

*Niguel Shores
Community Association*

**Architectural
Rules and Regulations**



Effective May 4, 2011

**NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11**

STRUCTURES

NSCA RULES	ARCHITECTURAL REGULATIONS	3100
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Section 1

**NSCA ARCHITECTURAL REGULATIONS
AND GUIDELINES FOR ALL PROPERTIES**

3101 Purpose and Responsibilities 05-17-10

- 1) An owner must submit an application to the AC for its review and approval before beginning any demolition or construction of a new home or initiating any external modification of an existing home site. See **Rules 3118, 3119, and 3120** for a list of the information to be provided with applications. If a property changes ownership at any time before completion of construction, the new owner must sign the prior owner's original AC approved plans agreeing to follow the original plans and to submit an application to the AC for approval of any changes.
- 2) Most of the tracts in Niguel Shores were developed as neighborhood units, as opposed to individual lots. The size and shape of the homes, their position on the lot, their architectural style, their paint colors and exterior materials, and the surrounding landscapes were planned to present a pleasing appearance. All of these features contribute to the overall attractiveness of the community. These regulations are intended to preserve the attractive appearance of each neighborhood in the community, but are not necessarily intended to maintain the original architecture in perpetuity. A homeowner who wishes to change the exterior of his/her property must submit the proposed changes to the Architectural Committee for review and approval.
- 3) The Architectural Committee has the responsibility to apply the regulations and guidelines fairly and consistently to all applications for exterior changes to members' properties.
- 4) All members wishing to make exterior changes to their property must fill out an application, pay a fee (if required), pay a construction deposit (if required), and receive approval in writing from the Association prior to making any changes to their property.
- 5) All members have the responsibility of reading, understanding, and abiding by the *CC&Rs* and the *Rules and Regulations* of the Association.

3102 Architectural Committee (AC) 05-04-11

Organization

- 1) The Architectural Committee (AC) is composed of members of NSCA. The number of committee members is determined by the Board of Directors but shall be no fewer than three. A quorum consists of three members of the AC. A quorum must exist for any vote by the committee to be taken. The exception to the rule is if a member or members have to withdraw, the committee can continue to take action as long as the affirmative votes equal at least a majority (two) of the number required to make a quorum (three). The AC chairperson is a voting member of the committee. The position of Chairperson can be rotated amongst the Board-appointed voting members of the committee.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- 2) A Board of Directors member is assigned as liaison to the AC and may be counted as a member of the AC for quorum purposes but may not vote.
- 3) To qualify for membership of the AC, an owner should have familiarity with the *Architectural Regulations and Guidelines* and related provisions of the *CC&Rs* and should be able to read and understand construction plans, terminology and specifications. He/she should have some familiarity or experience in the field of construction, architecture, or the building trades.
- 4) Members of the committee are volunteers appointed by the Board. The position of AC chairperson can be rotated among the voting members. Each action regarding AC membership must be confirmed by vote of the Board of Directors.
- 5) Responsibilities
- 6) The AC is charged with approval or disapproval of homeowners' requests to develop vacant lots, add new structures, modify existing structures, and make any other exterior improvements. The AC, in examining such requests, shall consider among other things:
 - a. The site dimensions
 - b. The aesthetic suitability of the design and materials of the structures
 - c. The effect of the location, elevation and use of the requested modification, including drainage, on neighboring properties and streets.
 - d. The protection of reasonable ocean and other views and reasonable privacy of surrounding properties
 - e. The conformity of the homeowner's plans and specifications to the existing *CC&Rs* and *Architectural Regulations and Guidelines*.
- 7) The committee's responsibility to consider the adequacy of structural design and material, as provided in Article VII, Section 1 of the *CC&Rs*, is limited to the suitability of the aesthetic structural aspects of a proposal or improvement, and does not include the engineering aspects of the homeowner's proposal or the safety or durability of the structural design or material. The adequacy of the engineering aspects and integrity of the interior design and material of a structure or improvement are the sole responsibility of the homeowner and all such matters are to be in compliance with the requirements of the City of Dana Point and all other appropriate governmental and non-governmental agencies and parties.
- 8) Architectural Committee Meetings: The AC shall meet not less than twice each month on a regularly scheduled basis. The dates of the regularly scheduled meetings are published each month in the community's newspaper, the *Seashore News*.
- 9) Homeowners' applications for AC approval must contain all the necessary information and plans. They must be filed in the NSCA office before the close of business at least five (5) business days prior to a scheduled AC meeting in order to be reviewed by the AC at that meeting. Applications filed after that deadline will be scheduled for review by the AC at its next regularly scheduled meeting.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

