

**THE PELICAN POINTE HOMEOWNERS ASSOCIATION**  
**POLICY REGARDING RENEWABLE ENERGY GENERATION DEVICES**

The following policy was approved and adopted on the 8<sup>th</sup> day of May, 2017, by the Board of Directors of the Pelican Pointe Homeowners Association (“~~A~~ssociation”), pursuant to Section 7.1 of the Declaration of Covenants, Conditions and Restrictions of Pelican Pointe at the Breakers (the “Declaration”).

**PURPOSE:** To establish reasonable and uniform procedures for the installation, maintenance and leasing of Renewable Energy Generation Devices and Energy Efficient Measures within the Association, consistent with the provisions of C.R.S. § 38-30-168, which limits regulations on these Devices on real property, and consistent with C.R.S. § 38-33.3-106.7, which limits regulations on energy efficiency measures within community associations.

**AUTHORITY:** The Declaration, Articles of Incorporation and Bylaws of the Association, and C.R.S. § 38-30-168 and C.R.S. § 38-33.3-106.7.

**EFFECTIVE DATE:** This Policy is effective on the date it was adopted, which is listed above.

**RESOLUTION:** the Association hereby adopts the following Policy governing REG Devices:

1. Definitions. As used in this Policy:

a. **Renewable Energy Generation Device (“REG Device”)** means either:

- i) “a solar collector or other device or a structural design feature of a structure which provides for the collection of sunlight and which comprises part of a system for the conversion of the sun's radiant energy into thermal, chemical, mechanical, or electrical energy” (C.R.S. § 38-32.5-100.3 (2)); or
  - ii) “a wind-electric generator that meets the interconnection standards established in rules promulgated by the Public Utilities Commission” (C.R.S. §38-30-168(1)(b)(2)).
- Other types of renewable energy, such as hydropower, geothermal, biomass or fuel cells, are not addressed by this Policy.

b. **Energy Efficient Measure (“EE Measure”)** means “a device or structure that reduces the amount of energy derived from fossil fuels that is consumed by a residence or business located on the real property” as defined in C.R.S. § 38-33.3-106.7(1), but includes only the following types of devices or structures:

- an awning, shutter, trellis, ramada, or other shade structure that is marketed for the purpose of reducing energy consumption;
- a garage or attic fan and any associated vents or louvers;
- an evaporative cooler;
- an energy-efficient outdoor lighting device, including without limitation a light fixture containing a coiled or straight fluorescent light bulb, and any solar recharging panel, motion detector, or other equipment connected to the lighting device; and
- a retractable clothesline.

c. Any other term not defined in this Policy shall have the same definition as it does in the Declaration.

2. Prohibited Installations. No REG Device or EE Measure may be installed or located on property that is owned by another person, except with the advance written permission of that person. No REG Device or EE Measure may be installed or located by any Owner or Guest on any part of the Common Area, except on Limited Common Area. Any installation or location on Limited Common Area requires written permission from all Owners of any Unit entitled to use that Limited Common Area, and permission of the Board as required by this Policy.

3. Design Review Application and Agreement. Before installing any REG Device or EE Measure, an Owner must first submit an application to the Association and receive approval for an exterior alteration, according to the procedure provided in Declaration Section 6.2 and in any Policies, Rules or Resolutions concerning exterior alterations. For all permanent installations of REG Devices or EE Measures, the Owner must sign the "Renewable Energy Generation Device/Energy Efficiency Measure Installation Agreement" attached to this Policy as Appendix A and include it with the application. Any tenant who wishes to install any REG Device or EE Measure must have written permission of the Owner of the leased Unit, and the Unit's owner, not the tenant, must sign the Installation Agreement.

