

# NEWPORT HILLS

## Architectural and Landscape Standards

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# 1.0 INTRODUCTION

## 1.1 Purpose

**1.1.1** NEWPORT HILLS is one of the finest established single family home communities in Southern California. The key factors influencing the long-term value and the aesthetic appearance of the community are the quality of architectural and landscape design, and the continuing maintenance of individual properties. To guide and control the design and construction of the custom residences and Improvements to existing homes, a system of plan reviews and specific controls has been created.

**1.1.2** Homeowners (**Owners**) in Newport Hills may, from time to time, want to make Improvements and changes to their homes and properties. To insure that the architectural character and quality of the environment in Newport Hills are preserved, and to protect everyone's investment in this community, all of such modifications that constitute "Improvements" (as described below) must comply with the Newport Hills Amended and Restated CC&Rs (**CC&Rs**) and be approved by the Newport Hills Architectural Review Committee (**ARC**) appointed by the Board of Directors (**Board**) of the Newport Hills Community Association (**Association**).

**1.1.3** The Board has adopted these Architectural and Landscape Standards (**Standards**) to establish the procedure for submitting plans and other information concerning proposed Improvements, to the ARC for its approval and to set forth the design criteria applicable to such Improvements.

## 1.2 Responsibility and Authority

**1.2.1** Every new home built within the community as well as any and all additions and/or modifications to Improvements previously approved and constructed within Newport Hills, including landscaping and hardscape, are subject to the terms and conditions of the Standards. In the event of a conflict between the Standards and the CC&Rs, the CC&R provisions shall prevail (refer to section 1.5.4).

**1.2.2** For purposes of this document anyone residing within Newport Hills, including tenants, shall have the same requirements as homeowners. However, the Applicant for Improvements to a home or property must be the Owner.

**1.2.3** Any condition or material not set forth or defined within these Standards shall become a matter of judgment on the part of the ARC and the Board unless specifically provided for in the CC&Rs.

**1.2.4** Any and all approvals given by the ARC are site specific. An ARC approval does not run with the property and shall expire if construction has not commenced within six months from the date of the Final Approval (refer to section 2.8.2). The ARC must be notified of transfer of property ownership, and the new property Owner must receive ARC approval to use plans that were previously approved for the prior Owner.

**1.2.5** Approval of any project by the ARC does not affect or waive the necessity of obtaining the required City of Newport Beach or other jurisdictional permits. Obtaining a City or other jurisdictional permit does not waive the need for ARC approval. The ARC is not responsible for the Owner's failure to meet City or other jurisdictional building or zoning codes.

**1.2.6** The Board, after considering recommendations by the ARC, if any, shall have the discretion to permit any Owner (without the consent of other Owners) to deviate from any of the building and/or landscaping standards set forth herein, provided that such deviation is necessary in order to carry out the general purposes of the Standards and/or the CC&Rs. Any such Variance shall not constitute a waiver with respect to any of the Standards as to any other part or parcel of the property or any other property. See Section 2.9.

**1.2.7** In the event that plans and specifications are denied because the ARC judges such plans and specifications to not be in conformity with the Standards, the Applicant may appeal the ARC's decision. The Board shall, in writing, either approve or disapprove the request for Appeal. See Section 2.5.

### **1.3 Improvements requiring approval**

**1.3.1** The CC&R's provide that no physical site (lot) or building improvements including, building structures, fences, walls or other structures or landscape improvements shall be commenced, erected or maintained on any lot in Newport Hills, nor shall any exterior addition to or change or alteration therein, including painting, patio covers and antennae, be made except in compliance with plans and specifications that have been submitted to and approved by the ARC. Such approval is based generally upon whether the external design and location of the proposed Improvements are harmonious with surrounding structures and topography. The "Improvements" subject to the ARC's approval as defined in Article I, Section 1.21 of the CC&Rs include, but are not limited, to the following:

- a. New construction or installations or replacements including but not limited to: dwellings, accessory buildings, garages, fences, retaining walls, steps, sub-surface drainage or sewer lines, awnings, canopies, poles, trellises, patio overheads or decks, gazebos, exterior fireplaces/barbecues, sun decks, wind screens, swimming pools, fountains, spas, hot tubs, recreational apparatus, antennas, exterior lighting, sound systems, air conditioning equipment and solar energy systems.
- b. Installation or revision of landscaping, hardscaping or surface Improvements including ground covers, trees, shrubs, plants, irrigation or drainage systems, recreation areas or courts, landscape lighting, sculptures, flag poles, and surface drainage revisions.
- c. Reconstruction, exterior additions, changes or alterations on any building, structure, roof, fence, wall or other Improvement including changes of color, material or exterior surface.

- d. Demolition of any existing structure or Improvement including portions of existing residences, fences and walls.
- e. The grading, excavation, filling or other similar disturbances to the surface of the land.

**1.3.2** Repainting or repair of existing exterior improvements, made exactly in kind, are allowed without ARC approval. This is limited to minor or partial replacement or repair of exterior materials.

## **1.4 The Applicant**

**1.4.1** The Applicant must be the Owner of the lot for which the submittal is being made. Applications by prospective purchasers for lots in escrow will not be considered received by the ARC and will not be reviewed by the ARC.

**1.4.2** The Applicant must sign the Application and Agreement form. The signature of an agent, without proper Power of Attorney, will not be accepted. If the Applicant is concerned about processing plans rapidly, the Applicant should make sure the design team has a current copy of the Standards and all necessary forms. It is the Applicant's responsibility to provide the current and proper information to the design team. Refer to 2.6.1.

## **1.5 The ARC**

**1.5.1** The ARC has the responsibility to review plans submitted for any and all construction, modification, or alteration of Improvements within the community, as described in Subsection 1.3.1. One member of the ARC shall be a Board member, unless the Board otherwise decides.

**1.5.2** The ARC will meet on a regular basis (normally once a month) to review all plans submitted for consideration.

**1.5.3** The ARC may elect to retain the services of a Consulting Architect for submittal review and recommendation prior to approval or disapproval by the ARC. The Applicant shall be responsible for the costs of such Consulting Architect, which may be deducted from the Review Deposit.

**1.5.4** In reviewing any plans submitted to them, the ARC and/or the Consulting Architect are not rendering and cannot render any opinion as to whether such plans meet and/or comply with any applicable rules or requirements of any appropriate governmental agencies such as the City of Newport Beach. The giving of approval to any particular plan is strictly limited to a statement as to conformity with the CC&Rs and these Standards, with variances permitted if appropriate. Absolutely no responsibility or liability whatsoever, expressed, implied, or imputed, is intended or to be inferred or construed as to the project itself. Further, should the ARC grant a variance, this in no way guarantees that a similar variance by the City of Newport Beach, should it be required, will be granted. The

Association requirements supercede variances given by the City of Newport Beach. It is the Applicant's responsibility to research and comply with all governing agency regulations.

**1.5.5** Pursuant to Civil Code Section 1378, a proposed architectural change may not violate any governing provision of law, including, but not limited to, the Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), or a building code or other applicable law governing land use or public safety (collectively, "Laws and Codes"). Neither the Association's managing agent, the Board, nor the ARC and Consulting Architect reviewing an architectural application is knowledgeable of the Laws and Codes that may be applicable to the subject Improvement(s), and, therefore, neither the ARC, the Consulting Architect, the Board, nor management shall confirm compliance or noncompliance with any of the Laws and Codes as part of the review process. Accordingly, each Owner is responsible for confirming compliance with the Laws and Codes, and any approval by the ARC or the Board shall not be deemed a statement, representation, or warranty that any plans and specifications are in compliance with the Laws and Codes.

**1.5.6** The ARC is not authorized to approve, and no ARC approval shall be deemed to authorize, installation of any Improvements on any Association Common Area (as defined in the CC&Rs) or any neighboring property. Owners are not permitted to install any Improvements on any Association Common Area without obtaining prior approval of the Association's Board of Directors. If an Owner either negligently or intentionally installs any Improvement upon any portion of Association Common Area, the Association may require the Owner to remove the Improvement(s) at the Owner's sole expense regardless of the size or scope of the Improvement (e.g., including, without limitation, pool improvements, room additions, and the like). Also, an ARC approval shall not act as permission or authority for an Owner to install any Improvement upon any easement or similar property interest in favor of the County of Orange, City of Newport Beach, or any other public entity or other entity including, without limitation, easements concerning fire access, fuel modification, water, electricity, other utilities, or other purposes; Owners must obtain any needed approval of the owner of said easement interest. Therefore, each Owner is responsible to fully research title documents concerning the Owner's property and identify on the plans the location of any easement interests that may be located within the boundaries of the Owner's property and any Association Common Area property and neighboring properties adjacent to the Owner's property. If an Owner fails to comply with this obligation, the application and plans shall be deemed to be an incomplete submission and any ARC approval given shall be void as having been improperly obtained based upon inaccurate information provided.

**1.5.7** Failure to obtain written approval of the ARC for any and all construction, modification, or alteration of any Improvement as described in Section 1.3.1 shall constitute a violation of the CC&Rs and may require modification or removal of such unauthorized Improvement at the Owner's expense. Please note that no individual Board member, individual ARC member, Consulting Architect, or management, is authorized to give verbal approval of any proposed plans or Improvement. Thus, no Owner may infer approval for a proposed Improvement or alteration based upon a conversation with

management or any individual Board member, ARC member or Consulting Architect. An architectural approval is valid only if it is in writing and from the ARC.

## **2.0 THE APPROVAL PROCESS**

### **2.1 Requirements for the Approval Process.**

**2.1.1** The approval process is as follows:

- a. Initial Design Meeting- Refer to 2.6.1
- b. Preliminary Plan Submittal - refer to Section 2.6 for full submittal requirements. Upon ARC approval of Preliminary Plans, a letter of Tentative Acceptance will be issued to the Owner.
- c. Final Plan Submittal - refer to Section 2.7 for full submittal requirements. The plans are checked for conformance to the approved Preliminary Plans.
- d. Final Plan Approval and Approval for Construction. Refer to Section 2.8 for full requirements.

**2.1.2** All Type 1 “New Home Construction” and Type 2 “Additions and Major Remodel” building submittals must be prepared by a California Registered Architect unless waived by the ARC. All landscape submittals shall be prepared by a California Registered Landscape Architect, unless waived by the ARC. All submittals shall be stamped and signed by such registered professional.

**2.1.3** Incomplete submittals will be disapproved.

**2.1.4** At the discretion of the ARC, additional data and information may be required prior to taking final action on the application.

**2.1.5** Once an application has received Tentative Acceptance and/or Final Plan Approval, any subsequent submittals will require a new application and additional submittal fees.

**2.1.6** All submittal drawings shall be clearly labeled with the name, address and phone number of the person who prepared the documents, the name of the Applicant and the address of the project. Each sheet shall be labeled with the date of preparation, and the date shall be changed to reflect the date of preparation of all subsequent revisions. All revisions shall be clearly indicated on the submittal.