3103 New Construction or Modifications to Home Sites 05-04-11

- 1) An owner must submit an application to the AC for its review and approval before beginning any demolition or construction of a new home or initiating any external modification of an existing home site. See **Rules 3118, 3119, and 3120** for a list of the information to be provided with applications. Any plan approvals are rendered null and void if a property is sold, transferred, or changes ownership by any other means unless actual physical demolition or construction on the project has been substantially started. A new application for AC approval must be resubmitted after a change in ownership. If a property changes ownership after demolition or construction has substantially started, the new owner must sign the prior owner's original AC approved plans agreeing to follow the original plans and to submit an application to the AC for approval of any changes.
- 2) The homeowner who starts or completes any construction or modification without first obtaining approval by the AC may incur a Board of Directors hearing and a fine and, also, may be subject to further legal action by the Association.
 - a. The types of construction, external changes, landscaping, and drainage that require an application submittal to the AC include, but are not limited to:
 - b. New home construction, additions, or external modifications to existing homes and attached or related structures.
 - c. Other improvements of home sites, including installation, replacement, modification, construction, or alteration of the following: air conditioning units, awnings, barbecues, decks, doors, driveways, exterior lighting, garage doors, gazebos, hot tubs, landscape and softscape, patio hardscape and patio covers, planters, roofs, skylights, solar panels, spas, street number signs, swimming pools, trellises, walks, walls, fences, weathervanes, and windows.
 - d. Exterior painting or repainting of any structure, including houses, garages, roofs, fences, garden or perimeter walls, planters, etc.
 - e. Temporary structures, including playground equipment, recreational and sports accessories, playhouses, etc.

3104 Modification Restrictions 05-04-11

- 1) Second-story additions to one-story homes - The Niguel Shores community consists of nine separate neighborhoods. Some of the neighborhoods are all two-story homes, some are all one-story homes, and some are a mixture of one- and two-story homes. Please see the appropriate description of the individual neighborhoods in *Section 2* of these *Architectural Regulations and Guidelines* for a description of allowed second story additions.
- 2) Vertical raising of roof lines - The raising of the roof line of a residence to higher than the highest existing original ridge is not allowed, except in those cases listed under Section 2 of these *Architectural Rules and Regulations* defining each tract. (Berkus – Tract 7447; Atlantic Garden Homes – Tracts 6782 and 8038; Shores Garden Homes – Tracts 6883, 7203, 7573)
- 3) The construction of a second or multiple dwelling units on one property is not permitted.
- 4) Reflective glazing or coatings are not permitted when such treatments will cause an unreasonable reflective visual distraction to other properties.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- 5) Any building or other structural addition of any kind (including fences, trellises, arbors, etc.) shall not unreasonably interfere with the ocean or other view from another property or unreasonably interfere with privacy or natural light.
- 6) Structures, plantings or other materials shall not be placed or permitted to remain, nor may other activities be undertaken, including re-grading or changes in ground surface elevation, which might interfere with established slope ratios, create erosion or sliding problems, or interfere with established drainage functions or facilities.
- 7) Slump stone walls and pillars visible from other lots and the street may be covered with an approved material but may not be painted. Common area walls cannot be altered.
- 8) Modifications which encroach on reserved easement areas are restricted. See Section 2 for more details.
- 9) Height of houses
 - a. The height of all new houses and additions to existing houses shall be limited to avoid unreasonable view interference, and unreasonable privacy invasion.
 - b. New one-story houses shall not exceed fifteen feet (15') in height above the original grade and two-story houses shall not exceed twenty-four feet (24') in height above original grade. Original grade is defined as the grade level existing at the time of most recent house purchase.
- 10) Auxiliary buildings or other similar structures, where permitted, shall be constructed of materials compatible with the residential structure and painted the same colors as the home. Freestanding or attached sheds (utility storage units, dog houses, etc.) shall not be visible from any street, common area, or adjacent property.
- 11) In order to be approved, awnings must be a solid color and must harmonize with the house color.
- 12) Crawl spaces below the first floor level are not permitted, nor are raised first floors permitted which exceed the normal concrete pad height (approximately six inches (6'')) above the original grade.
- 13) New drains from private property to the street must be cored through the curb and under the sidewalk (if present). The cored section shall be lined with ABS drain pipe.
- 14) The construction of a single new home or modification of two existing homes to create a single new home, on two or more combined adjoining lots is not permitted.
- 15) Chimneys, including the cap and any fire arrester, shall be no higher than the minimum height of the chimney required by the City of Dana Point Building Code.
- 16) Soil on a lot abutting a residence on an adjacent lot must remain four inches (4'') or more below the weep screed or exterior sheathing of the residence and must be sloped away from the residence.
- 17) On homes with a side-facing garage, a ground level front addition cannot extend beyond that home's nearest garage wall.
- 18) Clear and transparent fence (e.g. tempered glass or synthetic equivalent) may be used in place of, or in conjunction with, other permitted materials with a total height not to exceed six feet (6'). Clear and transparent fencing must be maintained in a clean and orderly manner, and in good condition and repair, so that it does not constitute unreasonable view interference or a nuisance to neighboring properties. Clear and transparent fencing cannot be used in place of privacy fencing.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

3105 Required City of Dana Point Approval 01-16-02

Approval of a homeowner's application by the AC does not eliminate the owner's responsibility to obtain all necessary permits required by the City of Dana Point when applicable. An approval by the AC shall be null and void without permits required by law being obtained by or for the owner. Construction done on the homeowner's property must be in accordance with AC approved plans. Any change to the homeowner's plans after AC approval, including those required by the City, must be resubmitted for reconsideration by the AC. The homeowner shall not be issued an NSCA Work in Progress Card, and construction may not be started, until the owner has paid all fees and can demonstrate that needed city permits have been obtained.

