

Newport Hills Community Association

Notice of Summary of Architectural Control Procedures (Civil Code Section 4765)

The California Civil Code requires the Association to publish a notice annually that describes the types of architectural changes that require Association approval. This Summary of Architectural Control Procedures has been prepared for that purpose. This is only a summary, and Owners are therefore requested to refer to the Association's Amended and Restated Declaration of Covenants, Conditions and Restrictions ("CC&Rs") and to the Association's Rules and Regulations, Architectural and Landscape Standards and Policies ("Architectural Standards"), and the Association's other governing documents for additional and more detailed architectural improvement related information. If you have questions about whether Association approval is required for what you have planned, or about whether there are any standards, guidelines, or requirements for the type of improvement you wish to construct or install, please contact management *before* you start work.

A. No Exterior Additions and Changes without Prior Approval. No construction, installation, demolition, grading, excavation, import of fill dirt, or alteration of an Improvement (as defined in the CC&Rs) to (a) the exterior of a Dwelling Unit, (b) the front yard portions of a Lot, including landscaping, or (c) the rear yard of a Lot if the Improvement as constructed, installed, or altered would generate excessive or annoying odors or noises (e.g., air conditioning compressors, pool or spa equipment, sports courts) or exceeds (or in the case of landscaping Improvements, at maturity would exceed) six feet (6') in height above finished grade level, may be commenced or maintained until the plans and specifications therefore showing the nature, kind, shape, height, width, color, materials and location thereof have been submitted to and approved in writing by the Architectural Review Committee ("ARC"). (CC&Rs Article VIII, Section 8.2.)

The CC&Rs and Architectural Guidelines broadly define the term "Improvement" as including any structure or appurtenance thereto, including, but not limited to, buildings, accessory buildings, garage, pool houses, outbuildings, outdoor fireplaces, outdoor kitchens, built-in barbecues, swimming pool, spa or hot tub, recreational apparatus, walkways, sprinkler pipes, carports, recreational facilities, roads, driveways, parking areas, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, antennae, satellite dish, the paint on all exterior surfaces, hedges, windbreaks, windscreens, patio covers, gazebo, deck, trellis, railings, plantings, planted trees and shrubs, poles, signs, storage areas, exterior lighting, mailbox, fountains, exterior air conditioning and water softening fixtures or equipment, solar energy system, mechanical equipment, or sound system.

B. Board Approval Requirement. In addition to ARC approval, modifications or additions affecting the Common Area (including, without limitation, improvements requiring access over Common Area for construction purposes or otherwise impacting Common Area) also require prior written approval from the Board of Directors.

C. Submission Procedures/Plan Requirements. An Owner's architectural application shall be submitted only on the Association's Application for Architectural Committee Approval form ("Application") and shall be submitted only to the Association's managing agent at the Association's management office located in the Association's Clubhouse, 1900 Port Carlow Place, Newport Beach.

Architectural Application forms and documents shall not be submitted directly to any Association Director, Officer, or Committee member. The Application shall include all the information required under the Architectural Guidelines, including, without limitation, the following: (i) Application and Agreement form signed by the Owner (not an agent), (ii) three (3) copies of the completed Application, (iii) three (3) complete sets of the Owner's plans and specifications, (iv) a sample of non-pre-approved materials, color samples, and/or catalog sheets describing non-pre-approved materials, finishes, and/or colors, (v) a completed and signed Neighbor Awareness Form identifying all facing, adjacent, and impacted neighbors; (vi) the applicable application fee and deposit as set forth in the Architectural Guidelines, (vii) for any improvements requiring City approval, a copy of City approval or evidence that City approval has been applied for regarding any improvements requiring City approval, and (ix) an estimated completion date.

The plans and specifications (all plans shall be to scale and presented on sheets at least 24" x 36") shall show the nature, kind, shape, color, size, materials, and location of the proposed Improvements or alterations, shall be prepared in accordance with applicable building codes, and shall provide all information required in the Architectural Guidelines, including, without limitation: (i) a plot plan (including, without limitation, depictions of existing Improvements and locations of proposed Improvements), (ii) grading plan, (iii) roof plan, (iv) floor plan, (v) elevations, (vi) fence and wall plans, (vii) landscaping and hardscape plans, (viii) pool plan, (ix) mechanical and solar energy plans, (x) exterior colors and finishes, and (xi) such additional documents and/or information as the ARC may reasonably request. In the case of construction projects, the plans and specifications shall be prepared and signed by an architect licensed in California, and, in the case of landscaping and patio cover improvements, the plans shall be prepared and signed by a landscape architect licensed in California, unless the ARC waives this requirement in writing. The ARC may require such detail in plans and specifications submitted for its review as the ARC deems proper. In addition, the ARC may require the Owner to submit an application fee and/or advance deposit, which may be applied, if necessary, to any expenses the Association incurs in connection with reviewing the application and the work performed.