4. Association Approval Conditions - General. The Association may impose the following approval conditions on the installation or location of any REG Device or EE Measure:

a. Compliance with all provisions in the Declaration, including, without limitation, Article VI regarding Architectural Approval/Design Review and Article VII regarding Land Use and Other Restrictions;

b. Compliance with bona fide safety requirements, consistent with applicable building codes or recognized safety standards, for the protection of persons or property, including but not limited to requiring installation by certified or approved contractors, vendors or electricians if appropriate, particularly if the REG Device or EE Measure will be permanently attached to any portion of the Unit which the Association maintains;

c. Compliance with the Board's reasonable aesthetic and design provisions governing the dimensions, placement, and external appearance of a REG Device or EE Measure. In establishing reasonable aesthetic conditions, the Board or its committees will comply with the requirements of C.R.S. § 38-33.3-106.7 by considering the impact of those conditions on the purchase price, operating costs and performance of the REG Device or EE Measure. Specifically, the conditions of approval may include, but are not limited to, requiring the REG Device or EE Measure:

- not to have a materially adverse effect on the exterior structure or operation of any Townhome or garage,
- not to interfere with or impede the use of any Common Area,
- to be located so as to minimize its exposure when viewed from the Common Area, the street, or any other Unit (ideally installed below the peak of any roofline, in the rear of the Unit),

- to be painted or colored so as to closely match or blend with the surrounding Residence or landscaping, including all pipes, panels, cables, service lines and related apparatus, and
- to be screened from the view of other Units, Common Area or the street;

d. Compliance with all Policies, Rules, Resolutions or Guidelines concerning exterior alterations.

5. Association Approval Conditions – Specific Devices/Measures. The Association may impose the following approval conditions on the installation or location of the following specific REG Devices or EE Measures:

a. **Solar Energy Devices** must be installed flush with the roof unless to do so will have the effect of prohibiting the collection of solar energy. All solar panel glazing shall be bronze or black – no white or clear glazing shall be allowed. The total number of solar panels and other apparatus installed shall not cover more than 75% of any given roof section.

b. **Wind-electric Generators** must be located in areas that reduce as much as possible any interference with the use and enjoyment of property near the device resulting from the sound associated with the device, in addition to aesthetic considerations.

c. **Solar Shades and Shutters** may only be placed on the rear or side elevations of buildings. Each window must have its own shade or shutter, and all windows on the same elevation must be covered if any one window is covered. Housing, tracks, cables or other mechanisms must be concealed behind trim as much as possible, or otherwise designed so as to blend with the exterior of the building. Window and trim style and shape must be maintained consistently with the rest of the building.

6. Owner's Responsibilities. Upon receiving approval to install a REG Device or EE Measure, an Owner has the following responsibilities:

a. Installation. For installation of an REG Device the Owner must engage the services of a duly licensed, insured and registered electrical contractor familiar with the installation and code requirements of the Device selected. The Owner also must obtain all necessary permits and governmental authorizations for the installation.

b. Insurance. Prior to installing an REG Device, the Owner must provide to the Board a certificate of insurance naming the Association as an additional insured on the Owner's liability insurance policy for any claim related to the installation, maintenance, or use of the Device. This insurance must be maintained so long as the REG Device is in place, and the Owner must provide evidence of that insurance coverage to the Association at any time upon request. Owner shall also be responsible for any increase in the Association's insurance premiums resulting from the existence of the REG Device or EE Measure.

c. Inspection, Cure, Recording. The Owner must notify the Board within fifteen (15) days after installation is complete, so the Board may have the installation inspected. If the Board it deems a professional inspection to be reasonably necessary, the Owner must pay the cost of the inspection. The Owner must fix any deficiencies identified by the inspector within

fifteen (15) days after being notified of the results of the inspection. Also within fifteen (15) days after the installation is complete, the Owner must provide a copy of the Renewable Energy Device/Energy Efficiency Measure Installation Agreement with recording number showing that the Agreement was properly recorded with the County Clerk and Recorder's Office.

d. Installation Costs. The Owner is responsible for paying all costs associated with installation of the REG Device or EE Measure, including but not limited to all costs associated with any required restoration of any exterior areas or Common Elements disturbed by the installation such as the modification, repair, replacement or installation of electrical panels, roofing, landscaping, or any other areas maintained by the Association.