3106 Re-submittal to AC after City Permit Approval 01-16-02

Any changes to AC approved plans approved or required by the City of Dana Point must be resubmitted for reconsideration by the AC. The changes to the AC approved plans must be highlighted on the city approved plans for the committee review. This requirement normally applies to large remodels and new construction as designated by the AC and the homeowner will be notified of this requirement at the time of AC approval. Failure to resubmit city approved plans will result in a violation notification and a Board of Directors hearing and a possible fine or removal of construction order.

3107 Violations and Enforcement 01-16-02

The AC has the authority to recommend removal of any construction from any premise and /or the correction of any violation within the jurisdiction of the AC. The AC will note violations of the Architectural Regulations and Guidelines, and recommend enforcement action to the Board of Directors. Any such AC recommendations will cite a specific breach of the *CC&Rs* or the *Architectural Regulations and Guidelines*.

3108 Inspections 05-04-11

The AC or its designated architect or other consulting professionals may examine a property while considering an application for proposed construction and at any time during and upon completion of the construction after consultation with the homeowner.

3109 Consulting Architects and Other Professionals 05-04-11

- 1) The AC may use the services of a consulting architect and/or other professionals for all new structures, exterior design modifications, or additions to or modifications of existing structures. The AC's designated architect and/or other professional or representative may inspect the property, after consultation with the homeowner, as part of the review of the plans and shall report back to the AC all findings and observations.
- 2) The architect and/or other professionals or representatives of the AC may also check the job during construction and upon completion to ensure compliance with the approved plans and report to the AC whether or not the work has been satisfactorily completed after consultation with the homeowner.
- 3) The report prepared by the architect and/or other professionals or representatives,

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

whether oral or in writing, will be delivered to the AC for its consideration, and if so directed by the AC, may be attached to the file copy of the plans and related documents.

- 4) The fees for the services of the consulting architect and/or other professionals when needed shall be borne by the owner. A design review fee will be required for projects involving the architect and/or other professionals upon request of the AC. The amount of the design review fee is noted under Rule 3181. Any remaining funds from the deposit will be reimbursed to the applicant once the project is completed, has been inspected by the Architectural Committee, and the Association has verified that all consultant charges have been received and paid. Any portion of the cost of the architect and/or other professionals not covered by the design review fee will be the responsibility of the owner.
- 5) A refundable deposit will be charged for certain types of construction. This construction deposit will be refunded upon presentation to NSCA of written notification by the AC of satisfactory completion in accordance with the approved plans and the clean-up of all construction debris after deducting any costs incurred by NSCA relating to the submitted project. A current schedule of the fees and deposits is noted under Rule 3181.

3110 Classification of Approvals, Non-approvals **01-16-02**

The AC may classify a Final Plan as approved as submitted, approved with conditions, continued, or disapproved at any regular or special meeting at which a quorum is present.

3112 Incomplete Applications **01-16-02**

Failure of an owner to comply with the rules for the submission of an application or to provide all required information, documents, plans specifications, brochures, samples, etc., as required by these *Architectural Regulations and Guidelines* to the satisfaction of the AC, shall result in the rejection of the application because it is incomplete. The owner shall be advised of the deficiencies of the application and may resubmit the application with the appropriate required information.

3113 Forty-Five (45) Day Decision Period **01-16-02**

In the event the AC fails to either approve, or conditionally approve, or disapprove a timely and complete application within forty-five (45) days after submittal, it shall be conclusively presumed that the AC has approved the application as submitted.

3114 One-Year Approval Limitation **01-16-02**

- 1) The status of an approved application for new construction, additions or modifications to an existing structure shall be in effect for one year from the date of approval.
- 2) In the event construction is not started within one year after the date of approval, the approval will no longer be valid. A new application must be submitted if the owner wants to reinitiate the project. The *Architectural Regulations and Guidelines* requirements in effect at the time of re-submittal shall apply.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

3115 Completion of Construction **05-19-09**

- 1) Any exterior modification approved by the Association shall be diligently pursued to completion within the designated amount of time. Replacements of existing items must be completed within three (3) months of the date the work in progress card is issued. Improvement as designated in **Rule 3181** must be completed within six (6) months of the date the work in progress card is issued. Additions and new construction as designated in **Rule 3181** must commence within one year of the date of approval and must be completed within eighteen (18) months of the date the work in progress card is issued.
- 2) If construction is not completed within the completion time limit specified in **Rule 3115.1**, the approved plan submittal will expire and the homeowners will be required to resubmit a new application for final plan approval and pay a new fee. The construction deposit will be held for the new submittal and will not be refunded until the project has been completed satisfactorily in compliance with the approved plan and the Rules and Regulations. If the homeowners demonstrate that they have acted in good faith to pursue project completion within the time limit, the Architectural Committee may waive the fee requirement for the new submittal. (See **Rule 3181** for a list of construction deposits and fees.)

