

NICHOLAS HOMES

"Where Imagination Lives"

Architectural Guidelines

Portofino

These Architectural Guidelines are in addition to the Declaration (CC&R's) and are binding on all Homeowners and will be administered and enforced by The Portofino Homeowners Association Board of Directors or the Architectural Committee as outlined in the Declaration and may be amended from time to time by the Committee, as it deems appropriate. It is the responsibility of each Homeowner to obtain and adhere to the requirements in the most recent Architectural Guidelines. If there is a conflict between these Architectural Guidelines and the Declaration, the Declaration shall control.

A. SUBMITTALS / NOTICES:

All submittals, notices, or other communications to the Architectural Committee shall be sent to **Vision Community Management**, (the "Property Manager" or the subsequent property manager) employed by the Association, at the following address: 16625 S Desert Foothills Pkwy, Phoenix, AZ 85048

B. SUBMITTAL REQUIREMENTS / PROCESS:

1. *When to Submit:*

All improvements, landscape plans and designs must be submitted and approved by the Architectural Committee prior to the start of construction or installation. Minor changes to the front yard (changing plants for example) do not need submitting. For back yards, if the change is "not visible from neighbouring property" and does not involve construction within 15' of the wall then it does not need to be submitted. If you are unsure if your change needs approval please contact Alan Hatch.

2. *What is the Time Period to Complete Landscaping:*

Front yard landscaping sets a precedent for the community and shall maintain a standard throughout the community. Front yard landscaping must be fully installed within 90 days of close of escrow.

3. *What to Submit:*

The Homeowner must submit the Architectural Review Request form, attached, along with a copy of the plans and specifications for the backyard improvement or front yard landscaping and a deposit of \$85.00 payable to The Portofino Homeowners Association. A blank architectural review request form may be obtained from the Property Manager. The plans and specifications must comply with the following:

Scale: All drawings to be drawn to a scale of 1" = 10' (engineers scale) or 1" = 16' (architects scale)

Quality of Plans: All plans must be completely legible. Blue line prints or Xerox copies are

acceptable. Faxed copies will not be accepted.

Size of Plans: 8 1/2 X 11 or 11 X 17 are preferable, 18 X 24 are acceptable (if 18 X 24, 3 copies must be submitted because we cannot make copies.)

Plans Must Show:

- The Scale
- Lot dimensions
- Proposed changes in grade, if any, to be completed as part of the landscaping
- All plants specifically shown with species and size labeled
- All trees specifically shown with species and size labeled
- All turf areas shown
- All granite areas with granite size and color
- Any header and borders with material labeled
- Additional hardscape areas including concrete, pavers, etc.
- Note that there is an automatic sprinkler or drip irrigation system and show location of control box (not visible from front of home)
- Any fountains or statues
- Do not color code - colors will not photocopy

4. *Committee Review:*

The Committee will review submittals during their regular meetings or other times they deem appropriate. The Committee will respond in writing no later than 30 days after acceptable and complete submittal including any ancillary information requested by the Committee.

C. DESIGN REQUIREMENTS:

1. *Themes:*

See citrus preservation and flood irrigation system (Section M)

2. *Trees:*

All existing front yard and back yard perimeter citrus trees must remain, see citrus preservation (section M)

3. *Plants:*

A minimum of six 5-gallon plants must be included in the front yard area.

4. *Granite:*

Approved sizes range from 1/4 inch to 1 inch and must be of natural earth tone colors. White, green, or red rock will not be approved. River rock may be used sparingly in accent locations only.

5. *Irrigation System:*

See (Section M)

6. *Mounding / Berms:*

If berms are to be used in the landscaping design, they should be gently sloping and have natural looking shapes. The maximum height of a berm should be 24-inches. Berms cannot divert drainage flows onto any adjacent lot or open space.

7. *Entry Lighting:*

Low voltage lighting to highlight entry walk, or accent trees may be used. Colored bulbs and lenses are prohibited. Light source shall be adjusted to minimize glare onto adjacent properties or streets.

D. HOMEOWNERS DEPOSIT:

To guarantee that these Architectural Guidelines are adhered to, before beginning installation, each Homeowner will pay to the Association a deposit of \$85.00 per lot (the "Homeowners Deposit.") If it becomes necessary for the Association to remedy any violation of these Architectural Guidelines, the cost of such remedy will be charged against the Homeowner's Deposit. The Homeowners Deposit shall not accrue interest while held by the Association. After the final inspection referred to in Section E of these Architectural Guidelines, \$60.00 of the Homeowner's Deposit paid for each Lot will be returned to the Homeowner less any deductions for violations. (Thus the only actual cost for plan review is \$25.00) The Committee may choose to waive the fee for minor Architectural changes, but plans for these must still be submitted and approved prior to the start of construction or installation.

