHITECTURAL & LANDSCAPE COMMITTEE:**

Applications may be obtained from the management company by calling 561.624.5888. Completed applications, with required attachments and a 20% deposit check, should be sent to the management company office, which will then forward them to the ALC. The management company will document the date of receipt only when all required documents and deposit check are received. Only a property owner, not a tenant, may file an application to the ALC.

### **APPLICATION DEPOSITS:**

A refundable damage deposit, see section 7.2, which is 20% of the total cost of the requested change, up to the maximum of \$5,000 for a building structural change and \$2,000 for a landscape change, must accompany the application. Upon final inspection approval by the property manager the deposit will be returned to the homeowner.

### **SITE PLAN:**

A property survey (provided with your Documents) must be included with the application showing the location of existing structures and the boundaries of the Property. Proposed changes or additions must be indicated including dimensions and distances from the home and adjacent properties. Landscaping changes must be indicated as well. Homeowners may not make changes outside the boundaries of their property.

### **DRAWINGS & PHOTOGRAPHS & OTHER INFORMATION:**

A graphic description of the request must be provided. This may be in the form of manufacturer's literature or photographs as well as freehand or mechanical drawings. The amount of detail must be consistent with the complexity of the proposal. Proposals for landscape projects must include information regarding the size and nature of plantings proposed.

### **PERMITS:**

After receiving approval from the BOD, the applicant shall also be required to obtain all necessary permits from Palm Beach County, City of Delray Beach or other governmental authorities. The applicant is responsible for determining whether this requirement applies to the requested modification.

### **BASIS FOR DECISIONS:**

The BOD will make its decisions based on standards set forth in the Declaration and further described in this Guide.

### **RESPONSIBILITIES:**

On behalf of the Association, the ALC is empowered to take the following action:

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1. Propose guidelines and recommend changes for Board approval with respect to the approval or disapproval of design features, architectural styles, exterior colors and materials, details of construction, location and size of any structure, landscaping and all other matters that require approval by the ALC.
2. Propose rules for Board approval for the procedure for submission of plans and specifications.
3. Propose rules for Board approval for or with respect to the form and content of plans and specifications to be submitted to the ALC for approval or disapproval.

### **LIMITATION OF RESPONSIBILITIES:**

The ALC assumes no liability with regard to the structural integrity of any requests. The ALC makes no representation as to its expertise regarding either the structural adequacy, capacity or safety features of the proposed improvement or structure as shown on the submitted plans or on the ultimate construction of the approved modification. The ALC does not assume responsibility for the performance or quality of work of any contractor. It is recommended that residents hire licensed and insured contractors.

### **ARCHITECTURAL & LANDSCAPE COMMITTEE POLICIES:**

The ALC's aim is to avoid harsh conflicts in the landscape and architectural themes of the DE so that there is harmony between neighboring residences. The ALC intends to be fair and impartial in the architectural review process. The approval of the BOD of plans or specifications submitted by one homeowner shall not be deemed to be a waiver by the ALC of the right to object to any of the features or elements if and when the same features and elements are included in any subsequent plans and specifications submitted for approval for use by other homeowners.

### **PRIOR APPROVAL NECESSARY:**

No construction of improvements shall be erected, constructed, affixed, placed, or altered on any property unless the same shall be approved in writing in advance by the BOD.

### **TIME LIMITATIONS:**

The BOD will establish time limitations for the completion of any architectural improvements for which approval is required. After approval by the BOD, all improvements shall be completed within six (6) months from commencement of the improvement or the period set by the BOD, whichever is earlier. The ALC may recommend a more specific time for completion as a condition of BOD approval for any project. The BOD may grant a request for extension in the event that circumstances beyond the control of the homeowner caused a delay in completion of the project.

In the event the BOD fails to respond to a request for approval within sixty (60) days of receipt of said request it will be deemed to be granted, if submitted in writing to the ALC on the approved form, including all information necessary for consideration and review. The BOD shall have the right to reject applications in order to request additional information. (A rejection to request additional information waives this sixty (60) day time period). A new sixty (60) day time period will begin upon receipt of the additional information requested.

### **INSPECTIONS:**

Periodic inspections may be made by the ALC and or the Management Company while work is in progress to determine compliance with the approved plans and specifications and provisions of the Declaration. The ALC or any such agent of the BOD shall not be deemed to have committed a trespass or other wrongful act by reason of such inspection.

### **JOB SITE CONDITIONS:**

1. All job sites shall be kept in a neat and orderly condition, as determined by the ALC and BOD.
2. Commercial construction hours are Monday through Saturday, 8:00 a.m. to 5:00 PM.
3. All construction operations must comply with state and local governmental ordinances.
4. Any landscaping damage or other damage, and modifications to the irrigation system, caused by a homeowner's project shall be replaced, repaired, or modified at the expense of the homeowner. Such replacement or repair shall be completed within the reasonable time period as determined by the ALC and approved by the BOD.