3116 Changes After Approval **01-16-02**

Any intention to change, supplement or alter any portion of plans, specifications, materials, etc., after approval by the AC and/or after construction has begun, shall first be resubmitted to the AC for review and consideration of approval prior to beginning implementation of the intended change.

3117 Display of Work in Progress Card **01-16-02**

During the course of construction and until final completion, the NSCA Work in Progress Card shall be conspicuously displayed at the front of the property at a location that is clearly visible from the street.

3118 Application for Association Approval **05-04-11**

- 1) Members of the Association have a choice of two types of applications they may submit for consideration by the AC. The first is a Preliminary Plan (see **Rule 3119**), which is required for all changes to the exterior profile and/or footprint of a property. The Preliminary Plan is easier to put together, requires less formal planning and results in the AC providing advice and counsel about the suitability of the plan. There is no approval or denial of a Preliminary Plan. The AC will respond to the member in writing with all the aspects of the plan that appear to have no problems and all of the other aspects that may violate some of the Architectural Regulations and Guidelines.
- 2) A Preliminary Plan application must include two (2) sets of Preliminary plans showing: site plans, building outlines, elevations, dimensions, roof height, location on the lot, setbacks from lateral property lines, front property line, top and toe of appropriate slope, pad grade level, walks, fences and fence heights, and the accurately placed outlines and locations of the houses on either side of the property. In addition to two sets of paper plans, plans larger than 11" x 17" must be physically delivered to the NSCA office on

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

CD, Flash Drive or other media. Files must be in PDF or other formats with a freely-available reader

- 3) The second is a Final Plan (see **Rule 3120**). The Final Plan application results in a formal approval or disapproval by the Association. The AC uses the information submitted. Payment of the non-refundable Architectural Fee and the refundable Construction Deposit must be made if required.

3119 Preliminary Plans Submittal 05-04-11

- 1) The preliminary plan submittal procedure is a means for an owner to seek feedback on preliminary plans that show what the owner proposes to do. Such paper plans shall be submitted in duplicate (together with the electronic copy referenced in subparagraph 2 of Rule 3118) showing enough detail that the AC can visualize the proposal. Other information, specifications, sketches, brochures, etc. may also be provided.
- 2) The response from the AC based on its review of a preliminary plan submittal is advisory only. Any comments regarding a preliminary plan submittal, written or oral, made by the AC, must be considered by the owner as no more than informal guidance. These comments must not be construed as an implied approval of a variance of a rule or the likely disposition by the AC as to its final approval or disapproval.
- 3) The response of the AC regarding a Preliminary Plan submittal shall not be construed to imply AC approval of the project. The response of the AC will specifically state any elements of the plan that appear to be in conflict with the pertinent sections of the *CC&Rs*, the *Architectural Regulations and Guidelines*, or community standards of architecture and aesthetic suitability as interpreted and applied by the committee.
- 4) One copy of the Preliminary Plan shall be returned to the owner with the AC's comments, which may serve as an informal guide in the event the owner begins the preparation of a Final Plan application submission.

3120 Final Plan Submittal (Required) 05-04-11

- 1) Two sets of final architectural plans shall be submitted to the committee for approval. When approved, one set will be retained in the Association files and one (1) set will be returned to the applicant. In addition to two sets of paper plans, plans larger than 11" x 17" must be physically delivered to the NSCA office on CD, Flash Drive or other media. Files must be in PDF or other formats with a freely-available reader.
- 2) Approval or conditional approval shall be contingent upon payment of additional architectural or other professional fees incurred during the approval process and/or construction deposits, and/or payment for obtaining a properly completed covenant, if required.
- 3) Architectural drawings shall contain the following information where pertinent to the construction proposed:
 - a. Site plan, drawn to scale, showing lot layout, new dimensions drawn in heavy lines, north arrow, easements, topographical information (such as property boundary lines and pad grades when changed from original lot grades), top and toe of all slopes, building outline, drives, walks, fences (including heights) and other site improvements. This site plan shall show locations of structures on

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

adjacent properties in relation to common boundary lines and existing and proposed structures on owner's lot shall be included; and slope control area imprint plan (Breakers Isle).