E. FINAL INSPECTION / REFUND OF HOMEOWNER'S DEPOSIT:

To obtain a refund of a portion of the Homeowner's Deposit referred to in Section D, the Homeowner must give written notice to the Committee within 30-days after completion of the installation. The Committee or Board or Manager performs a final inspection to confirm it is in conformance with the approved plans. If in conformance, the Committee will refund the application portion of the Homeowners Deposit within 60 days after the final inspection by the Committee. If it is found that the Backyard Improvement or Front Yard Landscaping was not installed according to the approved plans, the Committee will notify the Homeowner within 60-days of the Homeowner's notice of completion. If notice of noncompliance is given by the Committee, the Homeowner will be responsible for correcting all nonconforming work within 30-days of the Homeowners receipt of noncompliance. If a notice of noncompliance is not given by the Committee, it will be presumed that the Backyard Improvement or Front Yard Landscaping is in compliance with the approved plans.

F. ENFORCEMENT:

If any Homeowner installs any Back Yard Improvement or Front Yard Landscaping without first complying with these Architectural Guidelines, the Committee shall have all rights and remedies at law or in equity and as provided in the Declaration and the Project Documents against the Homeowner to bring such landscaping into compliance with these Architectural Guidelines.

G. NON-UNIFORMITY:

Different Lots may have different landscaping design criteria. The Committee shall not be required to approve or reject landscaping design simply because another similar or exact design has previously been approved or rejected. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in these Architectural Guidelines if the Board determines, in its reasonable judgment (and with the recommendation of the Committee), that a restriction would create an unreasonable hardship or burden on the Homeowner when the modified restriction permitted under a variance would not have a substantial adverse effects on the other Homeowners or the Project and is consistent with the high quality of life within the Project. Board approval of variances will be contingent on approval from homeowners neighboring the property requesting the variance.

H. VEHICLES:

Landscaping contractors and crews shall not park on other Lots or any open space. All vehicles shall be parked so as not to inhibit traffic.

I. RESTORATION OR REPAIR OF OTHER PROPERTY:

Damage to other property resulting from construction of Backyard Improvement or Front Yard Landscaping installation, including but not limited to, open space, other Lots, roads, driveways, or concrete curbs and gutters, will not be permitted. If any damage occurs, it must be repaired and / or restored promptly at the expense of the Homeowner who hired the contractor causing such damage.

J. ORDINANCES:

All landscaping and outdoor lighting must comply with all applicable planning and zoning ordinances; provided, however, that if the city amends or repeals all or a portion of any ordinances to be less restrictive, the Architectural Committee may enforce the former more restrictive requirements.

K. MAINTAINING VIEWS:

The Architectural Committee makes no assurance to any Homeowner that the views from a particular Lot will not change over a period of time as Residences are constructed and landscaping grows and matures within the Lots and the Common Areas.

L. MAINTENANCE OF IMPROVEMENTS:

No Improvement upon any Lot shall be permitted to fall into disrepair, and all Improvements good condition and repair, adequately painted and otherwise finished. Each Homeowner shall maintain in good repair the exterior surfaces of each Improvement on said Homeowner's Lot, including but without limit to walls, roofs, porches, patios, and appurtenances. Nothing shall be done in or to any Improvement which will impair the structural integrity of any Improvement except in connection with any alterations and repairs permitted or required by the Committee. In the event of damage or destruction from any repairs permitted or required by the Committee. In the event of damage or destruction from any cause whatsoever to all or any portion of an Improvement, the Homeowner of the Lot shall promptly repair, reconstruct or restore the same, or cause the same to be repaired, reconstructed or restored, to the condition existing prior to such damage or destruction. Each Homeowner shall also maintain in good condition and repair all paved, concrete and other artificially Surfaced areas, including driveways located on the Homeowner's Lot.