### **2.2 Basis for Decisions**

Design decisions that the ARC makes when reviewing each Application will be based on the specific criteria and requirements set forth in the CC&Rs and these Standards. Each submission will be evaluated on individual merits and the unique characteristics of house and lot, as well as the following:

- a. The basic concept must be valid, sound and appropriate to its surroundings.

- b. The proposed improvements must be compatible and in harmony with the architectural characteristics of the neighborhood setting.
- c. The size of any proposed Improvement should relate well to adjacent structures and its surroundings. Appropriate massing with the setting back and break-up of building elements shall be employed to provide a means for avoiding a bulky appearance.
- d. Color may be used to soften or intensify visual impact. Roofs, trim and other parts of the house shall be compatible with the base color of the house.
- e. Continuity is established by use of the same or compatible materials. A limited palette of materials is preferred. All materials must work well in combination.
- f. Workmanship is an important area of concern, particularly in all exterior alterations. The quality of work shall be equal to or better than that of the surrounding area. Poor construction practices, besides causing owner problems, can be visually objectionable to others. Poor workmanship can also cause safety hazards.
- g. Consideration may be given to design features so as to reduce unnecessary intrusion on the privacy of neighbors; provided, however, this provision shall not be deemed to create a right of privacy for neighbors with respect to any architectural Improvements.

## **2.3 Review Period**

**2.3.1** The ARC may postpone review of any plans submitted for approval until it receives all required plans and specifications. The ARC shall transmit its decision and the reasons therefore to the Applicant at the address set forth in the application for approval within thirty (30) days after the first regularly scheduled and held ARC meeting following the date the ARC receives all materials required.

**2.3.2** Any Application shall be deemed approved unless the ARC transmits written disapproval or a request for additional information or materials to the Applicant within thirty (30) days after the meeting referred to in 2.3.1.

## **2.4 Disposition of Plans**

Upon approval, disapproval or when the ARC requests additional information, the submitted plans will be distributed as follows:

1. One set of plans, will be retained by the ARC as its working copy, and one set of plans will be retained by the consulting architect.
2. When approved, one set of the approved plans will be placed in the ARC's files.
3. When approved, one set of the approved plans will be returned to the Applicant. This approved set of plans shall be maintained at the work site during the course of

construction until the ARC (or its designated representative) has made the final construction observation.

4. One set of disapproved plans or those requiring clarification or additional information will be returned to the Applicant.

## **2.5 Appeal**

If the ARC disapproves all or any part of a design submittal, the Owner may appeal such disapproval to the Board as follows:

1. All appeals shall be made in writing delivered to the Association within 45 days after receipt of the ARC's decision. An appeal form can be obtained from the Association office or from the Association website. The appeal must reasonably specify the portion of the ARC decision with which the Applicant is dissatisfied. If a completed appeal form of the ARC's decision is not submitted within that 45-day period, the decision shall be final.
2. Upon receipt of an appeal, the Association shall notify the Owner, the ARC and the Board of the date of the Board meeting when the appeal will be heard; provided, however, that such meeting shall not be held more than 60 days after receipt of the appeal. The Association shall deliver copies of the appeal to each Board member before the meeting.
3. At the Board meeting, the Owner and the ARC chairman may present such evidence as they deem appropriate to support their respective contentions that the proposed submittal complies or does not comply with the CC&Rs and these Standards. After the conclusion of such presentations, the Board shall either sustain the ARC's disapproval or reverse the disapproval, unless the Board determines additional information is needed before making a determination. A reversal requires an affirmative vote by a majority of the Board. Every decision shall be noted in the Board's minutes and on the proposed plans.
4. All decisions shall be based on the CC&Rs and these Standards.

## **2.6 Initial Design Meeting- Preliminary Plan Submittal for Buildings and Landscape/Hardscape.**

**2.6.1 Initial Design Meeting.** A property owner who intends to make application for a type one submittal (new home construction) or a type two submittal (major remodel) shall notify the property manager of such intent, in writing at least one week (7 days) prior to the next regularly scheduled Architectural Committee meeting, in order to be placed on that meeting's agenda. The property manager will invite the owner and owner's architect to attend an initial design meeting with the ARC at the next regularly scheduled monthly ARC meeting. No drawings are required to be presented to the ARC at this meeting. The purpose of the meeting is to discuss the kind of architectural concept the owner plans to pursue, and its potential impact upon the immediate neighborhood. The ARC will address any design guideline questions the owner may have, and will give lot-specific suggestion as

to building massing, neighborhood scale and, if appropriate, other architectural objectives discussed in section 3.0. Written notes of this meeting will be mailed or emailed to the owner. The owner will be required to submit two copies of pictures of all sides of the property showing all of the existing conditions for our reference including adjacent houses and structures.

### **2.6.2 Required drawings for Preliminary Plan Submittal – Buildings.**

Paper drawing submittals shall include colored exhibits, photos and photos of color boards. The Preliminary Plan Submittal shall include the following drawings, and any additional drawings as applicable. All plans shall include the date prepared or amended.

**1. Boundary/Topographical Survey** For a Type One Submittal (New home construction), an engineering survey of the lot, prepared by a licensed surveyor shall be submitted. The survey shall include property boundaries and dimensions, existing building footprint, existing grades, all easements and, where applicable, common area walls. The survey shall identify finish floor elevations, top of street curb elevation grades at center line of the property, and where each side property line intersects the street curb. Homeowners are required to submit two (2) copies of aerial photos for all adjacent homes. Aerial photos may be “Google Earth” quality.

### **2. Site Plan**

- a. Indicate accurate and complete legal description, address, Owner's name, architect's name, north arrow, scale of drawings and the Tract and Lot numbers.
- b. Show and dimension lot lines accurately as to length, angles and amount of curve. Show all existing and proposed buildings, structures, fences, walls, sidewalks and other Improvements (NOTE: Association and adjacent property owner walls and fences do not always coincide with legal property lines. In no event shall any of the Association walls and fences be moved or changed in any way). Indicate all required setbacks, easements, street rights-of-way and top or toe of slopes.
- c. Show all dimensions on work to be considered, distances between existing and proposed work and distances between proposed work and property lines, setback lines and slopes. Show any modification to the existing drainage.
- d. Indicate existing Improvements including neighboring properties and streets less than 10 feet outside the property line.
- e. Indicate location of existing or proposed exterior air conditioning units, fans, condensers, compressors, pool equipment, and any other mechanical equipment.

**3. Floor Plans** Indicate all existing and proposed structures, exterior building dimensions, square footage of all proposed living areas, and all finish floor elevations. Refer to Section 4.1.

**4. Roof Plan**

- a. Show all existing and proposed roofs with slope pitches and overhang dimensions noted. Indicate skylights, vents, and solar panels.
- b. Designate existing and proposed roofing material.
- c. Indicate any unusual conditions and details including mechanical wells, air conditioning equipment and solar panels, as applicable.

**5. Exterior Elevations.**

- a. Provide scaled drawings of all exterior elevations of all sides of the structures and delineate all parts of the exterior that cannot be shown on a typical elevation, front, sides, or rear.
- b. Note all proposed building materials, finishes and colors. For alterations or additions, note if finish is to match existing finish. Provide a small 8.5” x 11” color board which includes samples of all proposed building materials, finishes and colors.
- c. Delineate the height of all proposed Improvements in relation to “grade”, as defined in paragraph 4.2.3.
- d. Show top of roof height from finish floor elevations.

**2.6.3 Required drawings for Preliminary Plan Submittal – Landscape and Hardscape.**

Paper drawing submittals shall be accompanied by two pdf version CDs of the submittal, including colored exhibits, photos of specimens and photos of color boards. In some cases the applicant may be required to submit physical samples of the materials listed above. The Preliminary Plan Submittal shall include the following drawings, and any additional drawings as applicable. All plans shall include the date prepared or amended.

**1. Landscape Plan**

- a. Indicate the location of all existing plant material and proposed plant material.
- b. Indicate the footprints of all structures and the outlines of all hardscape Improvements.
- c. Provide a plant/tree list indicating both Botanic and Common names, container size at time of planting and quantities of each plant and tree. Show location of all plant material on plans and indicate full size at maturity.

- d. Identify all ground cover and turf.
- e. Identify existing trees to remain.
- f. Note larger specimens or those close to the property line may be required to be setback as not to unduly intrude on neighboring properties.
- g. Plant selection and irrigation design should consider water conservation and meet the City code requirements.

## **2. Hardscape Plan**

- a. Show lot lines accurately as to length, angles and amount of curve. Show all existing and proposed buildings, site structures (refer to Section 7.10 of the Standards), fences, walls, barbeques, exterior fireplaces and other Improvements. Identify all new and existing paving, walls, fences, pool/spa, sculptures, flag poles, steps, patterns, textures, materials and colors.
- b. Indicate location of proposed and existing exterior air conditioning condensers, compressors, and other mechanical equipment.
- c. Show heights and materials of all proposed fences and walls.
- d. Draw elevations of all sides of site structures, indicating height. Show dimensioned location relative to the dwelling structure and property lines.

### **2.6.4 Processing of the Preliminary Plan submittal shall be as follows:**

1. The Applicant shall submit all of the following documents to the Property Manager:
  - Three (3) complete sets of drawings, with all of the information required by the Submittal Checklist for the application type.
  - Completed Application for Architectural Committee Approval form.
  - Neighbor Awareness form completed (see 2.6.5 below).
  - Review Deposit (see FEE SCHEDULE).
2. The Property Manager will log in the submittal (complete submittals only) and then forward one set of Plans, Color/ Materials selections and a copy of the Application to the Consulting Architect.
3. The Consulting Architect will then review these plans for conformance to the published Standards, and issue a written response based upon the contents of the plans.

4. If the submittal is incomplete, or if the Standards have not been met in full, the Consulting Architect will issue a written response addressing any major deficiencies in the submittal. This response will be reviewed at a regularly scheduled ARC meeting. The Property Manager will forward the results of the ARC review to the Applicant.
5. A corrected re-submittal by the Applicant will follow the same procedures outlined above, and be repeated until the ARC can approve the Preliminary Plans.
6. The Property Manager will issue to the Owner a letter of **Tentative Acceptance** of the ARC approved Preliminary Plans. Each sheet of three sets of these plans will be stamped and signed by an ARC member “Approved for Preliminary Design”. One set each will be issued to the Owner, the Property Manager and the Consulting Architect.
7. No improvements may be commenced without written prior approval from the Architectural Committee. Preliminary approval is for design only and does not grant any right to construct improvements until the Final Plans have been approved pursuant to section 2.7.

**2.6.5** The **Tentative Acceptance** is valid for a period of one year. If the Owner has not fulfilled the contract and construction deposit requirements within this time, the Tentative Acceptance shall be automatically terminated. After expiration, any re-submittal shall be as a new application subject to the then current Standards and fees in force at the time of re-submittal.

**2.6.6** A request for a one-year extension of the Tentative Acceptance must be received at least 30 days prior to the expiration date to be considered by the ARC. A letter of justification requesting the extension shall be submitted to the ARC. The ARC has the right to impose additional conditions of approval upon review of the request.