- b. Elevation plans with dimensions for exterior, showing all doors, windows and roof lines, indicating all materials used on exterior, including planters and fences. Indicate roof pitch and height relative to that of the existing building. The elevations shall clearly show existing and proposed construction.
 - c. Floor plans with dimensions identifying the area being remodeled, constructed, added or altered and a sufficient portion of the existing structure to permit orientation.
 - d. Unless requested, DO NOT include engineering, geotechnical, and/or mechanical drawings.
- 4) Building sites shall drain in accordance with the original grading plan in a manner to prevent erosion and all modifications of lot drainage shall provide for drainage to the front street and not down any slope control areas.
 - 5) Renderings and/or perspective sketch, if necessary, to clarify design.
 - 6) Skylights. All plans for skylights must be submitted to the committee for approval. Skylights must be non-reflective (non-glare) and frame of skylight must match color or blend with roof. Location of skylight must be shown on plans or drawings.
 - 7) Exterior surfacing materials including colors. Sample and brochure required.
 - 8) It is the owner's responsibility to provide all required information and materials, including accurate lot layout showing the location of existing and proposed structures and improvements on the lot and topographical information.

3121 NSCA Common Areas and Homeowner Liability

01-16-02

Any construction by or for a homeowner which requires access across or onto any common area or easement area requires approval by the NSCA. Damage of any kind to this common area including streets, gates and the PCH Bridge or NSCA easement area is the responsibility and liability of the homeowner. The homeowner is responsible for reimbursing the NSCA for the cost of any repairs required.

3122 Neighbor Notification

05-19-09

An owner whose plan is under preliminary or final review by the AC for new construction or any external structural modification, expansion, or addition to a property may be required to assemble on the site an in-place mockup. The mockup shall be composed of story poles that create a three dimensional, full scale silhouette structure outlining the location, bulk, and mass the proposed structure will occupy on the site, including the proposed structure's major wall planes, gables, and ridges.

Story poles shall be constructed of appropriate lumber or similarly sturdy building materials (excluding PVC) and shall be braced as required to ensure they remain correctly positioned and can withstand strong winds and other environmental elements. Bright orange construction mesh, or similar high visibility material, at least 24 inches in width, shall be placed connecting poles to show the proposed structure's major wall plates and roof ridge lines. Where grading would

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

change the site's existing grade elevation, story poles shall represent the final height of the proposed structure, with grading accounted for in the height of the poles.

The purpose of the mockup is to assist the AC in its evaluation of the proposal and also to allow neighbors to visualize the project. The neighbors shall be notified by mail that they may, for a set period of time after notification, view the mockup and examine the exterior plans for the project that are on file in the NSCA office and make written comment. The mock-up must be removed within 30 days of approval or disapproval of the submittal. If the owner is seeking an appeal, the mock-up must be removed upon request by the Board of Directors.

3123 Neighbor Agreement to Modifications 01-16-02

Any neighbor or Niguel Shores resident has the right to submit written or verbal comments about any proposed modification of property. Such comments are important to members of the AC and are encouraged. However, only the AC may vote to approve or disapprove any submission, and only the Board of Directors will determine final resolution of disputes, if any. Neighbor-to-neighbor agreement to a modification by another homeowner does not constitute approval of a submission, or resolution of a dispute.

3124 Solar Panels and Antennas 10-31-05

Solar panels are allowed according to California statutes. However, the NSCA requires that in each such case a written submittal be made to the AC prior to installation or construction. Solar panels must be boxed in on all sides and placed on the roof after consideration of neighboring views, architectural incompatibility, or unsightly appearance.

3125 Roof Projections 10-31-05

No constructions shall be placed or permitted to remain above the roof of any residential building with the exception of solar energy panels in accordance with **Rule 3124**; satellite dishes one meter (39.37 inches) or less in diameter, wireless cable dishes one meter or less in diameter or diagonal measurement, and traditional television antennas in accordance with **Rule 3125a**; weather vanes; chimneys; and, vent stacks.

3125a Satellite Dishes and Other Antennas 10-31-05

Satellite dish antennas that are one meter (39.37 inches) or less in diameter, wireless cable dish antennas one meter or less in diameter or diagonal measurement, and traditional television antennas ("Permitted Antennas") may be placed on a residence without submission of an application for prior architectural approval. The Federal Communications Commission (FCC) permits the Association to establish preferred locations for Permitted Antennas. Since the Association was formed to maintain and enhance property values and provide for aesthetic harmony, Permitted Antennas should be reasonably screened in accordance with the guidelines described below and installed at the rear of the residence if an acceptable signal can be received from that location. If an acceptable signal cannot be received from the rear of the residence because of the orientation of the home, a Permitted Antenna may be installed at the front or side of the residence, as necessary to receive an acceptable signal, in accordance with the following guidelines:

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- 1) Permitted Antennas should be reasonably screened or concealed, such as by painting the antenna and cable wire to match the color of the nearest adjacent surface of the roof, stucco, as long as such screening or concealment will not unreasonably increase the cost of installation, unreasonably delay the installation, or render reception of an unacceptable signal. The Association further encourages the installation of the Permitted Antenna behind the chimney, so as to reasonably screen the antenna from view.
- 2) Traditional television antennas installed on the roof of the home should not be higher than reasonably necessary to receive an acceptable quality signal and the height of allowable antenna masts may also be regulated for safety purposes.
- 3) Subject to FCC regulations and any other applicable laws, no other type of antenna or dish of any kind shall be permitted on any property within Niguel Shores without the submission of a prior architectural application to the AC.