M. CITRUS PRESERVATION AND FLOOD IRRIGATION SYSTEMS:

The Project is to be and maintained in such a manner so as to promote and preserve the character of the Property as a citrus-oriented neighborhood. In furtherance of such goal, each Lot and each Homeowner thereof shall be subject to the following covenants, conditions, restrictions, requirements, and easements:

- A. The Homeowner of each Lot shall replace any dead, dying, distorted or otherwise unsightly citrus trees on perimeter of such Homeowner's Lot with a new citrus tree with a box size of at least twenty-four inches 24" in size. An exception will be made for citrus trees removed for installation of a pool or spa, additions to a Living Unit, construction of a guest house, installation of a sport or tennis court, play structure, or golf green.
- B. No grading or other Improvements shall, without prior written approval of the Committee, be performed on any Lot in such a manner that will disturb the flow of the flood irrigation on a Lot or within the Project.
- C. The Association shall retain (as the Homeowners' expense) an irrigator to be solely responsible for

operating the Flood Irrigation System to provide flood irrigation to each Lot as required to preserve citrus trees within the project. The Homeowner for each Lot shall be responsible for the cost of the irrigator's services and for the cost of all irrigation water provided to his or her Lot and shall promptly pay any and all bills for the irrigator's services and the irrigation water. Notwithstanding the foregoing, the Board may at any time elect to have the Association pay the irrigator's fees and / or the cost of irrigation water directly rather than having the individual Homeowner pay such bills directly, in which event the Annual Assessment may be increased by the Board to cover such fees and / or cost.

- D. The Association may retain an arborist or other qualified personnel to fertilize Citrus trees within the Project in accordance with recommended fertilization practices and schedules. Each Homeowner shall be responsible for the cost incurred by the Association for fertilizing the trees on his or her Lot (a "Fertilization Assessment"), and each such Fertilization Assessment shall be due and payable within thirty (30) days of notice to the Homeowner of such Fertilization Assessment.
- E. Repair of flood irrigation valves shall be that of the individual owner, however the Homeowners Association will be responsible for common area repairs.

RESTRICTIONS

Note: The Architectural Committee may require screening trees in certain circumstances even if all of the Restrictions below are followed, under certain circumstances and at it's discretion.

RAMADAS & GAZEBOS

Ramadas & Gazebos can only be constructed in backyards and with prior approval from Architectural Committee.

Following are guidelines:

- No more than 240 square feet under roof
- No more than 20' high at their highest point from original irrigation grade
- At least 20' from perimeter walls per CC&R's
- No balconies
- Painted to match the house
- Tile roof to match that of the existing house including roof pitch
- All lighting on the Ramada or gazebo must be approved by the Architectural Review Committee and Town of Gilbert.

CHILD PLAY STRUCTURE (Swing, Slide, Monkey bars)

Play structures can only be constructed in backyards and with prior approval of the Architectural Review Committee.

Following are guidelines:

- At least 15' from perimeter walls
- No more than 13' high at highest point
- No deck or platform higher than 6' from base of play structure
- Shade or canopy to be a solid tan or earth tone in color
- Picture or brochure to be submitted to Architectural Review Committee

POOL STRUCTURE

Pool structures can only be constructed in backyards and with prior approval of the Architectural Review Committee.

Following are guidelines:

- At least 15' from perimeter walls
- No more than 10' high as measured from water line
- Less than 20' from perimeter wall must be screened by a citrus or evergreen tree.
- Shade or canopy to be a solid tan or earth tone in color
- All slides must be approved by the Architectural Review Committee
- Picture or brochure to be submitted to Architectural Review Committee
- All lighting around pool above fence line must be approved by the Architectural Review Committee and Town of Gilbert

STORAGE SHEDS

Detached storage sheds are allowed if less than the height of the wall or fence surrounding the house and if not otherwise visible from adjacent portions of the property.

AC AND HEATING SYSTEMS

All AC and Heating Systems must be concealed and cannot be placed on rooftops

SIGNS

No signs are allowed where visible to public view except "For Sale" or "For Lease" signs and security monitoring signs.

SATELLITE DISHES

Dishes larger than one meter (39") in diameter are prohibited. Smaller dishes are allowed in rear or side of lot.

OUTDOOR FIREPLACES

Outdoor fireplaces that are above the fence line or visible from the street must have architectural committee approval prior to installation.

FLAGS & FLAGPOLES

Flying a flag is permitted with the following restrictions:

- In addition to the flag of the United States, owners may also display the flags of the Armed Forces (Navy, Army, Air Force, Marines and Coast Guard), the POW/MIA flag, the State of Arizona flag and the flags of Arizona Indian Nations.
- Size of the flag may not exceed 3' X 5' (2' X 3' is recommended)
- United States Flag Code (P.L. 94-344; 90Stat. 810; 4 United States Code sections 4 through 10) must be followed

U.S. Flag Code guidelines include removing the flag during inclement weather; the flag must never be allowed to touch the ground; the flag must be in good repair, without tatters or fading; the flag may only be displayed from sunrise to sunset unless appropriate lighting is installed that property illuminates the flag without disturbing the quiet use and enjoyment of the neighboring properties.