**2.6.7 Neighbor Awareness Form.**

Because any Improvements may affect the Applicant's neighbors, the Applicant needs to inform neighbors of the proposed plans. As part of the Applicant's submission, he or she must include a completed copy of the Neighbor Awareness form (included in the Application Package) signed and dated by each facing, adjacent and impacted neighbor. In addition, the Applicant must submit the set of architectural or landscape plans that were shown to the neighbors, with the face sheet of the plans signed by the neighbors and dated indicating that each of the facing, adjacent and impacted neighbors has seen the proposed plans and is aware of the Applicant's intentions. An objection from any neighbor does not automatically mean that the application will be disapproved. Such an objection is merely one of the many factors that the ARC may consider in the review process. As used in the Neighbor Awareness form, the following terms shall have the following meanings:

1. **Facing Neighbor.** The three (3) homes directly across the street from the Applicant's home.

2. **Adjacent Neighbor.** All homes with adjoining property lines to the Applicant's.
3. **Impacted Neighbor.** All homes in the immediate area of the Applicant's home that would be affected by the construction of any Improvement, (e.g., adjacent, behind and other side of street). The ARC reserves the right to require that any Owners(s) whom the ARC believes will be impacted by the proposed Improvements be notified of the Applicant's plans, even if the Applicant disagrees that such Owner(s) will be affected.

**2.6.8** Although ARC is willing to allow neighbors an opportunity to comment upon proposed improvements which neighbors believe may materially impact their property, the ARC and/or Board of Directors are vested with sole authority and discretion to determine whether a proposed improvement is consistent with the architectural standards set forth in the Association's CC&Rs and the Standards, and the ARC is not required to permit neighbors an opportunity to comment on a proposed improvement before the ARC makes its determination. The neighbor awareness procedure is intended only as a courtesy to neighbors and confers no independent rights or authority upon neighbors to receive prior notice of a proposed improvement or to approve or disapprove the improvement. Neighbor approval, disapproval, or other comments respecting a particular improvement shall only be advisory and shall not be binding in any way on the ARC's decision. The ARC shall not be obligated to, consider a neighbor's comments, and the ARC's failure to consider a neighbor's comments or require an applicant to obtain a neighbor's signature on this Neighbor Awareness Form shall not give rise to any right or cause of action, either express or implied, in favor of owner to challenge the ARC's decision or the procedures employed in reaching its decision.

**2.7 Final Plan Submittal for Buildings and Landscape/Hardscape.** The Final Plan Submittal shall be the same as, but at least two weeks prior to the building department submittal to the City of Newport Beach. All City submittals must incorporate NHCA comments and standards. The drawings will be checked for substantial conformance with the approved Preliminary Plans, and deviations from those drawings will have to be returned to the ARC for approval or denial of the changes.

**2.7.1** Tentative Acceptance of the Preliminary Plans by the ARC is a mandatory prerequisite to submittal of Final Plans.

**2.7.2** Processing of the Final Plan Submittal shall be as follows:

- a. The Applicant shall submit all of the following documents to the Property Manager:
  - Three complete sets of drawings, with all of the information required by the Submittal Checklist for the application type. All sheets must be dated with the current date.
  - Submittal Fee (*if required*)
  - Construction and Completion Deposit (*if required*)

- Project Schedule indicating date of proposed completion of construction
- b. The Property Manager will log in the submittal (complete submittals only) and then forward one set of plans to the Consulting Architect.
  - c. The Consulting Architect will then review the plans for their completeness. If all of the appropriate items on the Submittal Checklist have not been submitted, the drawings will be returned. If the submittal requirements are complete, the Consulting Architect will review the plans for their conformance to the approved Preliminary Plans and the Design Standards.
  - d. If it is determined that the plans are both complete and in conformance with the approved Preliminary Plans, the Consulting Architect will issue a letter to the Property Manager recommending the plans for Final Approval.
  - f. If it is determined that revisions have been made to the plans that are not within substantial conformance to the approved Preliminary Plans the Consulting Architect will issue a written response based upon the contents of the plans.

**2.7.3.** The project will be scheduled for review at the next appropriate ARC meeting. The ARC will then, by majority vote approve or disapprove the revisions.

## **2.8 Approval for Construction**

**2.8.1** Upon ARC approval of the Final Plans the Property Manager will issue to the Owner a letter outlining the Construction Deposit requirements of the Association (see FEE SCHEDULE). Upon fulfillment of the Construction Deposit requirements, the Property Manager will issue a letter of Final Approval and stamp “Approved for Construction” on up to three sets of the Final Plans.

**2.8.2** Final Approval will expire if construction has not commenced within six months from the date of the Final Approval. For purposes of this document, commencement of construction is defined as any demolition or modification of a new or existing Improvement. If the Owner has not started construction within this time, all of the approvals shall be automatically terminated. After expiration, any re-submittal shall be as a new application subject to the current Standards and fees in force at that time.

**2.8.3** A request for up to one (1) 6 month extension of the Final Approval must be received at least 30 days prior to the expiration date to be considered by the ARC. A letter of justification requesting the extension shall be submitted to the ARC.

## **2.9 Variances**

**2.9.1** Where a variance to any Newport Hills restriction, standard and/or regulation applicable to the subject property is requested, the request shall be reviewed and acted upon by the Board. The ARC shall, by majority vote, provide any recommendations to the Board. The Board and the ARC will not consider an application that needs a variance unless a separate application and fee have been submitted.

**2.9.2** No request for a variance shall be granted unless the Owner can prove unusual hardship.

**2.9.3** The required additional submittal requirements for a Variance can be found on the Submittal Checklist. These submittals and the appropriate additional fee shall be submitted with the original submittal.

**2.9.4** Variance processing shall be in accordance with the following schedule:

- a. The Variance Submittal shall be received by the Property Manager no later than 28 days preceding the next scheduled ARC meeting.
- b. The Property Manager shall notify by mail all Property Owners on the list of the requested variance and the date of the meeting at which it is to be considered. This notification shall be mailed at least 14 days prior to the ARC meeting date.

**2.9.5** A copy of the submittal will be on file with the Property Manager. Neighboring property owners should telephone the Property Manager for an appointment to review the submittal. An appointment will be necessary to review the submittal. The ARC strongly encourages the Applicant to present the proposed project to the neighbors.

**2.9.6** Any comments by a Property Owner may be made in writing to the Property Manager or by attendance and comment at the scheduled ARC meeting. The absence of comments prior to the ARC's vote shall be considered as "no objection" by that Property Owner.

**2.9.7** The ARC shall meet at a regularly scheduled meeting to consider the Variance Submittal. The ARC may request the Consulting Architect to make a presentation of the Variance Submittal to interested Property Owners in attendance at the meeting. After the Board acts on the variance submittal, the Property Manager will notify the Applicant in writing of the decision.

**2.9.8** The granting of a variance by the Association does not remove the requirement of obtaining a variance, if required, from the City of Newport Beach. Further, the granting of a variance by the Association does not guarantee that a variance, if also required by the City, will be given.

**2.9.9** Each variance request is reviewed on its own merits, and no precedent is established by either the granting of or the denial of a variance request.

## **2.10 Completion of Construction**

**2.10.1** If construction is not completed within eighteen months of commencement of construction, The Board may, after notice and hearing, levy a fine or fines against the Owner in the amount of any security deposit with the Association in accordance with the Compliance and Fine Policy for the Association. In the event any such fine is levied, the Owner understands that the Association shall retain any and all rights and causes of action it may have in law or equity to proceed against the Owner or any of the Owner's agents, for any violation of the approved plans or any representations made to the Association, or as a

result of a violation of the CC&R's and Standards of the Association, as amended from time to time. In addition, collection of the fine will be directly deducted from the Architectural deposit on file with the Association.

**2.10.2** If a time extension is required for completion of construction, a written request must be submitted to the ARC 30 days prior to the expiration date. A letter outlining a new time line should accompany the request. Any deficiencies of the Construction and Completion Deposit will be required to be paid before any extension is granted. Unnecessary or repeated delays shall be subject to forfeiture of the security deposit or additional fines at the discretion of the Board.

**2.10.3** Under no circumstances will an Owner be allowed to begin construction without fulfilling all of the requirements of the Association and receipt of written notice of approval (see 2.7).

## **2.11 ARC Construction Observations and City Inspections**

**2.11.1** After the concrete forms are in place or after the concrete slab is poured or raised floor is built, the Owner shall within (10) days thereof submit to the Property Manager a completed City of Newport Beach "Setbacks and Top of Slab/Floor Elevation Certificate" for verification of building setbacks and verification of ground floor elevation. A form is included in the Application Package.

**2.11.2** Subsequent to the Slab/Floor Elevation Certification, The Owner agrees to notify the Property Manager by way of written request for construction observations by an Association representative at three key times during construction. Forms are included in the Application Package.:

- Observation No. 1. **Framing Observation.** The goal of this construction observation is to verify that the house is being built in substantial conformance with the approved plans. Ten (10) days prior to completion of framing and not less than 15 days prior to drywall, stucco, or any other concealment of any framing members the Owner shall submit the Notice to Perform Framing Observation form.
- Observation No. 2. **Mid-construction Observation.** Immediately after drywall is installed the Owner shall submit the Notice to Perform Mid-construction Observation form.
- Observation No. 3. **Final Observation** at the completion of building and landscaping.

**2.11.3** As soon as the framing is topped out and prior to the Association's Observation No. 1, the Owner shall submit to the Property Manager a completed City of Newport Beach "Building Height Certification" that certifies that the roof height is in compliance with the City-approved plans. A form is included in the Application Package.

**2.11.4** Construction observations will be performed only Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., by appointment.

**2.11.5 Any work conducted or completed without ARC construction observations and City verifications is done at the sole risk of the Owner and any corrective work at sole cost of owner. Proper notification is mandatory.** If special arrangements need to be made, please notify the Property Manager in writing in order to receive verification that the request can be accommodated. If a construction observation is requested and the work to be inspected is not complete when the Association representative is at the site, a re-observation fee will be charged. It is the Owner's responsibility to notify the Contractor of these requirements.

**2.11.6 All work must be done per the approved Final Plans.** Any work that deviates from the Approved Final Plans is in violation of the CC&Rs. If a change during construction is required, re-submittal to the ARC for approval **prior** to the change is required. If construction observation fails because the work does not conform to the Approved Final Plans, another submittal will be required at that time, which will delay the process and jeopardize the release of the construction deposit. The Association may require that any such non-conforming work be removed or modified to conform to the originally approved plans. Also, the Board may, after notice and hearing, levy a fine against the Owner in the amount of the Construction Deposit for the violation. This shall be in addition to all rights and remedies in law or equity available to the Association.