3126 Waste Water Disposal from Pools, Spas, and Hot Tubs **01-16-02**

All waste water from a swimming pool, spa, or hot tub must be disposed of through a public sewer system for the home in accordance with the requirements of the City of Dana Point.

3127 Skylights **01-16-02**

Skylights must be non-reflective, and their frames must match or blend with the color of the roof. Electrical lighting under the skylights within the house must not emit visually distracting and annoying levels of illumination skyward during hours of darkness.

3128 Proximity of Buildings to the Slope **01-16-02**

- 1) Each building at the top of the slope shall be set back from the top of the slope a distance of at least ten feet (10').
- 2) Each building at the toe (bottom) of a slope shall be set back from the toe of the slope, without the use of a retaining wall, a distance of at least one half the vertical height of the slope.
- 3) Any proposal for construction on an upward slope must be submitted for approval.

3129 Reserved Easement Areas **04-16-08**

- 1) NSCA and/or individual members of the NSCA have been granted easements over certain portions of the lots within the various tracts as described hereafter. For the purposes of these rules, these easements are designated easement areas. Homeowner modifications within these easement areas must comply with the Architectural Regulations and Guidelines. No owner of a lot upon which an easement area is located shall prevent NSCA or the owner of the adjacent lot for whose benefit the easement area was established from gaining reasonable access to the easement area to maintain their property.
- 2) Zero Lot Line Easement Areas: This easement is located over the side yard of a lot, along the common boundary line with the adjacent lot.
 - a. This easement is for the purpose of the owner of the adjacent lot maintaining, repairing, and replacing the residence and appurtenances on the adjacent lot, and to ensure the unobstructed surface water drainage to the street over the lot upon

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

which the easement is located.

- b. Construction in these easement areas is limited to such modifications as landscaping and free standing fences or walls with access gates.
- c. All construction in these easement areas must be approved by the Architectural Committee and must not obstruct or change the direction of the drainage or the volume of surface water flow to the street.
- d. Hardscape cannot be installed in the easement areas in such a way that it would touch the walls of the adjacent lot without the adjacent lot owner's written approval.
- e. Soil on the lot upon which the easement is located abutting a residence in the adjacent lot must remain for inches (4") or more below the weep screed or exterior sheathing of the residence and must be sloped away from the residence.

3130 Berms

01-16-02

- 1) A berm is a ridge at the top of a slope which directs surface water to drainage channels toward the front of the lot and to the street (in the majority of the tracts) in order to prevent such water from draining directly down the slope. The berm on each lot must be maintained and not disturbed in order to retain the established drainage pattern and to avoid erosion and damage to the slope.
- 2) No construction of any kind shall be permitted beyond the berm, except as may be authorized pursuant to **Rule 3167**.

3131 Utilities

05-04-11

- 1) Underground Utilities - All piping, wiring and cabling for utilities must be underground for gas, water, electric, cable TV and telephone service. All extensions of utilities shall be placed underground or concealed within approved permanent structures.
- 2) Electric meters - Electric meters should be placed out of sight on the front of the residence. Electric meters can be enclosed, provided the cabinet meets the electric utility specifications. Cabinets must be painted to match the adjoining wall.
- 3) Gas meters - Gas meters must be placed out of sight on the front of the residence and painted to match the adjoining wall.
- 4) PVC pipes must be placed below all new or remodeled or repaired driveways, where the driveway abuts the sidewalk or curb when there is no sidewalk, to facilitate maintenance of NSCA electrical and water lines. PVC piping (using 4 inch Sch. 40 PVC electrical conduit and 4 inch Sch. 40 PVC water pipe) is to be extended one foot beyond each side of the driveway.

3132 Roofs

05/04/11

- 1) Repair or replacement of roofs - Any repair or replacement of a roof or change in type of roofing or deviation in color from the original requires the approval of the AC. Submittals for the use of new materials must include a brochure for the product with the name/type/color and an actual piece of the roofing material. A repair is defined as a replacement of up to one-third of the existing roof.
- 2) Roofing material for pitched roofs - clay tile, concrete tile, concrete shakes, metal tile

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

(e.g., Decra or Sierra or equivalent) are allowed. Roofs must be replaced with a fireproof roof of same materials as mentioned above. Asphalt impregnated shingles and products that appear similar are not allowed. Wood shingle and wood shake roofs cannot be replaced with shingles or wood shakes. Wood type roofs can be repaired with the same material only when the repair is approved by the AC, and the material used meets the fire retardant standards required by law.