The Association must approve the lighting of any flag. Homeowners are encouraged to display the American Flag by attaching a flagpole bracket to the exterior of the home. No approval is necessary for bracket use.

Flagpoles may be installed on individual lots, at Homeowners expense, within the front or rear yard with the following restrictions:

Poles may not exceed the heights of the height of the house (Telescoping flagpoles are preferred)

If a Homeowner elects to install a flagpole, the Association must approve the location prior to installation. The Homeowner will be responsible for any Property damage in the event the pole should fall down.

BASKETBALL GOALS

Permanent Basketball goals in front yard are prohibited in this community. However, portable basketball goals are permitted as long as they are moved out of view when not in use. Backyard Basketball goals must be 20' from perimeter fence. If a basketball hoop is proposed to be mounted within 20' of a side fence, then that neighbour's permission must be obtained in writing.

FENCING

All changes to fencing (height, color, texture, etc...) requires prior approval from architectural committee, except blocking in back view fence. Block back fence must be painted to match. Chain link fences will not be approved.

OUTDOOR LIGHTING

No lighting shall exceed 16' high. No lighting shall shine directly into neighboring property

GUTTERS & DOWNSPOUTS

Gutters & Downspouts require prior approval of the Architectural Committee and must be painted or finished to match the color of the house.

SCREEN DOORS

Screen Doors require prior approval of the Architectural Committee and must be of high quality iron painted to match the front door and homes exterior.

RV's / TRAILERS / BOATS

- Parking of RVs, Boats, Trailers, etc prohibited in community unless loading and unloading
- Storage behind double gates allowable only if the vehicle is not Visible from Neighboring Property as defined in the CC&R's. Storage in a garage will be allowed.

ANIMALS

- Only generally recognized house or yard pets are allowable
- Animals that are solely domestic pets and not kept for commercial purposes are allowed
- Pets must be leashed at all times when outside the fence of the individual lot
- No animal will be allowed to become a nuisance
- No structure for care or containment of the animal shall be constructed prior to obtaining the approval from the Architectural Committee.

LAWN

Front yard lawn must remain green all year round. (Winter overseeding may be necessary)

LOT MAINTENANCE

- Landscaping must be kept in an attractive and neat manner
- Lots may not be used for storage or dumping
- Clothes drying facilities may not be visible
- Seasonal decorations/lights should not be up more than 30 days prior to or after holiday
- Trash containers must be stored in garage or behind walls and out of view, except on days of collection

ARCHITECTURAL AND LANDSCAPING CONTROL

- A. All improvements constructed on Lots shall be of new construction, and no buildings or other structures shall be moved from other locations onto any Lot.
- B. No excavation or grading work shall be performed on any Lot without the prior written approval of the Committee.
- C. No Improvement shall be constructed or removed from any Lot and, except for such removal as required in connection with routine Landscaping maintenance, no Landscaping shall be installed, planted, placed or removed from any Lot without the prior written approval of the Committee, and all Improvements and Landscaping must fully comply with the Architectural and Landscape designs.
- D. No addition, alteration, repair change, painting or other work which in any way alters the exterior appearance of any Living or any Landscaping or other Improvements on any Lot including without limitation the exterior color scheme of any Improvement located thereon from their appearance on the date the Lot is conveyed by Declarant to the Purchaser without prior written approval of the committee.
- E. Any owner desiring approval of the Committee for the construction, installation, addition, alteration, repair change or replacement of any Improvements or Landscaping located thereon shall submit to the Committee a written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Owner desires to perform. Any Owner requesting the approval of the Committee shall also submit to the Committee any additional information, plans and specifications which the Committee may request.
- F. Upon receipt of approval from the Committee for any construction, installation, addition, alteration, repair change or other work, the Homeowner who had requested such approval shall proceed to perform, construct or make the addition, alterations, repair, change or other work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Committee.
- G. Any change, deletion or addition to the plans and specifications approved by the Committee must be approved in writing by the Committee.
- H. The Committee shall have the right to charge a reasonable fee for reviewing request for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to these guidelines, which fee shall be payable at the time that the application for approval is submitted to the Committee.
- I. The provisions of these guidelines shall not be required for, the construction, erection installation, addition, alteration, repair, change or replacement of any Improvement made by, or on behalf of, the Declarant.
- J. The approval required by the Committee pursuant to these guidelines shall be in addition to and not in lieu of any approvals or permits which may be required under any federal, state, or Local law, statute, ordinance, rule or regulation, including but not limited to, the ordinance requirements of the city or town where the Property is located.
- K. All Improvements (except Landscaping) must be constructed to comply with the applicable setback requirements set forth on the Plat.