### **APPROVAL:**

Upon recommendation of the ALC and approval by the BOD, a copy of applicant's plans and specifications bearing such written approval shall be returned to the applicant. Approval of any application shall be final and the approval may not be thereafter reviewed or rescinded provided that there has been compliance with all conditions of approval. If disapproved, a request can be resubmitted with appropriate changes made.

**VIOLATIONS:**

If any alteration or modification is made without the required prior written consent of the BOD, the alteration has been undertaken in violation of the Declaration. All unapproved alterations or modifications may be required to be removed until BOD approval is granted. In no event may any alteration or modification be allowed to remain if in violation of any of the Covenants and Restrictions contained in the Declaration, or in violation of any zoning or building ordinance or regulation.

The Association is empowered to enforce its policies, as set forth in the Declaration and this Guide, by means specified in the Declaration, including an action in a court of law, to ensure compliance. The Association also has the right to levy a fine and request full reimbursement of all costs incurred by the Association on modifications made without the written request and approval from the BOD. (Refer to Section 8 of the Bylaws.)

Homeowners are subject to fines of up to \$100 per day, up to a maximum of \$2,500, for failure to obtain a required BOD approval, for failure to implement a project consistent with the recommendation of the ALC and an approval by the BOD, for implementing a project after receiving a disapproval decision from the BOD, or for violation of the use restrictions set forth in the Covenants. Fines may be imposed in addition to any other remedy available to the Association regarding such violations, including legal action. (Refer to Section 8 of the Bylaws.)

**KEY ARCHITECTURAL GUIDELINES:**

The ALC shall regulate the external appearance, use and maintenance of improvements in such a manner as to comply and meet with the community-wide standards. The ALC evaluates all submissions based on the individual merits of the application. Besides evaluation of the particular design proposal, this includes consideration of the characteristics of the individual site and lot size.

**GENERAL CRITERIA:**

The following criteria are general in nature and apply to all of the dwellings in the Delray Estuary.

**RELATION TO OPEN SPACE**

Factors such as the addition or removal of trees, disruption of the natural topography and changes in rate or direction of storm water run-off may also adversely affect neighboring properties, open space common areas, preserve and easement areas.

**CONFORMANCE WITH COVENANTS**

All applications are reviewed to confirm that the request is in conformance with all applicable Covenants and Restrictions affecting the DE.

**VALIDITY OF CONCEPT**

The basic idea of the proposed alteration requested must be sound and appropriate to its surroundings.

**DESIGN COMPATIBILITY**

The proposed alteration must be compatible with the architectural and characteristics of the applicant's house, adjoining houses and the neighborhood setting. Compatibility is defined as similarity in architectural style, quality of workmanship, and similar use of material, color and construction details.

**LOCATION AND IMPACT ON NEIGHBORS**

The proposed alteration should relate favorably to the landscape, the existing structure and the neighborhood. The primary concerns are access, view, sunlight and drainage. For example, fences or landscaping may obstruct views, or access to neighboring properties; some additions may infringe on a neighbor's privacy.

**LANDSCAPING:**

Plantings on the Palm Beach County list of prohibited vegetation within Palm Beach County, [ie. Climbing Ferns, Air Potato, Melaleuca, Punk Tree, Brazilian Pepper, Carrotwood Tree, Earleaf Acacia, Schefflera, Kudzer, Australian Pine] as this list shall be revised from time to time, shall not be allowed in the DE. All individual residential and common areas have been fully landscaped at the time of construction in accordance with a master landscaping plan set forth by the Developer and approved by Palm Beach County.

Any changes (additions, deletions, or modifications including tree and palm trimming) to this existing landscaping plan must be submitted to the BOD for approval prior to implementation. Tree and palm trimming in a manner that is not consistent with the Community Wide Standards is prohibited, including "topping" or "hat-racking" trees.

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Trees and palms must be trimmed consistent with University of Florida guidelines.

No additional plantings by homeowners will be permitted in the easement areas, including curbside and lakeside easements, and in common areas. A list of acceptable landscaping can be obtained from Management.

### **GENERAL INFORMATION REGARDING ADDITIONAL LANDSCAPING:**

Height of trees shall not be excessive, as determined by the ALC. The required application form must show the projected future height.

All mechanical equipment (ie. pool pumps - pool heaters, etc.) must be fully screened with landscaping. The planting of annuals in existing beds in front or rear yards do require ALC review and BOD approval. Plantings must be removed by the homeowner at the end of the plantings season and maintained in good condition by the homeowner.

All vines, including bougainvillea, jasmine, etc. must be trimmed by the homeowner. It is the responsibility of the homeowner to remove vines if they have encroached on a wall, tree or shrub and to repair any damage caused by vines or other landscape material.