- 3) Roofing materials for flat roofs - Gravel or synthetic equivalent to gravel may be used on flat roofs. A sample of the color of the gravel or the synthetic material must be submitted to the AC. With the exception of certified cool roof materials, white gravel is not allowed. Beige or brown is preferred but gray is allowable when it matches the house color.
- 4) Painting of metal flashing, vents or pipes - Metal flashing and vents (pipes) must be painted to match the color of the roof, house or trim whichever is less noticeable.

3133 Painting **05-16-06**

- 1) Approval must be obtained from the AC for any painting/staining or repainting/re-staining of the exterior of any owner's home, fences, walls, planters, etc. Color chips or a piece of painted material must be provided with the submittal.
- 2) Color choices are to be designated for each external area of the house to be painted/stained, e.g., stucco walls, wood siding, fascia board and/or underside of eaves, window trim, doors, patio cover, house overhangs and posts, garage doors and garage door trim. All exterior walls and trim of a home and garage structure must have the same color scheme. The color of the garage doors may differ from the house or trim color if the garage door material (wood, metal, glass, etc.) is deemed consistent with the architectural style of the home by the AC. The Villa owners should refer to **Rules 3148.1 and 3148.2**.
- 3) The fascia board color must be the same on all four (4) sides of the house/garage, including the side of the house at the zero lot line.
- 4) Rain gutters, metal flashing and vents (pipes) must be painted to match the color of the roof, house or trim (whichever is less noticeable) at the same time the remainder of the house is painted.
- 5) Repainting/re-staining shall be completed within 120 days after approval.

3134 Spaces in Driveways for Two Automobiles **05-16-06**

The size of driveways of homes which were originally constructed to accommodate two (2) automobiles must not be reduced to less than the space necessary to park two (2) vehicles. Each vehicle requires a space at least seventeen feet (17') in length and eight feet (8') in width. This space shall not encroach upon the sidewalk, if one is present. However, the length of the driveway cannot be less than the tract setback rules.

3135 Basketball Backboards **01-16-02**

- 1) Only one (1) basketball backboard is permitted per residence.
- 2) Permanent basketball backboards - A permanent basketball backboard must be solidly constructed and firmly affixed to the garage or another portion of the house. The

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

backboard, including a target stripe, must be completely painted or stained to match the structure to which it is attached (unless the backboard is transparent), and must be neatly maintained.

- 3) Portable basketball backboards - Use of a basketball backboard is permitted only on a homeowners private property, e.g., in the front yard or driveway. The portable basketball backboard must be removed from the front yard or driveway and stored away from the view of neighboring properties or the streets each day by sunset, or when not in use. The portable basketball backboard is not permitted to be placed on the sidewalk or in the street at any time.

3136 Flat or Banner Display **01-16-02**

- 1) Wall mounted brackets for displaying portable flags or banners may be positioned on a house or fence at the owner's discretion.
- 2) A proposal to install a freestanding flag pole must be submitted to the AC for approval with a diagram showing the location and height of the pole.
- 3) A freestanding flagpole must not constitute a view blockage due to its location, height, or the size of the flag to be displayed.

3137 Garages **01-16-02**

A garage may not be converted into office/living/sleeping quarters/play room, or other such uses.

3138 Mail Boxes **01-16-02**

Mailboxes shall be built into or attached to building walls or fences or mounted on posts provided for the purpose.

3139 Service Yards **01-16-02**

All service yards and clothesline areas shall be enclosed or fenced so they are reasonably obstructed from view of any street or neighbors' lots.

3140 Signs **01-16-02**

- 1) Occupant identification, private security company information, or street number signs may be installed at the owner's discretion. Illuminated street number signs must not project illumination that causes a visual distraction during hours of darkness.
- 2) During actual construction a single sign for a construction company may be placed in the front yard. The sign may not exceed eighteen inches (18") by twenty-four (24") inches. Safety signs and/or safety lights in any number and size, as necessary to protect the residents of the community may also be used during construction.

3141 Architectural Fees and Deposits **05-04-11**

- 1) Certain home improvement projects require the payment of a processing fee. The fee must be paid along with the submittal of a Final Plan. Fees are not refundable. However, revised Final Plans for disapproved proposals may be resubmitted within ninety (90) days of decision at no additional fee. When a project is started prior to plan approval the required fee noted under **Rule 3181** may be increased as much as double to cover the cost