**2.11.7** Any damage to Association Common Area or improvements thereon will be replaced or repaired by an Association approved contractor. All applicable charges for repair, replacement, or restoration of any damaged Common Area or improvements thereon will be charged back to the responsible Owner and shall be due and payable within 30 days from notification or assessment of said charges and penalties. Also, the Association may deduct such charges from the Owner's Construction Deposit and/or impose a fine to satisfy payment thereof.

## **3.0 DESIGN PHILOSOPHY**

**3.1 Building Design Philosophy.** Custom homes in Newport Hills shall be designed as "whole buildings". Designs that simply decorate a front elevation wrapping the decoration just a few feet around the sides are unacceptable. All elevations shall be designed carefully, relating the same attention to detail and consistency of design on all sides of the house. Second-story walls and roofs shall recede appropriately to achieve pleasing overall massing. Additionally, the roof shall incorporate on all sides, the type of design and style that is intended for the front of the house.

### **3.2 Additions and Remodels**

Additions and remodels to existing homes in Newport Hills shall be designed to be an integral part of the existing structure. All materials and colors from the host structure shall be continued in the new work. The details and roofs shall be designed with the same level of attention and continuity as the original project. If an addition or remodel lacks the

continuity and design quality of the original structure, the ARC may deny the application. If the Owner proposes to change the aesthetics of an addition, the remaining original building must also be changed to match the new design.

### 3.3 Architectural Objectives

The following design concepts shall be incorporated:

1. **Massing.** The massing of a building refers to its overall bulk, or the volume of space which the building encloses. When massing a home, the size and proportion of its envelope and exterior elevations should be designed to relate compatibly with other homes in the neighborhood.
2. **Form.** A building's form is an articulation of its basic massing. The proportion and scale of a building's exterior elevations and roof are its primary form-giving characteristics. Second-story walls and roofs shall recede appropriately to achieve pleasing overall massing with portions of first story roof incorporated into the front elevation. Front porches are encouraged, as well as side porches on houses on corner lots or adjacent to the greenbelt and park.
3. **Context.** New and remodeled homes in Newport Hills shall be aesthetically compatible with the established aesthetics of the built community. The aesthetic of the established neighborhood always takes precedence over any individual home. No home shall compete for attention with its neighbors and shall be harmonious with the community.
4. **Composition.** The components of a home's exterior design – windows, doors, roofs, materials, colors, etc. – shall be merged into one complete piece of architecture. A well composed home begins with a design theme and consistently develops this theme to its logical conclusion.

**3.4 Neighborhood scale.** Newport Hills was developed as a community of one and two story homes. As one-story dwellings are remodeled or torn down, the replacement homes tend to maximize the lot's potential. To preserve the pleasing scale of our neighborhoods, each remodeled or new dwelling on a lot will require an "Initial Design" meeting (see section 2.6.1) between the ARC and the owner. The "Initial Design" meeting will allow for the Architectural Committee to provide direction to the owner as to how his/her house should relate to the immediately adjacent neighbors, and surrounding structures, including consideration regarding massing, form, context, and composition.

**3.5 Homes abutting Newport Hills Drive or Greenbelts.** Dwellings located adjacent to a Greenbelt or on corner lots at the end of each street abutting Newport Hills Drive must either be entirely one story or have an exterior elevation that steps down to one story on the major portion of the side of the dwelling facing Newport Hills Drive. Refer to Section 4.3.3.2.

**3.6.** Unacceptable architectural design elements include, but are not limited to:

1. Complicated or arbitrary forms.
2. False, decorative façade appliqués. Incompatible materials. Barrel tile or glazed roofs.
3. Designs inspired by fashions or styles of architecture such as Post Modern, Medieval, Renaissance Classical, Georgia Manor, Ancient Classical revival, Victorian, Pueblo revival, that are foreign to those found in the built Newport Hills community. The existing houses and elements on existing houses are not precedent setting.

## **4.0 ALLOWED BUILDING AREA, BUILDING HEIGHT AND BUILDING SETBACKS**

Refer to Section 7.0 for additional area, height and setback requirements for ancillary site structures.

### **4.1 Allowed Building Area**

#### **4.1.1 Maximum Square Footage.**

The total square footage of all structures on a lot including the garage, shall not exceed 67% of the area of the lot. Provided, however, if an owner combines two or more adjacent lots into a single parcel, the total square footage of all such structures shall not exceed 67% of the area of the largest lot of the combined lots, as such largest lot is depicted and described in the original subdivision map for the lots (as recorded in the Orange County Records Office), prior to the lots being combined into one parcel. A purpose of this guideline is in furtherance of the architectural restrictions in the Association's CC&Rs, because the size, increased square footage, and massing of larger structures on combined lots, in comparison to other existing residential structures in the Properties: (i) would not conform harmoniously to the exterior design of buildings in the Properties, (ii) would not be in harmony with surrounding structures, and (iii) would be detrimental to the appearance of the surrounding area.

#### **4.1.2 Computation of Building Square Footage.**

For purposes of this Standard, the first floor above a basement may be no higher than six (6) inches above grade. The total square footage of all structures on a lot shall be computed as follows:

1. The horizontal area of all space enclosed by the outer surfaces of the exterior walls of each story shall be included in the total square footage. Basement floor area is not counted in the calculation. Horizontal area shall include the area of garages, storage and equipment enclosures. The stair tread run and associated mid-level landings of two-story stairwells shall be counted only once. All two-story volume areas associated with entries, stairwells, etc. are to be counted per each floor level. Volume

areas with a maximum ceiling height of 14'-0" will only be counted one time in the first floor calculations.

2. Attic spaces are not included in the square footage computation if designed and located such that they cannot be converted into habitable living spaces. The ARC shall make this determination.
3. Interior courtyards, whether partially roofed or open to the sky, that are enclosed on four sides by structure or walls shall be included the same as if totally roofed (i.e.: a totally enclosed courtyard closed on four sides in a 2 story house adds 2 times the area of the courtyard, unless the front elevation is one story.)
4. The area covered by horizontal sections of fireplaces and other outward projecting Architectural features, including all such features projecting into setback areas, shall be included once for each story they occupy.
5. A **Porch** is a ground-level or lower-level roofed structure, generally open-sided, attached to a building to shelter an entrance or to serve as a semi-enclosed space. Front porches are encouraged. Subject to ARC approval, the area of a **front** porch that is open to the street will not be included in the total square footage of structures on a lot if there is no second floor structure above. If there is second floor structure above, 100% of a front porch will be included in the building area calculation. 75% of the area of a **rear** porch shall be included in the total square footage of structures on a lot if there is no second floor structure above. If there is second floor structure above, 100% of a rear porch will be included in the building area calculation.
6. A **Balcony** is a non-roofed, open-sided outdoor living area directly accessible from a second-story space in the living unit on the same level as the balcony. It may be cantilevered, or supported by structure below. 50% of its area is included in the total square footage of structures on a lot. Exterior stairwells are not permitted. A balcony must be accessed internally from a first or second level space. No decks or balconies can be above the second level, such as a roof deck, and cannot be accessed from outside.
7. A **Loggia** is a roofed balcony. 100% of its area is included in the total square footage of structures on a lot.
8. Outdoor Roof Covered and Sloped Open Beam Covered Patios (with the design potential to be fully roofed, or cover the structure at a future date), whether attached or detached, shall be counted in the square footage computation.

Refer to 7.10 for the definitions of various types of Site Structures, and how their areas are to be computed into the total square-footage of structures on a lot.

A transparent or computer-generated overlay of the floor plans shall be provided, indicating in detail how the square foot calculation was computed.

### **4.1.3 Garages**

Every residence shall include an attached garage that houses a minimum of two cars, or shall include two separate one-car garages. All existing structures must have a minimum clear garage door height of 7' with a maximum of 9'. All new structures must have an interior minimum clear garage height of 8'. The minimum clear interior width of a two-car garage shall be twenty-two feet (22'). The minimum clear interior width of a single-car garage shall be eleven feet (11').

### **4.2 Allowed Building Height**

**4.2.1** No dwelling shall be more than two (2) stories in height or exceed thirty feet (30'0") in overall height from grade. No third floors or mezzanines are allowed.

**4.2.2** The maximum plate height for single-story spaces is twelve (12) feet above grade with a roof height not to exceed eighteen (18) feet above grade. Refer to 4.2.3 for the definition of "grade".

**4.2.3** "Grade" is defined as the lower of: (a) the average ground level within 2 feet of an existing structure, or (b) 6 inches below the lowest finished main first floor level of an existing structure. Grade for new construction shall be keyed off the existing grade level(s) of the lot pad finish grade elevation. The applicant will be required to certify the existing slab height when submitting plans.

**4.2.4** The first floor of the first story above a basement may be no higher than six (6) inches above grade.

**4.2.5** Chimneys shall be permitted in excess of the roof height limit, to the minimum extent required by City ordinance including spark arrestor, plus a reasonable height addition for decorative termination cap of copper or painted galvanized metal. Spark arrestor and termination cap design must meet City of Newport Beach ordinance. Also refer to 4.3.2 for chimney size restrictions.

### **4.3 Allowed Building Setbacks**

**4.3.1** Requests for modifications to front yard setbacks are discouraged. Only under extreme, extenuating circumstances can a front yard setback be modified. Both ARC and Board approval are required, then, a variance from the City of Newport Beach is required.

Front setbacks have been established by the City of Newport Beach and vary from lot to lot. The minimum setback requirements as of the date of these Standards, established by the Planned Community Zoning Text (PCZT) and the approved Districting Map of the City of Newport Beach indicating front yard setbacks, shall apply to all Improvements. No structure may be constructed in any setback.

The Owner is responsible to verify the specific front setback of his/her lot. All setbacks are measured from the property line. If a property is adjacent to an association wall/fence the setback is measured from the property line. However, the building setback from the

association wall or fence is a minimum of 3’- 0’’. All roof overhangs must be a minimum of 1’ – 0’’ from the Association wall or fence. The following minimum setback requirements pertain to all structures that are required to be constructed within the Buildable Area of a lot.

| <u>Yard</u>  | <u>Less Than 7,000 SF Lot Setback</u>                       | <u>Greater Than 7,000 SF Lot Setback</u>                    |
|--|---|---|
| Front Yard   | as set forth by PCZT  | as set forth by PCZT  |
| Rear Yard (1 <sup>st</sup> /2 <sup>nd</sup> Floor) | 1 <sup>st</sup> floor 10’-0’’/2 <sup>nd</sup> floor 20’-0’’ | 1 <sup>st</sup> floor 15’-0’’/2 <sup>nd</sup> floor 20’-0’’ |
| Side Yard  | 5’ – 0’’  | 5’ – 0’’  |
| Association wall or fence                          | 3’-0’’  | 3’-0’’  |

**4.3.2** The area within the required building setbacks is referred to as the “Buildable Area”. All structures constructed on a lot, including Arbors, Gazebos, Shade Structures, Outdoor Rooms, and Storage Sheds , shall be located solely within the Buildable Area. Cornices, eaves and projected windows that extend above the footing of a dwelling may not project more than two feet six inches (2’-6’’) into any front, side or rear yard setback. Chimneys no wider than six (six) feet at the base and designed to be part of the major structure, or designed to be part of an open arbor that is attached to the main structure, may encroach into any side yard or rear yard setback, but in no case shall the chimney be built closer than three (3) feet from the side property line. Pilasters may encroach 6’’ (six inches) into any required Front setback. All encroachments will be considered on a case by case basis and will depend on surrounding conditions. For Pools, Spas, and Barbecues refer to section 7.13.