The homeowner is responsible for maintaining any landscaping and plant materials inside a screen enclosure. Inside a fenced area, the HOA is responsible for maintaining Developer or HOA installed landscaping and any landscaping which has received a BOD approval which did not require the homeowner to maintain it. A homeowner is solely responsible for replacing any landscaping material added by the homeowner, regardless whether the HOA has agreed to maintain such landscaping.

### **YARD SCULPTURE, ORNAMENTS, PLANTERS AND OTHER DECORATIONS:**

All yard sculpture, ornaments, planters and other decorations require BOD approval and may not be visible from the street.

A drawing or photograph of the yard sculpture, ornament, planter or other decoration shall be supplied with the application, as well as the dimensions of the item.

No artificial vegetation shall be permitted on the exterior of any portion of the properties if visible from the street.

The homeowner is required to remove and secure any yard or patio furniture, sculptures, ornaments, planters or other decoration once a hurricane watch is issued.

The homeowner is solely responsible for any damage to yard sculpture, ornament, planter or other decorations regardless of the cause of the damage.

### **IRRIGATION:**

All lots have underground fully automatic sprinkler systems to irrigate each lot as a supplement to nature's supply of rainwater. The irrigation system is the property of the Association, not the homeowners. Homeowners, renters and their guests and invitees are strictly prohibited from manually turning on any part of the irrigation system at any time. The Board of Directors may cite this as a violation of these guidelines and may issue a fine and assess the homeowner for the costs of any irrigation system repair or maintenance work caused by unauthorized tampering with the irrigation system.

Adding or deleting landscaping may also affect the master irrigation plan by causing death or lack of growth from insufficient watering. Homeowners are responsible for watering any additional plantings and/or plantings that, while replacing existing plants, require more water than Developer or HOA installed plants. Should additional plantings generate a stressful irrigation environment; homeowners will be held responsible for rectifying the problem to the satisfaction of the Architectural & Landscape Committee and approval of the Board of Directors.

Individual homeowners are responsible for coordinating the capping of the irrigation system (for any subsurface work proposed, such as for a pool or screen enclosure installation) with the DE licensed irrigation contractor. Any such work will be charged to the homeowner.

### **FENCES:**

All new fences must be black or bronze, baked on powder coated finished, aluminum material 48" in height. Maintenance of fences is the responsibility of the homeowner, including painting whenever or if ever needed. Prior ALC approval is required.

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An application for any fence installation must include the type of landscaping to be planted. It is the homeowner's responsibility to contact the DE irrigation contractor to ensure the fence installation will not impact the irrigation system. The homeowner must pay the cost for this evaluation.

### **Fence Installation Note:**

It is strongly recommended that fence sections be installed with a 2" vertical separation between the bottom of the fence and the ground beneath. It is also recommended that a horizontal separation (a two inch offset from each side of the fence line extended) be provided. These separations should run the entire length of the fence and will allow for protection of the fence during landscape maintenance. Top of fence may not be stepped unless due to topography or code requirements.

The homeowner must provide an acceptable plan for the interior of the fenced area, i.e. sod, pavers, cement or landscaping. The gate to the fenced area must be wide enough to allow for the landscape contractor's mowing equipment (44" to 48" inches).

### **SIGNS:**

Signs in the DE will be limited to either one security company sign of reasonable size (60 square inches or less) and appearance of the sign in the front yard of a residence, no further than ten (10) feet from the dwelling. No other signs will be allowed unless approved by the Board of Directors.

As of the date these Guideline are issued, the Board has approved placing a single "open house" sign on a homeowners property at which a real estate open house is being held, not exceeding 160 square inches mounted on a stake, for no longer than 48 hours in a seven (7) day period.

### **SPA/POOL CONSTRUCTION:**

When building a swimming pool, spa or Jacuzzi, it will be the owner's responsibility to contract with the DE irrigation company to perform the necessary work to ensure that the irrigation system is capped off properly and that no main lines have been disturbed. It will be necessary for the owners to co-ordinate with their pool contractors and notify the HOA's irrigation contractor to set up an appointment to have the necessary work performed. All costs are to be borne by the homeowner. Applications must provide a detailed description of the design and finishing materials intended. All pool equipment such as heaters and pumps must be located where its visibility and noise are best minimized in relation to nearby neighbors. Such equipment must be screened from view by shrubbery or other material acceptable to the ALC. All pools, spas, and Jacuzzis must have prior ALC approval. The owner will be responsible for payment of any damages done to common areas and his or her own property.