Applicants for new home construction or a major remodel must schedule an initial design meeting with the ARC to discuss the Owner's conceptual objectives before submitting Preliminary Plans. All Applicants must submit Preliminary Plans, which, if acceptable, will be given a Tentative Acceptance which is valid for one year, during which time the Applicant must submit fulfill all contract and construction deposit requirements, and thereafter, the Applicant may submit the Final Plan Submittal and project schedule, all as described in the Architectural Standards.

D. Approval Criteria. Approval may be based upon, among other things, the following factors: (i) that the installation, construction, or alterations contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or the Properties as a whole, (ii) the appearance of any structure affected thereby will be in harmony with the surrounding structures, (iii) the installation, construction, or alteration thereof will not detract from the beauty, wholesomeness, and attractiveness of the Common Area and Association Maintenance Areas or the enjoyment thereof by the Members, (iv) the maintenance thereof will not become a burden on the Association, (v) aesthetic considerations, (vi) consistency with the CC&Rs, (vii) the overall benefit or detriment which would result to the immediate vicinity and the Properties generally, (viii) consideration of the aesthetic aspects of the design, placement, landscaping, color schemes, exterior finishes, materials, and similar

features, (ix) limitations on maximum square footage of structures, (x) limitations on height of structures, (xi) minimum setback requirements from property lines, (xii) prohibition against use of artificial turf and artificial plants, (xiii) custom homes shall be designed carefully and as “whole buildings,” (xiv) massing, form, context, composition, neighborhood scale, (xv) homes abutting Newport Hills Drive must be either entirely one story or have an elevation that steps down to one story on the major portion of the side of the dwelling facing Newport Hills Drive; (xvi) consideration may be given to design features so as to reduce unnecessary intrusion on the privacy of neighbors; provided, however, this factor shall not be deemed to create a right of privacy for neighbors with respect to any architectural Improvements; and (xvii) conformity with such rules, regulations, and guidelines the ARC and/or Board have adopted or may adopt. (CC&Rs, Article VIII, Sections 8.2 & 8.7.) Variances may be requested in cases of unusual hardship, in accordance with the Architectural Standards. The ARC may retain the services of a consulting architect to assist with its review, and in such cases the Applicant shall be responsible for the costs of the consulting architect, which may be deducted from the architectural review deposit.

Pursuant to Civil Code Section 4765, 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.

E. Decision Timing. The ARC shall notify the Owner of its decision on the Application within thirty (30) days after the first regularly scheduled and held ARC meeting following the date the ARC receives all materials required; provided, however, until the ARC receives all required information, complete plans and specifications, and other Application documents, fees, and deposits, the Application is not deemed complete, and the time period for the ARC’s review of the Application does not commence. (CC&Rs, Article VIII, Section 8.2, Architectural Standards Section 2.3.1.) No purported oral or verbal approval of the ARC or the Board shall be permitted or effective, and any approval, to be binding upon the ARC and the Association, must be in writing. (CC&Rs, Article VIII, Section 8.2; Civil Code Section 4765.) Unless the ARC authorizes a longer period of time in writing, (i) construction must commence within six months from the date Final Approval is given; otherwise all approvals shall automatically terminate and become void, and (ii) construction shall be completed within eighteen months after receipt of ARC approval. If a project is not completed within the foregoing time period, the Board may levy a fine for the violation.

F. Disapproval/ Request for Reconsideration. If plans and specifications submitted to the ARC are disapproved, the Owner shall be advised in writing of the reason(s) for the disapproval and of the Owner’s ability to appeal to/request reconsideration by the Board of Directors. The Owner is entitled to request the Board of Directors to reconsider the ARC’s disapproval at an open meeting. The appeal/request for reconsideration shall be in writing, shall be addressed to the Board of Directors of

the Association, shall be delivered to the Association's managing agent, and must be received by the Association's managing agent not more than forty-five days (45) days following delivery to the Owner of the ARC's notice of disapproval. The term "delivery" as used herein is defined in Civil Code Section 4035.

G. Board Decision on Request for Reconsideration. The Request for Reconsideration shall be heard not more than sixty (60) days after Association's receipt of the request. Notice of the date, time, and location of the Board of Directors meeting at which the Owner's appeal/request for reconsideration shall be heard, shall be delivered to the applicant at least ten (10) days prior to the meeting. The ARC may submit evidence and recommendations concerning the application to the Board, and the Owner may submit any relevant oral or written evidence in support of his/her position. The Board of

Directors shall render its decision on the appeal/request for reconsideration and transmit its decision to the Owner within a reasonable period following the Board meeting where the appeal/request for reconsideration is heard. The Board's failure to transmit its decision to the Owner shall be deemed a decision to uphold and affirm the ARC's determination.