**4.3.3 Required Additional Building Setbacks.** In addition to the building setbacks described above, Newport Hills requires additional building articulation or staggered off-set wall plane facades. Long unarticulated or unbroken wall planes are not permitted as further described below. The additional articulation is achievable within the maximum allowable lot coverage of 67%. The articulation or staggered off-set wall planes is in addition to the setback requirements.

**4.3.3.1 All front (street-facing) facades.** Flat, unbroken two-story front facades are not allowed. A minimum of 30% of the total width of every front façade shall be designed with a second story recess of enclosed living space, wherein second story walls and roofs are located a minimum of eight feet (8’-0’’) behind the required front setback line. No second story element can be allowed to dominate the design of a home. Additionally, second story cantilevers are not allowed.

**4.3.3.2 All rear facades.** Flat, unbroken, two-story rear facades are not allowed. A minimum of 30% of the total width of every rear façade shall be designed with a second story recess of enclosed living space, wherein second story walls and roofs are located a minimum of four feet (4’-0’’) or more behind the required rear second floor setback line. Additionally, second story cantilevers are not allowed.

**4.3.3.3 Dwellings located adjacent to a Greenbelt or on a corner lot at the end of a street abutting Newport Hills Drive.** Second story cantilevers are not allowed. A minimum of 30% of the total width of every façade facing a Greenbelt or Newport Hills Drive shall be designed with a second story recess of enclosed living space, wherein second story walls and roofs are located a minimum of eight feet (8'-0") behind the first story walls. No second story element can be allowed to dominate the design of a home.

## **5.0 EXTERIOR FAÇADE ELEMENTS, MATERIALS AND FINISHES**

The following Standards define the generally accepted materials and finishes for homes in Newport Hills. Refer to Section 7.0 for allowable hardscape materials. Exterior colors and finishes of building, fences, walls, structures, and site structures as first approved by the ARC for new construction, additions and/or alterations, shall not be changed or altered without the approval of the ARC.

The exterior design, including materials and colors, must achieve a complete architectural statement that is compatible and harmonious with other homes in the neighborhood. Materials such as horizontal siding or wood shingles, when used on the front elevation of a home, must be returned preferably along the entire sides of the home, but at a minimum must be returned 15 feet or to an appropriate termination point as determined by the ARC. On corner homes, on the side facing the street, the material must be returned the entire length of the house.

### **5.1 Building Walls**

Materials allowed for the exterior cover of building walls shall be:

#### **5.1.1 Wood siding and wood shingles**

1. Exposed wood shall be finish quality material. The wood shall be straight and true, free of blemishes and knots, and installed in a workmanlike manner. Recommended species are clear redwood, clear western red cedar and vertical grain Douglas fir. Re-sawn or smooth finishes are acceptable. Rough sawn wood is strongly discouraged due to its lack of uniformity.
2. Wood may be finished with semitransparent stain, semisolid color stain, or paint.
3. The use of panelized wood or wood-like material is strongly discouraged in all applications. Installations that have either horizontal or vertical seams that are not completely invisible are unacceptable.
4. Hardboard siding is acceptable when installed in individual board form. These types of sidings must have an opaque finish.

**5.1.2** Brick is a generally allowable accent material. Slump stone, lava rock and concrete masonry units (CMU) in any form are not allowable materials. All masonry shall be used as a design element that is consistently applied on all elevations. Two dimensional, token applications are unacceptable.

**5.1.3** Natural stone when used properly as an accent can enhance the design of a home. The application of the stone should reflect the nature of the product. As an example, large pieces of flagstone “shiners” have a very rich appearance when used as a paving material, but look very flat and two-dimensional when applied to a wall in the same manner. The use of stacked “ledgestone” or “fieldstone” is encouraged. All stone shall be used as a design element that is consistently applied on all elevations or significant building form elements and terminated on only inside building corners. Two dimensional, token applications are unacceptable. The use of manufactured stone products is discouraged, and may be disapproved by the ARC.

**5.1.4** Either machine applied or hand troweled stucco is acceptable. Heavy swirl, lumpy, bump style, or Spanish lace textures are not permitted. The use of large uninterrupted expanses of stucco is discouraged, but when used shall be interrupted with details such as screeds or banding. Color may be integral or applied. Texture shall be uniform and as smooth as possible. If streaking and discoloration do occur, the ARC may require painting of the wall surfaces.

**5.1.5** Materials shall be combined in a way that complements all materials. The use of more than two major materials is discouraged. The use of small areas of accent material and panelization of alternating materials are unacceptable. All materials shall be consistently applied to all elevations.

**5.1.6** Unacceptable Materials include, but are not limited to vinyl siding, aluminum siding, sheet metal, ceramic tile, plastic or fiberglass panels.

## **5.2 Roofs**

**5.2.1** Predominant roof forms shall be hip or gable, or a combination of the two, with pitches from 4:12 to 6:12, though other roof forms and pitches will be considered. Dormers are encouraged to break down the scale of the house. Small areas of flat or low-pitched roof may be used to resolve sloping roofs, but only where the flat roof cannot be seen from the street. Flat roofs are highly discouraged. The area of flat roof shall not exceed 10% of the total roof area, except that the ARC will consider a slightly larger area of flat roof the sole purpose of which is to accommodate solar panels as part of the original application. The area of flat roof shall be limited to second story roofs only.

**5.2.2** Penetration of sloping roofs by plumbing vents, flues, etc. shall be confined to hidden sides of the roof, and whenever possible, set low enough on the roof so as to not penetrate the silhouette of the roof form. All roof vents shall be colored to match the adjacent roof material.

**5.2.3** Roof overhangs shall be appropriate to the architectural style of the dwelling with a suggested minimum width dimension of eighteen inches (18"). In instances where cornices are used, the overhang may become the cornice depth, with approval from the ARC.

**5.2.4** All roofing material shall be one of the following: flat concrete tile, cementitious composite tile, flat clay tile, slate, or wood shake/wood shingle if permitted by the City of Newport Beach. Barrel tile, metal roofs (except as set forth in 5.2.5) and glazed colored tile is not acceptable. All roof colors are subject to ARC approval and colors other than earth tones such as brown and grey are prohibited.

**5.2.5** Unacceptable roofing materials include:

1. Crushed rock (except for small areas of flat roof)
2. Built up roofing
3. Asphalt shingles or shakes
4. Composition roofing
5. Plastic or fiberglass, flat or corrugated
6. Canvas (except in the case of awnings)
7. Aluminum shingles, corrugated aluminum or other metal roofing
8. Mission (barrel) tile and “S” tile
9. Glazed ceramic tile
10. Standing seam metal is unacceptable except for small architectural elements.

**5.2.6** Roof vents and exhausts shall be kept to an absolute minimum. Whenever possible, all vents shall be taken through the least exposed roof areas. All roof accessories shall be painted out to match the adjacent surface.

**5.3** Skylights shall be clear flat glass, solar bronze or solar gray; no clear or white plastic is permitted. Frames shall match roof color or be dark bronze. Up-lighting from below, so as to produce a night glare, is prohibited

**5.4** Rooftop appliances are not permitted except for solar panels and attic ventilators that satisfy the requirements set forth below. In certain situations requiring approval by the ARC, air conditioning equipment may be located in a roof well surrounded by roof structure, completely hidden from view.

**5.5** Attic ventilators or other mechanical apparatus requiring penetration of the roof shall be small in size as functionally possible and shall be painted to match the roof. They shall be located generally on the least visible side of the roof and not extend above the ridgeline except as required by applicable building codes. Rotating gravity ventilators are not permitted.

## **5.6 Solar Power Systems.**

**5.6.1** Detailed scale drawings must be submitted to the ARC for any Improvements that include all or any part of a solar power system.

**5.6.2** Solar panels shall be placed (1) at locations that take into consideration the aesthetic balance of the house and the overall appearance of the community, (2) as low-profile as possible in a plane parallel to the roof plane, and (3) in a location that does not transmit glare to the surrounding houses. They preferably shall be installed at the rear of the house or garage. Solar panels must be joined abutting each other with no gaps and shall be encased or framed with a fascia or trim that is painted to match the roof material or exterior house trim.

**5.6.3** No pipes or other equipment shall be exposed to public view. If any pipe or other equipment is visible, it shall be painted to match the color of that part of the house or other structure to which it is affixed. No solar heating panels or other solar energy collection equipment shall be installed on any portion of any Lot, or any Improvement thereon, unless such equipment is installed with the **prior** written approval from the ARC, in such a location and in such a manner as to be obscured from the view of other persons in Newport Hills to the greatest degree practicable and without significantly increasing the cost of the system or significantly decreasing its efficiency. Solar installations may not exceed in any instance 250 square feet of area. No person shall install any such panels or equipment without the prior written consent of the ARC, which shall have the right to reasonably restrict and determine the size, shape, color, style, materials, and location of any such panels or equipment within Newport Hills, subject to the provisions of California Civil Code, Section 714.

**5.7** Fascia shall be wood, stucco or copper. If wood fascias are used, they shall be clear redwood, cedar or vertical grain fir. Wood fascias must be stained or painted with a contrasting color.

**5.8** Gutters and/or downspouts may be exposed or concealed. Any exposed gutters or downspouts shall be copper, or colored to match the surface to which they are attached. No exposed roof straps, vinyl gutters or plastic gutters are permitted.

## **5.9 Windows and Exterior Doors**

**5.9.1** Windows and doors in remodeled dwellings shall be consistent in their design. Window head heights shall be consistent and shall produce an ordered arrangement and composition within the total wall surface of an elevation.

**5.9.2** Exterior doors shall be of an Architectural grade or higher. The use of high quality paneled wood doors for both entry and garage doors is encouraged. Wood or high quality vinyl door and window sash may be installed. The design of the vinyl sash shall be similar to a quality wood sash product. All painted metal doors and sash shall be galvanized or approved weather resistant coating.

**5.9.3** Garage doors must be wood sectional doors, recessed from adjacent exterior walls by a minimum of eight inches (8"). Metal garage doors are not permitted. Wood sash with extensive glass infills are generally discouraged. Windows in doors should be of obscure

dark glass so as to let light in but not allow views through glass into the garage. Graphic elements on garage doors are prohibited.

**5.9.4** Window and Door trim is required. The most commonly approved trim material is wood. Precast concrete may be acceptable if used in a natural or soft-tone color. Window and door openings within exterior wall surfaces shall be treated in one of the following ways:

1. trim surrounds on all sides
2. recessed into a thickened wall
3. projected forward from the wall plane (windows only)
4. any combination of (1), (2) and (3)
5. any other design treatment that achieves an acceptable scale, order, proportion and depth of opening.