### **SCREEN ENCLOSURES, SCREEN DOORS AND PATIOS:**

1. Screen enclosures and screen doors must be constructed of all black aluminum with black or charcoal screening.
2. Rear yard pavers must match, in texture and color, the surrounding paver areas. For patio projects using pavers, the pavers should match the pavers in the driveway.
3. In the event a screen enclosure structure or screening is damaged by a storm or other cause, the structure or screening must be repaired within 6 months unless the Board grants an extension to this requirement due to extensive screen enclosure damage in the area making it impractical to arrange for repairs within 6 months. If an extension is granted, prior to the end of the extension period, any owner with a damaged screen enclosure will be required to complete repairs or provide a signed contract which provides for such repairs to be completed within a reasonable time after the end of the extension period. Screen enclosures structures are not permitted around a pool or spa.
4. The location of a screen enclosure or patio must not affect existing landscaping unless the homeowner agrees to pay the costs of relocating or replacing the affected landscaping. The homeowner must submit an acceptable plan for the interior of a screen enclosure, i.e. sod, pavers or landscaping.
5. All screen enclosures and patios must have prior ALC review and BOD approval.

It is the homeowner's responsibility to contact the DE irrigation contractor to ensure the enclosure installation will not impact the irrigation system. The cost for this evaluation and any needed modifications will be the homeowner's responsibility.

**DWELLING ACCESSORY ALTERATIONS:**

Any alterations to the original dwelling hardware and accessories must be consistent with the community-wide standards and have prior ALC review and BOD approval. All original door hardware, window frames, exterior lighting fixtures, street numbers, gutters, downspouts, etc. may not be changed in appearance. Any replacements due to malfunction, wear & tear, etc., must match the original appearance as closely as possible. Front windows may only be tinted with ALC approved film or ALC approved tinted glass.

**ANTENNAS, SATELLITE DISHES:**

No satellite dishes/antennas shall be permitted except as protected by federal law, and must be installed on the air conditioning well on the lot only. No other location shall be permitted. BOD approval for installation shall not be required.

**FLAGS & FLAGPOLES:**

One (1) portable, removable United States flag or official flag of the state of Florida may be displayed in a respectful manner, and one (1) portable, removable, official flag not larger than 4.5 feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps or Coast Guard, or POW-MIA flag may also be displayed. Flags other than those listed here, such as decorative flags, are not allowed. A flag pole may be erected that is not more than twenty (20) feet in height on the homeowners' lot provided the pole is not within an easement and does not interfere with intersection sight lines.

**HURRICANE SHUTTERS:**

1. "Permanent hurricane shutters" require the approval of the BOD prior to installation. Permanent shutters are defined as shutters, mounting brackets and/or other architectural elements which are permanently affixed to the dwelling.
2. Homeowner is responsible for replacing any landscaping damaged underneath installation areas.
3. Approved permanent shutters and temporary shutters shall only be permitted to be closed no more than 72 hours prior to a state declared hurricane or tropical storm watch and shall be opened or removed no later than 72 hrs after the lifting of the official hurricane or tropical storm warning.

**BASKETBALL HOOPS-HOCKEY NETS-YARD TOYS:**

Permanently mounted basketball hoops, hockey net(s) or similar items are not allowed. Any moveable basketball hoop, hockey nets, similar yard games or riding wheeled toys are allowed only in the driveway or on sidewalks, not in the street, and only from 9:00 AM until 8:30 PM. Bicycles, toys and similar items, as above examples, must be stored inside the unit, inside the garage or in the patio area.

**EXTERIOR LIGHTING & DECORATIONS:**

Other than holiday lights, which may be displayed between December 1 and January 10, all other exterior lights must be approved by the BOD and the bulb color must be white. Other holiday decorations may be put up no more than two (2) weeks in advance of the holiday and removed immediately after the date has passed. The homeowner is solely responsible for any damage to exterior lights regardless of the cause.

**CONTRACTOR REQUIREMENTS/PERMITS:**

As part of an application involving a project requiring a permit, the homeowner is responsible for assuring that any necessary permit has been issued. Additionally, if a contractor is to perform work on the exterior of a unit or on a lot for which ALC review and BOD approval is required, the homeowner must provide proof of the contractor's appropriate licensure and insurance with the Application package.

**PARKING AND GARAGES:**

Vehicles may not be parked overnight on roads or swales. "Overnight" shall mean the vehicle is parked or container is in place during the period beginning at 2AM until 6AM. Portable on demand storage or moving containers may not be left on any driveway for more than one (1) week and may not be left on any road or swale area or block any sidewalk. The homeowner will be responsible for any damage to the driveway or street caused by the portable on demand storage unit, dumpster or moving container.

**OTHER USE RESTRICTIONS AT THE DELRAY ESTUARY:**

Other use restrictions are contained in the Declaration of Covenants and the Rules & Regulations for the Delray Estuary. By purchasing property in the Delray Estuary, all owners have agreed to comply with these restrictions. Violations of any use restrictions or other requirements in the Declaration, Bylaws and Rules & Regulations may result in fines or other sanctions. For a complete description of use restrictions, please refer to the Declaration and Rules & Regulations.