e. Future Costs. Regardless of whether the REG Device or EE Measure is leased or owned, the Association will consider it the property of the Unit Owner who applied for permission to install it. If not removed by that Owner, it becomes the property and responsibility of any successive Owner of the Unit which installed the REG Device or EE Measure. That Owner, not the Association, is solely responsible for all costs of maintenance, repair, replacement or removal of the REG Device or EE Measure in perpetuity. If an Owner removes his or her REG Device or EE Measure, that Owner is solely responsible for all costs of removal and complete restoration to their original condition of all areas maintained by the Association. The REG Device or EE Measure may be removed by the Association, at the Owner's expense, if reasonably necessary or convenient for the repair, maintenance, or replacement of the Limited Common Area, Common Area or any other areas maintained by the Association.

f. Buyer Notification. As part of any sale or transfer of the Unit which installed a REG Device or EE Measure, the Owner is responsible for notifying the buyer of the terms of the Renewable Energy Generation Device Installation Agreement (the completed and recorded version of Appendix A). The Association, at its discretion, also may but is not required to notify prospective purchasers of the terms of the Agreement.

g. Leased REG Devices. If an Owner wishes to enter into a lease of any REG Device, he or she must still go through the above application process, and will be held to the same standards as an Owner who wholly owns an REG Device. The Association will not be a party to any Owner's lease. The Unit Owner, not the lessor of the REG Device, at all times will be solely responsible for all costs and duties arising out of the installation, operation, maintenance and removal of the REG Device, regardless of the terms of any lease.

6. Violations. Any violation of this Policy is subject to the same enforcement remedies as violation of any other provision of the Governing Documents of the Association, in compliance with the Association's policies and procedures for covenant and rule enforcement.

8. Conflicts, Deviations and Amendment. If this Policy conflicts with any prior existing rule, resolution, restriction or exterior changes guideline, this Policy controls with respect to REG Devices and EE Measures only. All prior existing rules, restrictions, resolutions, and architectural guidelines not in conflict with this Policy will remain in full force and effect. If Colorado law regarding REG Devices and EE Measures changes after the adoption of this

Policy, so that any provisions of this Policy conflicts state law, then state law will control, but all other provisions of this Policy will remain in full force and effect. The Board may deviate from the procedures set forth in this Policy if it finds that deviation is reasonable and necessary under the circumstances. This Policy may be amended by the Board from time to time.

**PRESIDENT'S CERTIFICATION:** The undersigned, as President of the Association, certifies that the foregoing Policy was adopted by the Board of the Association, at a meeting duly called and held on May 8, 2017.

Board of Directors of  
Pelican Pointe Homeowners Association, Inc.

By: Marisa Helford  
President

APPENDIX A

**RENEWABLE ENERGY GENERATION DEVICE/  
ENERGY EFFICIENCY MEASURE INSTALLATION AGREEMENT**

This Renewable Energy Generation Device/Energy Efficiency Measure Installation Agreement (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20 by and between Pelican Pointe Homeowners Association, Inc., a Colorado nonprofit corporation (“Association”) and \_\_\_\_\_ (“Owner”), the Owner/s of Unit # \_\_\_\_\_ in the Association. The legal description of this Unit is attached and incorporated by this reference as Exhibit 1.

Owner has requested that the Association authorize installation of the following-described Renewable Energy Generation Device and/or Energy Efficiency Measure (“Device”):

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Owner proposes to install the Device in the location specified on the attached Exhibit 2.

In exchange for the Association’s approval of Owner’s application to install a Device, Owner agrees as follows:

1. **Compliance with Policy.** Owner has submitted an application to install a Device on or within the Owner’s Unit, or on or within Common Area, at the location described and/or depicted on Exhibit 2 which is attached to this Agreement and incorporated by this reference. Owner agrees to comply with the Association’s conditions of approval including but not limited to contractor qualifications, aesthetic provisions, design specifications, location and insurance requirements. Owner also agrees to comply with the Association’s Policy Regarding Renewable Energy Generation Devices (the “Policy”).
2. **Installation.** If reasonably required by the Association, Owner agrees to engage the services of a duly licensed, registered and insured electrical contractor familiar with the installation and code requirements of such a Device, and agrees to obtain all necessary permits.
3. **Costs, Maintenance, Repair and Removal.** Owner agrees to be solely responsible for all costs related to the Device, including but not limited to all costs of installation, maintenance, operation, repair, modification, and removal. For example, Owner agrees to be responsible for any required restoration of any exterior areas or Common Areas disturbed by the installation such as the modification, repair, replacement or installation of electrical panels, roofing, landscaping, or any other areas maintained by the Association. In addition, if the Owner chooses, or is required by the Association, to remove the Device, the Owner agrees to be solely responsible for all costs of removal and complete restoration to their original condition of all areas maintained by the Association. The Owner agrees that the Device may be removed by the Association, at the Owner’s expense, if reasonably necessary or convenient for the repair, maintenance, or replacement of the Limited Common Area, Common Area or any other areas maintained by the Association. The Owner agrees that these costs shall be the Owner’s responsibility regardless of whether the Device is leased from or to any third party.