## **5.10 Glass and Glazing**

**5.10.1** Reflective glass film, plastic roll up shades and exterior shades of any type will not be permitted.

**5.10.2** The use of decorative, colored and stained glass that is visible on the outside of the building may be acceptable and requires special ARC approval. If a colored glass is to be used, the colors of the building will need to be harmonious with the colors of the glass. Submittals for decorative glass shall include the locations, design, colors and patterns clearly labeled, and samples of each type or color of glass proposed. The same requirements apply for decorative glass used in doors. Any decorative glass installed without ARC approval may be required to be altered or removed at the discretion of the ARC.

**5.10.3** Where windows and French doors are shown with divided lights, the muntins must be on the exterior of the glass and must have the appearance of wood, with sufficient depth so as not to look flat. Muntin dividers between layers of glass are not approved.

**5.10.4** Glass block, in limited quantities, may be acceptable and requires special ARC approval. Glass block openings shall be detailed consistent with other window and door openings. Glass block is generally discouraged and is limited to side or rear elevations.

**5.11** Where exterior shutters are utilized, one on each side of a window, each shutter shall be one-half the width of the opening, so the shutters appear realistic. In certain cases with space restrictions, shutters of less width may be approved at the discretion of the ARC.

**5.12** Awnings shall be a single color and of simple design without decorative embellishments such as scallops, fringes or contrasting colored stitches. They shall be made of woven cloth of natural fiber such as cotton canvas, with a wood or metal covered frame that is concealed from public view. When more than one awning is used on a single

building, all of the awnings must be of the same fabric, color and design. Owners shall, promptly upon notice from the ARC, remove or replace any awning that has, in the ARC's opinion, become discolored, deteriorated or damaged. Large awning canopies, either freestanding or attached to the home, are not permitted on the street façade of the home.

**5.13** Exposed, decorative louvers and vents shall be constructed of copper, galvanized metal, aluminum, stainless steel, clear redwood or clear western red cedar. Unless used as a design element, all louvers and vents shall be painted out to match the adjacent surface.

**5.14** Spark arrestors are required and shall be concealed from view, to the greatest extent possible within the City of Newport Beach ordinance, by decorative architectural screening of copper or painted galvanized metal. Refer to 4.2.5.

**5.15** Exposed flashing shall be copper, stainless steel, or galvanized, bonderized or prefinished sheet metal. Exposed galvanized sheet metal shall be painted to match the color of the surrounding material to eliminate reflective surfaces and glare.

## **5.16 Painting**

**5.16.1** Any exterior Improvements may be repainted without ARC approval if it is repainted the exact same color.

**5.16.2** Painting shall be uniform and consistent with complete coverage of all design elements as approved by the ARC and in accordance with the submittal documents and the colors and materials board.

**5.16.3** The use of muted colors is suggested with trim and field colors having a subtle contrast.

**5.16.4** All painted and or stained surfaces shall be properly prepared for the type of finish to be applied. The owner shall endeavor to use materials of the highest quality, applied by skilled technicians.

**5.17 Exterior Building Lighting.** Exterior building lighting shall be for the purpose of safety and security as well as aesthetics. Lighting should be of "moonlighting" intensity and not bright lights illuminating the structure, Lights for walkways, steps, gates, and doorways are encouraged. Lantern type lights on garage door sides and front doors are acceptable. Recessed "can lights" are acceptable for special features such as niches, arches, porches, and above front doors are acceptable but need ARC prior approval. Uplighting of entire house elevation is unacceptable and lights that impact neighbors, public sidewalks, and streets are to be avoided.

## **5.18 Maintenance**

All Improvements in Newport Hills shall be kept in a like new condition. All surfaces shall be kept clean. Painted and stained surfaces shall be well maintained.

## 6.0 LANDSCAPE AND EXTERIOR LIGHTING

Landscaping can be effectively used to accent entryways, define space, create "soft" privacy screens and reduce the visual impact of fences, sheds and structures. Since landscaping is a design element, the same considerations shall be given to the relationship with the house and with adjacent houses as apply to other design elements. All plantings and permanent irrigation systems must be aesthetically consistent with the design and plan of the community.

**6.1** The use of tasteful drought tolerant plantings and pavers to reduce the amount of lawn is encouraged.

### **6.1.1 Artificial Turf Requirements:**

Drought tolerant plant materials and artificial turf may be installed in front, side, and rear yards after receipt of written approval by the ARC. All ARC approvals of artificial turf are made on a case-by-case basis.

#### ***Required product specifications:***

- Minimum pile height of 1.5 (one and one-half) inches;
- Minimum pile weight of 45 ounces per yard;
- Minimum 10-year "No Fade" warranty;
- One-year installation/workmanship warranty;
- 100% UV protection

#### ***Artificial turf must:***

- Have a realistic appearance (with variable colors and blade height) and be indistinguishable from natural turf, from a pedestrian's perspective;
- Be adequately secured, with no ripples or seams showing;
- Have finished turf edges;
- Be separated from other planting areas by mow strips to prevent intrusion of living plant material into the area of artificial turf;
- Be installed in accordance with the manufacturer's instructions/recommendations, including a weed barrier and a properly prepared aggregate base for drainage;
- Have an adequate base and drainage as defined by the manufacturer under the turf;
- Be maintained on an on-going basis to ensure an appearance that mimics real, live turf to the greatest extent feasible;
- Be kept free of weeds, debris, tears, holes, dents;
- Be regularly maintained to ensure an attractive appearance.

#### ***Artificial turf shall not:***

- Serve as a major focal point for front yard landscaping;
- Be installed immediately adjacent to the house or other structure;
- Be applied over concrete, dirt, or existing turf;

- Be installed immediately adjacent to regular “living” turf;
- Be installed on slopes;
- Be installed in the parkway strip.

***Integration into landscape design:***

- Natural turf, drought tolerant plant material, or a combination of hardscape materials and natural turf or plant material must be used in parkway strips. Please contact the City of Newport Beach to obtain a current copy of the approved plant palette and hardscape options for parkway strips. Any changes in the parkway strip must be approved by the ARC and the City of Newport Beach, as the parkway strip is owned by the City and located in the public right-of-way.
- Artificial turf cannot be installed within 18” of the sidewalk. Living plant material must be planted densely in this 18” area and must be maintained at a minimum height of 6” at installation.
- Living plant material (i.e. flower beds, tree wells, groundcover beds, etc.) shall include shrubs, vines, trees and flowering groundcovers, and shall consist of at least 30% of the landscape area. This must be documented in the architectural application.
- Artificial shrubs, flowers, trees, and vines in lieu of living plant material **are prohibited.**
- Indoor/outdoor plastic or nylon carpeting, or astroturf is prohibited as a landscape element.

***Maintenance:***

- If artificial turf is not maintained in accordance with community standards, the homeowner will be asked to remove and replace it with new artificial turf or standard “living” turf.
- Infill must be recharged or replaced if odor or deterioration occurs. Seams must not show.
- Turf must be cleaned and the pile raked/fluffed periodically to maintain its appearance.
- The Association reserves the right to require replacement of artificial turf at any time its appearance has deteriorated to a point of looking worn out, faded, compressed, seamed, or to have raised or collapsed edges.

***Submittal Requirements:***

The architectural application for artificial turf installation shall include:

- Completed and executed application, neighbor awareness form, and review deposit;
- Site plan showing the area of installation;
- Site photographs of the area of installation;
- Manufacturer’s brochure
- Minimum 1’ x 1’ square sample of the proposed turf material to be used;
- Description of the turf specifications;

- Description of the method of installation • **Information and contact information for the qualified contractor who will perform the installation.**

**6.2** Topiary work is subject to the review and approval of the ARC.

**6.3** A simple palette of plant materials is encouraged. The ARC reserves the right to reject any plant materials deemed unsuitable or invasive.

**6.4** Changes or additions to flowers and low growing shrubs (3' high maximum) on flat ground do not require ARC approval. All other landscape changes, modifications or additions must to be submitted to and approved by the ARC prior to installation or removal.

**6.5** The irrigation design must be tailored to the type of plant system proposed by the Owner. The arrangement of plants requiring unlike moisture requirements is not acceptable. Water conservation measures are encouraged.

**6.6** Each lot in Newport Hills, including any slopes thereon, must be maintained in a manner that causes water to drain onto adjacent streets and not adjoining lots. The ARC may require grading and drainage plans to be prepared by a licensed or registered civil engineer or landscape architect in connection with any proposed modification of established grading or drainage. Grades shall not be overly steep or abrupt, and slopes should maintain a “natural” appearance.

### **6.7 Encroachments.**

**6.7.1** Trees, hedges and shrubs that restrict sight lines for vehicular traffic must be trimmed or removed. Future size of new trees shall be taken into account when being located near property lines, so that adjacent neighbors will not have future tree growth projecting over or into their properties. Trees, hedges and screening material shall be maintained at a height that will not unreasonably reduce sunlight or daylight to neighboring properties.

**6.7.2.** Trees located in side yards, between houses, are not permitted. In cases of wide side yards between houses, the ARC may consider approving appropriate trees. Trees or any species with invasive roots are not permitted in the 5 foot side yard setback. Plantings in side yards between houses must be maintained to a maximum height of 8'. Trees are not permitted to be planted within three (3) feet of any property line. Trees planted within five (5) feet of a rear property line shall have root barriers to a minimum depth of 30". Trees and shrubs that have intrusive root systems, including but not limited to ficus, mayten trees, and bamboo with “running” underground stems, or that have intrusive root systems are prohibited within 15' of all property lines. While these requirements are intended to minimize conflicts, the homeowner shall be fully responsible for root damage from that homeowner's trees or plantings to sewer, water, irrigation systems, concrete foundations, fences, hardscape, pools, etc. on a neighbor's property. When this occurs, the owner of the trees shall be required to remove the invasive roots and install a root barrier or remove the tree entirely and repair the damage caused by such intrusion.

**6.7.3** Refer to section 7.9.4 for all height and maintenance requirements for hedges and trees.

**6.7.4** At street intersections, no fence, hedge or wall shall exceed thirty (30) inches in height above street pavement grade within the triangle bounded by the right-of-way lines and a connecting line drawn between points thirty (30) feet distant from the intersection of the right-of-way lines prolonged.

**6.7.5** Sculpture pieces and fountains are not permitted in front yards or side yards. All sculpture pieces and fountains must be in the rear yard.

**6.8** Low Planters are permitted. Planter materials and colors shall be compatible with the house.

### **6.9 Maintenance**

The landscape shall be maintained in a first class condition. Maintenance shall include:

1. Mowing and edging of grass
2. Watering as required for proper plant growth.
3. Fertilizing.
4. Controlling weeds.
5. Trimming of trees and shrubs to proper height.

**6.10** Exterior landscape lighting must be low voltage (12V) and the light source shall be concealed where possible. Higher voltage lighting may be approved only if it is directed or placed so that it does not create an annoyance to the neighbors. "Moonlighting" type design is desired and encouraged for outside landscape lighting. Lighting for safety, security, and aesthetics should be the rule. The lighting for walks, steps, gates, front door approach and the minimal tree and special plant and garden elements is acceptable. Too many lights can cause visual distraction, glare, and light spillage onto neighbors and streets and are to be avoided. Holiday lighting commencing November 1 is permitted; however, it must be removed not later than February 1st of the following year.

## **7.0 HARDSCAPE, FENCING, WALLS, SITE STRUCTURES, & EQUIPMENT, BACKYARD ACTIVITIES, LANDSCAPE SCREENING, AND NOISE**

The following guidelines are intended to provide design and construction standards to be used in the preparation of hardscape plans and specifications. It is not intended that these standards supersede the authority of any jurisdictional agency. Hardscape includes all exterior paved areas such as slabs, flatwork, steps and stairs, low walls, curbs, driveways, decks and patios. The design of the hardscape should complement the building design. Excessive hardscape is discouraged, as this takes away from available softscape / landscape area. All such features require a separate ARC submittal and approval.

**7.1** All driveways and paving that is exposed to the street shall be at minimum the quality of one of the following:

1. Integral color concrete
2. Textured or exposed aggregate concrete
3. Masonry or tile units
4. Natural stone paving with or without ground cover in between.
5. Interlocking pavers without graphic elements and a maximum of 2 colors. Color range to be approved by the ARC.
6. Combinations of the above.

**7.2** The use of dark colored concrete that can streak or bleach out is discouraged. Large expanses of concrete such as driveways shall utilize bands, saw cut lines, or changes in materials and/or textures in order to break down the scale. Score lines shall be tooled and laid out in a manner that will minimize potential cracking and enhance the design of the hardscape. The layout of score lines, banding, etc. should relate to the layout of the building, and the hardscape materials shall be complimentary to the building materials.

**7.3 Asphalt paving is not permitted for any new driveway.** The use of gravel, pea gravel, decomposed granite (DG), dirt and or wood chips for hardscape areas and landscape planting areas in the front yard is not allowed, with the following exception: Gravel and DG are allowed in side yards if shielded from street view by a minimum five foot (5'-0") high gate or fence, and a border is installed to keep the material from spreading into the neighbor's yard.

**7.4** Steps directly applied to the ground or buried into the ground (on grade) are allowed within setback areas

**7.5** Above grade exterior staircases are not permitted.

**7.6** The design of steps should reflect the design of the hardscape. Steps in the front yard should utilize cantilevered concrete treads, brick bull nose treads, stone details, or some other enhanced design to blend with the other hardscape.

### **7.7 Patios**

**7.7.1** A patio is an on-grade paved outdoor space adjacent to or adjoining the building. Patios are allowed outside of the Buildable Area of the lot. Patios should generally be located in rear yards although front and side yard patios will be evaluated on their own merit.

**7.7.2** For patios, the use of the paving materials listed in paragraph 7.1 is encouraged.

**7.8.** A **Deck** is an outdoor space adjacent to or adjoining the first floor of a house, is typically built of wood, and is generally above grade. Any deck on the front side of a house requires special consideration and approval by the ARC.

### **7.9 Fences and Gates**

Fences and gates shall be compatible with the *exterior* materials and colors of the house and the prevailing fencing materials and colors of the adjacent neighbors. Continuity of texture and scale of materials shall be considered.

**7.9.1** Acceptable materials and colors for extension, repair and/or new fencing on property lines include:

1. Wood, colored to match existing fencing, trim or siding color. All gates or fencing visible from the common area must be painted to match the field or trim color of the home, or be stained, using an opaque stain. Where the interior of backyard fences is visible from the common area or street, the fence must be painted, with an opaque stain. The color shall be approved by the ARC.
2. Masonry or concrete; stucco applied to masonry shall have color and texture to match existing stucco.
3. In some cases fencing may be added to increase the height of the Association walls or fences for pool security. In this event, the Association will allow only black galvanized wrought iron or steel. The specifications for the portion of the added fencing that is visible above the Association wall are 3/4 inch square solid steel picket with 2 inch square steel rail welded to panel bottom. There shall be a maximum of 4 inches clear between pickets, with no decorative spikes. The steel or wrought iron must be screened with vines or shrubs and must be installed on posts directly behind the Association wall/fencing so that it is not attached to the Association wall or fencing. Specifications for this type of extension can be requested from the association office. Non-conforming fences shall be removed at Owner expense.
4. Clear non-colored and non-patterned tempered glass or Plexiglas for wind and/or view protection may be permitted in appropriate circumstances.

5. For wood fences, the maximum width of a wood top plate shall be 4 inches nominal dimension (for example a 2X4 laid flat. This will eliminate cupping.

**7.9.2** Unacceptable materials for extension repair and/or new fencing and gates include, but are not limited to:

1. aluminum or sheet metal
2. chicken wire or other types of woven wire, including plastic webbing or plastic coated wire
3. metal or plastic chain link
4. plastic or fiberglass fencing, posts, or panels
5. reeded straw, or bamboo-like materials
6. rope or other fibrous strand elements
7. wood grapestake or douglas fir (due to warping and shrinkage)
8. glass blocks and panels
9. exposed plywood (not acceptable even if painted or stained)
10. vinyl picket fencing or vinyl boards, trex, or plastic of any kind/design.

**7.9.3** Fence and Gate Design and Construction

The bottom of a fence or gate shall be no more than four (4) inches above the finish grade at any point.

1. Fences and gates shall be constructed of cedar, redwood, or other approved wood, and all vertical members of a fence or wall shall be plumb.
2. Gates should match the fence or wall in design material, height and color. Side yard gates facing the street shall be solid material.
3. The ARC requires written evidence that a neighbor approves the demolition of a common property line fence or wall. The replacement fence or wall must be finished on the neighbor's side with materials that are equal or superior to the finish materials on the Owner's side.
4. Existing Association walls and fences shall not be moved, altered, repainted a different color or otherwise changed in any way.
5. Fencing and gates around a swimming pool are subject to special City requirements.

**7.9.4** All yard fences, walls and softscape screening material shall be subject to the following height limitations:

1. No fence, wall or softscape screening material shall exceed the lesser of the maximum height permitted by the City of Newport Beach or a height of eight (8) feet. In the case of property line fences, walls and softscape screening material, the maximum height shall be measured from the neighbor side.
2. No fence, wall or hedge shall be installed within eighteen inches (18") of the public sidewalk and within 12" of the driveway. Within five (5) feet to the rear of the front property line, no fence wall or hedge shall be more than three (3) feet high.
3. At street intersections, no fence, hedge or wall shall exceed thirty (30) inches in height above street pavement grade within the triangle bounded by the right-of-way lines and a connecting line drawn between points thirty (30) feet distant from the intersection of the right-of-way lines prolonged.
4. Any new fence or wall abutting an existing fence or wall shall be equal in height to the existing fence or wall except in any case where a particular height is required for the protection of a swimming pool or spa.
5. The height of all fences, walls and hedges shall be measured vertically from the average finish grade at the base of the fence, wall or hedge, except as provided in (3) and (4) above. The tops of all fences, walls and hedges shall be dead level. Fences, walls and hedges installed on slopes, where permitted, shall be stepped.

**7.9.5** Where properties border common areas, gates are not permitted in the common area walls or fences.

**7.9.6** Front patio furniture is subject to approval by the ARC. All patio furniture must be on a paved surface.

## **7.10 Site Structures**

Unless otherwise noted, Site Structures shall be permitted only within the Buildable Area of the lot. They shall be designed to continue and/or complement architectural features of the dwelling.

### **7.10.1 Definitions:**

- **Arbor (Pergola) (Shade Structure)** a garden structure with a roof that is at least 50% open to the sky, often latticed, supported by posts or columns with no side enclosure. This structure may be free-standing or attached to the main structure. It is often covered by climbing plants such as vines, and often shades a patio. Its area is not included in the total square footage of structures on a lot. The maximum total height for these types of structures shall not exceed 12. These structures must be located within the buildable area of the lot.

- **Gazebo** a freestanding pavilion structure that is roofed and may have partial enclosure on all sides. The roofing material must match that of the main residence. 75% of its area is included in the total square footage of structures on a lot. The maximum total height for these types of structures shall not exceed 12’.
- **Outdoor Room** a partially enclosed or unenclosed space with a roof that must match the roof of the main residence. An outdoor room is attached to the main structure, and must have a minimum of two open sides. 75% of its area is included in the total square footage of structures on a lot. The maximum total height for these types of structures shall not exceed 15’.
- **Pool House or Outside Recreation Room** a detached, fully enclosed room with a roof that must match the roof of the main residence. 100% of its area is included in the total square footage of structures on a lot. The maximum total height for these types of structures shall not exceed 15’. A recorded covenant that restricts its use, and runs with the property, is required. For information, contact the Management Company. It is highly recommended that you obtain a sample covenant agreement to review prior to developing your plans for this type of structure.
- **Vine/Plant Trellis** a vertical structure, usually made from interwoven pieces of wood or metal that support climbing plants. If installed adjacent to a property line wall or fence, the trellis shall not exceed the height of the wall or fence. The maximum height shall be eight feet (8’) subject to ARC approval.
- **Storage Structure:** See 7.14.
- **Roof Deck:** a non-roofed outdoor living area located on a second-story roof, and accessed from below. Roof decks are not permitted.
- **Cabana** a tent like structure. Frames are typically decorative metal with fabric covers on the top, sides, curtains and tiebacks. Cabanas are not permitted in front or side yards, and are limited to 10’ height and 100 square feet in area.
- **Palapa** a thatched roof cabana. Palapas are not permitted.

**7.10.2** No object such as urns, pots, planters, etc., shall be placed on top of any Site Structure. All such "adornment" shall be located under, around or suspended within the structure. All such objects greater than 2 feet in height must be approved by the Architectural Review Committee. Pots or urns must be drained in such a way (internally) as not to stain the host pilasters.

**7.11** Wood-burning fireplaces are no longer allowed by City ordinance. Free-standing fireplaces and permanent barbecues shall be located sensitively in relation to neighboring homes and yards. Chimney height shall be in accord with City Code requirements. A City Building Permit is required. Free standing fireplaces located outside of the buildable area of a lot shall not exceed 9’ in height and must have a minimum rear yard and side yard setback of five feet (5’-0”). Refer to Section 4.3.2 for minimum fireplace setback

requirements for fireplaces designed to be part of an open arbor that is attached to the main structure.

## **7.12 Play Equipment.**

**7.12.1** Basketball backboards may be permanently attached to that portion of the dwelling or garage adjacent to the driveway. Backboards shall be fan shaped and shall be either clear plastic or painted to match or blend with the surface to which it is attached. A contrasting color outline may be painted on the backboard behind the goal. Backboards, including the net and all attachments and mounting devices, must be regularly maintained (including painting where required) to keep them in an attractive, neat and clean condition. Mobile basketball backboards must be removed from the street and onto the Owner's property each evening. Basketball backboards or courts are not permitted in back yards, or side yards, except as noted in 7.12.2 below.