4. Insurance. Since the Device is located on property which the Association is required to insure, Owner agrees to reimburse the Association for the actual cost of any increased insurance premium amount attributable to the Device. This amount shall be collectable as an Individual Purpose Assessment against Owner's Unit. Owner also agrees to maintain liability insurance coverage for any claim related to the installation, maintenance, removal or use of the Device, if required the Association.

5. Repairs, Liability. Owner understands that the Association is not responsible for the maintenance or repair of the Device, and the Association is not responsible for any damages to the Device, regardless of whether those damages may be caused by the maintenance of any structure or area that the Association is responsible for maintaining or repairing. Further, the Association is not responsible for any damages caused by the Device to any Association property or the property of any third party. The Owner accepts full responsibility for all such repairs and damages and agrees to hold the Association, its Board, agents, contractors, and vendors harmless from any liability for those repairs and damages.

6. Succession. The obligations of this Agreement shall run with the land as long as the Device remains installed, and shall bind Owner and his or her successors and assigns, and all future Owners who own the Unit described above.

7. Enforcement. In the event Owner fails to undertake any action required by this Agreement, or pay any costs incurred by the Association as described by this Agreement, Owner agrees that the Association may, after seven (7) days written notice, undertake the action and seek reimbursement from Owner. All expenses incurred in connection with any enforcement of this Agreement by the Association, including but not limited to court costs and attorney fees, shall be collectable from Owner as an Individual Purpose Assessment. The Association shall have all authority set forth in the Association's Declaration, and pursuant to applicable Colorado law, to take any and all action necessary to collect these costs as delinquent Assessments.

8. Recording. Once the Association approves Owner's application to install a Device, Owner must submit this Agreement to the Clerk and Recorder of the City and County of Denver, Colorado for recording, and provide a copy of the conformed document with recording number to the Association not later than fifteen (15) days after the Device is installed.

9. Termination. This Agreement will terminate automatically once the Device is removed and all costs owed under this Agreement, including but not limited to restoration following removal of the Device, have been paid by Owner.

10. Definitions. All terms not defined in this Agreement have the same meaning as in the Policy, and if not defined in the Policy, then have the same meaning as described in the Association's Declaration.

I/WE HAVE READ THIS AGREEMENT AND UNDERSTAND IT. SIGNED THIS  
\_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_

OWNER/S:  
\_\_\_\_\_  
  
\_\_\_\_\_

STATE OF COLORADO        )  
                                          ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing was subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, by  
\_\_\_\_\_.

Witness my hand and official seal  
MY COMMISSION EXPIRES: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC



EXHIBIT 1

**LEGAL DESCRIPTION OF THE SUBJECT PROPERTY**

THE REAL PROPERTY LOCATED IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, LEGALLY DESCRIBED ON THE ATTACHED LEGAL DESCRIPTION FOR BUILDING \_\_\_\_\_, UNIT # \_\_\_\_\_, PELICAN POINTE AT THE BREAKERS, A PLANNED RESIDENTIAL TOWNHOME COMMUNITY, ACCORDING TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PELICAN POINTE AT THE BREAKERS, A PLANNED RESIDENTIAL TOWNHOME COMMUNITY, RECORDED ON JULY 6, 1998, IN THE OFFICE OF THE CLERK & RECORDER OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, AT RECEPTION NUMBER 9800105748.

STREET ADDRESS: \_\_\_\_\_, Denver, CO

EXHIBIT 2

DESCRIPTION/DRAWING OF THE LOCATION OF THE DEVICE