**7.12.2** Sports Courts, including Basketball Courts, and Skateboard ramps are not permitted except on larger lots backing up to a street, subject to approval of neighbors on both sides. All sports courts shall be at least five (5) feet from all fences located on or near perimeter lot lines. The ARC will consider the size, design, and amount of visual screening of such equipment, the size of the lot in relation to the equipment, the noise and light intrusion on adjoining properties and other relevant factors when considering any proposed installation. Trampolines require special approval from the ARC for mitigation on impacts.

**7.12.3** Swings, tot lots, play houses and other such play equipment must be placed in rear yards and must be within the buildable area of the lot. Swings and slides (including those used in connection with a swimming pool) shall be at least five (5) feet from all fences located on or near perimeter lot lines. The ARC will consider the size, design, and amount of visual screening of such equipment, the size of the lot in relation to the equipment, height of the equipment, the noise and light intrusion on adjoining properties and other relevant factors when considering any proposed play equipment installation. **Such installations are considered on a case by case basis and the existence of another facility is not precedent setting.**

## **7.13 Pools, Spas, Hot Tubs, Ponds, Fountains and Other Backyard Activities.**

1. Safety, noise, visual and other impacts on adjacent properties from swimming pools, spas and all other backyard activities, and the security fencing for such Improvements, can be significant. Such Improvements need to be carefully planned particularly with visual and noise concerns and shall be discussed with all adjacent neighbors as early in the planning stage as possible to address and resolve such impact issues in a satisfactory manner. The Owner will also need to comply with all applicable City building code, noise, and health ordinance provisions.
2. Pools and other water related Improvements may be located in rear yards. The water line for pools and spas shall not be closer than three feet (3') from any rear or side property line. All accessory equipment, except solar panels, shall be located, screened, or recessed so that they are reasonably screened from view from

neighboring properties. Solar panels and related solar equipment, and the fencing or other screening material around the water related feature, shall be located and installed in a manner that complies with the requirements set forth in these standards.

3. The type, size and location of all solar panels must be approved by the ARC. Heaters shall be stackless or low profile in configuration. All installations shall be located, sound controlled, vented, and maintained in a manner that does not disturb other residents in the neighborhood. The ARC shall have the right, but not the obligation, to require an owner to repair or restore any installation to quiet operation or to restrict its use or operation if in the ARC's opinion, further unrestricted use or operation disturbs other residents.
4. Outdoor speaker systems are subject to the restrictions set forth in paragraph 7.22.
5. Outdoor barbeques shall be placed no closer than three feet (3') from any side or rear yard property line.
6. Free-standing fireplaces shall be built within the Buildable Area of a lot.

**7.14** A Storage Structure may be permitted if it is compatible with the Architecture of the dwelling and landscape, utilizes the same materials and color as the house and is not visible from the street or neighboring properties. Storage structures may not encroach into the required side yard. Storage structures cannot exceed the height of the adjacent fences, and may only be freestanding structures. Specific criteria may be required due to field conditions. 100% of the area of a Storage Structure is included in the total square footage of structures on a lot.

**7.15** All water softeners, gas meters, electrical meter panels, air conditioning equipment, pool equipment or other such equipment shall be completely concealed from view and shall be installed in a place and manner that minimizes any impact on neighboring properties. Any electrical meter panel shall be recessed into a wall and shall be painted to match the color of that wall.

**7.16** Trash containers shall be made of plastic to reduce collection noise and shall be stored in a location not visible from the street. Trash container placement and pickup procedures shall comply with "City of Newport Beach Municipal Code Section 6.04.150 Storage and Placement of Containers for Collection." Containers with lids are to be placed on the curb (not in the street), not before 7:00 p.m. of the day before trash collection day, and returned to their storage location before 7:00 p.m. on the day of collection.

**7.17** Flagpoles shall be an appropriate height, color and location for your property and its background. Permanent, freestanding flagpoles must be installed and maintained in a vertical position. The type, size and location of freestanding flagpoles must be approved by the ARC.

**7.18** Television, radio signal receiving or transmitting equipment, including antennas, satellite dishes, earth stations and microwave equipment may be permitted only if it (a) will be reasonable in size, shape and configuration, (b) will be completely concealed from neighboring properties to the extent possible, and (c) in the ARC's sole discretion, will not

interfere with television or radio reception in the neighborhood or otherwise be a nuisance or annoyance to the neighbors.

**7.19** A dog house shall be visually unobtrusive in appearance and location.

**7.20** No signs of any kind shall be placed on or about any lot or in the window of any structure except for (a) a security and/or alarm sign, (b) a sign that is reasonably located, in plain view of the public, and is of reasonable design (that complies with all applicable City requirements) advertising the home for sale, lease or exchange at a maximum size of 18" x 24", and the signs described in Section 8.3 and Section 8.4.

### **7.21 Mechanical Equipment**

**7.21.1** Mechanical equipment such as air conditioner compressors, including those used for cooling wine storage rooms and pool and spa equipment are not allowed within any front yard setback. Such equipment may in some cases be located within the side yard setback or preferably rear yard setback with specific approval of the ARC and may require a sound abatement surround. The equipment locations must be shown on all submittal drawings. Further, any equipment that is visible from the street must be permanently screened from view with a wall, solid gate or plant material (not potted plants). Any equipment installed within the setbacks without approval by the ARC will be required to be relocated at the Owner's expense.

**7.21.2** All condensing units for HVAC equipment must meet the sound limitation requirements of the City of Newport Beach, but in any event no greater than 55 db at the impacted residence. Prior to installation, a sound calculation approved and signed by a City of Newport Beach Building Department official must be submitted to the ARC for approval prior to the installation of any unit and only in the approved ARC location. Any refrigeration units for items such as wine coolers, which operate on and off 24 hours per day, must be located internal to the house, or as determined by the ARC, and a sound abatement surround may be required.

**7.22** No Owner may cause, allow or permit the emission or transmission of any loud or raucous noise from any sound-making device on his property. Use of amplifying equipment outdoors requires a City permit per Municipal Code, Title 10, Chapter 10.32.020.

**7.23** Any material, condition, architectural feature or other item not specifically described in these Standards shall be approved or disapproved in the sole discretion of the ARC after taking into consideration all factors and information it deems necessary or appropriate.

## **8.0 CONSTRUCTION RESTRICTIONS**

It is the responsibility of the Owner to notify his/her contractor(s) of the Standards that will govern the construction project in Newport Hills. The Owners shall be responsible for the actions of their contractor(s) and their compliance with Association governing documents.

In addition to obtaining the ARC's consent for the construction of Improvements, the Owner may be required to obtain a building permit from the City of Newport Beach or other appropriate government agencies prior to the commencement of any work. The ARC does not assume any responsibility for the Owner's failure to obtain such permits. Likewise, the ARC does not advise as to the necessity for permits, or review plans for the purpose of guaranteeing quality of work or compliance with specific governmental requirements. Obtaining such permits does not waive the Owner's obligation to obtain approval of the ARC. The costs of any permits and the responsibility of obtaining permits and subsequent inspection(s) will be the responsibility of the Owner.

**8.1** All works of Improvement shall commence within ninety (90) calendar days after the date of the Final Plan Approval and be completed within one hundred and eighty (180) calendar days after the date of the approval unless otherwise specified in writing by the ARC. A new home is allowed eighteen (18) months from commencement of construction which includes demolition. A one-time extension may be granted by the ARC. If work is not commenced or completed within the above specified, times, approval will be voided and a new submission will be required.

**8.2** All construction activities shall be carried out between the hours of 7:00 a.m. and 6:30 p.m. on Monday through Friday and 8:00 a.m. and 5:00 p.m. on Saturdays. No work is permitted on Sundays or holidays. The Newport Hills Holidays are: New Year's Day, Martin Luther King Day, President's Day (Washington's Birthday), Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day. Furthermore, if any City ordinance is more restrictive than the requirements of this paragraph, the City ordinance requirements shall prevail.

**8.3** During construction the General Contractor shall be permitted to post a maximum 18"x24" sign on the exterior of the construction fence with his firm name and emergency telephone number. No signs may be displayed identifying any tradesperson or installer, including signs identifying the house as the site of their activities or operations.

**8.4** All construction fencing shall be green vinyl coated. A construction fence shall be installed at the onset of demolition, excavation or construction of a new home or remodel, and may be removed only when all exterior construction is complete and the home is lockable. Construction fencing is not required for landscape-only work. Construction fencing is required for pool/spa installation, unless pool-safe permanent fencing and gates are already in place.

**8.5** During construction the General Contractor shall post on the exterior of the construction fence, an 18"x24" sign, which may be purchased at the Association office, with the following language:

**No Radios except iPod type used with earphones only**  
**No construction materials are allowed on the sidewalk or street**  
**Sidewalk and street must be kept clean daily**  
**Weekday working hours are 7:00 AM to 6:30 PM**  
**Saturday working hours are 8:00 AM to 5:00 PM.**  
**Sunday- No work permitted.**

**8.6** No structure of a temporary character may be placed or maintained on any lot without the ARC's prior consent.

**8.7** All rubbish, debris and unsightly material or objects of any kind shall be regularly (at least once a week) removed from the lot and shall not be allowed to accumulate thereon or on any adjacent street or other property. Construction materials such as sand or bricks must be stored at the construction site and must not be delivered, deposited or stored on any pedestrian walkway or street. Portable toilets must be placed in an unobtrusive location and appropriately maintained to prevent any surrounding odors. Contractor is responsible for daily cleanup of debris, dirt, and construction trash from visible front yard, street, public sidewalk, and visible driveways.

**8.8** Construction personnel are not permitted to use any radio, stereo, or other audio equipment (other than iPod type radios with headsets), while on the site.

**8.9** No vehicles associated with the construction shall block or be parked in any neighbor's driveway. Any vehicle found in violation of this prohibition may be towed away by the Newport Beach Police Department.

**8.10** As a sound mitigation measure, the saw cutting of masonry or stone shall be done inside the enclosed home or garage, if such enclosed space exists onsite.

**8.11** The repair and maintenance of any work or Improvement is solely the responsibility of the Owner.

**8.12 Temporary removal of any portion of Community Association wall/fence-** If absolutely necessary for construction access, a portion of Community Association wall or fence may be temporarily removed subject to the following:

1. A request in writing submitted to the ARC accompanied by a photograph of the section proposed to be temporarily removed, along with a description of the location and length of section to be removed. No work is to be started until approval is granted.
2. If approval is granted, it is subject to the wall/fence being replaced to match the original design, and replacement of any damaged ground cover in the common area.

Failure to comply with (1) and/or (2) above will result in a fine.

**8.13** Upon completion of the project, the Owner shall be responsible for ensuring that the Contractor cleans all remaining construction debris from the street in front of the homes of immediate neighbors, including removal or restoration of any street stains from oil, cement, etc., caused by the Contractor.

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