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- of additional administration and inspections.
- 2) Where Final Plan includes unusual complexity, size, or intricacies and a consulting architect and/or other professionals is desired by the AC, a design review fee will be charged to cover the costs for the consulting architect and/or other professionals. Refer to Rule 3109 for details regarding consulting architects and other professionals.
 - 3) Where common area may be used, damaged, or involved in any construction, a deposit will be collected in advance. When the construction has been completed in accordance with the approved plans, and all debris has been removed and cleaned up, and any damage to the common area repaired by the homeowner to the satisfaction of the AC, the deposit will be refunded, less any charges incurred by the Association, and fines assessed against the owners for failure to complete construction within the completion time limit specified in **Rule 3115.1**. (See **Rule 3181** for the schedule of *Architectural Fees and Deposits*)
 - 4) Dumpsters and portable storage containers can be parked on the common or private paved areas with the following restrictions.
 - a. The Association office must be notified in writing of the intention of placing a dumpster or portable storage container and the date that the unit will be delivered. The location must be approved in writing by the General Manager if placed on the Common Area.
 - b. Upon approval, and prior to delivery, the resident or homeowner requesting the dumpster or portable storage container must pay a \$200 deposit to the Association for any unit being placed on Common Area.
 - c. A dumpster container cannot stay in place on Common or private paved areas longer than one month from the day of delivery without written approval from the General Manager of the Association. Requests for extension of this time limit must be received in writing at least five (5) days before the one month deadline.
 - d. Portable storage containers and small three (3) yard trash containers cannot stay in place on Common or private paved areas longer than seven (7) days from the date of delivery. Requests for extension of this time limit must be received in writing before the seven (7) day deadline.
 - e. Dumpster sites shall be cleaned daily and may be required to be covered.

**NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11**

Section 2.

**NSCA ARCHITECTURAL REGULATIONS AND GUIDELINES
FOR INDIVIDUAL NEIGHBORHOODS**

Section 2 is organized into the various sections of the community for which separate rules and regulations apply. Each section is titled with the name of the neighborhood and its tract number(s). Please refer to the map that follows for the name and tract number that apply to a residence.

If there are questions about the rules and regulations that apply to individual tracts and neighborhoods, please check with the staff at the association office for clarifications and explanations.

**SEA TERRACE TOWNEHOMES I, TRACTS 6881, 6884, 7515 (Map pages 53 – H, I, J)
SEA TERRACE TOWNEHOMES II, TRACTS 8602 (Map page 53 – M)**

3142 Modification Restrictions

10-29-08

- 1) Sea Terrace I and II were designed to have a mix of one- and two- story homes. These homes were designed and located as attached townhomes in sections of two or three houses per unit. The location and number of the two-story homes with respect to the one-story homes was planned to optimize the views of all the townhomes. As a result, existing one-story townhomes cannot add a second story, nor can a one-story addition in the front courtyard area exceed the height of the existing original garage roof ridgeline. Owners of existing two-story homes may submit requests for expansion of the second story, and the AC will consider those requests on an individual basis.
- 2) Walls and Fences
 - a. Construction beyond the six foot (6') privacy fence line. The six foot (6') privacy fence line is an imaginary line drawn between the outward ends of the two (2) six foot (6') high privacy fences that run along the sides of a townhome in the back yard area. This imaginary line is roughly parallel to the top of slope in the back yard. No structural building or addition, including second floor balconies, first floor patio covers shall extend beyond this line, with the one exception that a thirty-six inch roof overhang may extend beyond this line.
 - b. The six foot (6') privacy fences themselves cannot be changed in height or length. The approximately three foot (3') high fences across the sides and back of the

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

townhouse properties (which permit lateral views from the back yards of the townhouse) cannot be changed in height or length. In some cases where there is no view, there is a six foot (6') high fence across the back of the townhouse property. Again, this six foot (6') high fence cannot be changed in height or location.

- c. Some townhomes have a view from the street or the side of the property. High (approximately six foot (6')) and low (approximately three foot (3')) fencing exists along the front or the sides of these properties for privacy reasons. No changes are permitted in the height or location of these fences. No construction is permitted across the street or side of any lot that would unreasonably interfere with the view from other properties.
 - d. Except as provided in (f), below, existing three foot (3') wood fences may be replaced with wood, synthetic-simulated wood, slump stone, blocks/bricks, wrought iron, concrete block covered with stucco, of specified color and size to match with the same materials found throughout the community. In certain cases, the existing fence may be removed entirely. The new fence must be no higher than three feet (3') and the same length, and in the same location as the original fencing.
 - e. Existing six foot (6') side yard privacy fences between lots may be replaced with wood, synthetic-simulated wood, slump stone, or concrete block covered with stucco.
 - f. Existing six foot (6') rear yard fences and six foot (6') side yard privacy fences adjacent to greenbelt common areas must be replaced with wood, concrete block cover with stucco, or synthetic simulated wood or slump stone.
 - g. In Sea Terrace II only, the high backyard wooden fence at the south end of La Cresta may only be replaced with the same construction materials, color and dimensions.
 - h. Clear and transparent fence (e.g. tempered glass or synthetic equivalent) may be used in place of, or in conjunction with, other permitted materials with a total height not to exceed six foot (6'). Clear and transparent fencing must be maintained in a clean and orderly manner, and in good condition and repair, so that it does not constitute an unreasonable view interference or a nuisance to neighboring properties. Clear and transparent fencing cannot be used in place of privacy fencing.
- 3) Setbacks
- a. Certain dwellings were initially provided with open spaces in the side yard of as little as a three foot (3') setback from the property line. Such open spaces may not be reduced in size. Other lots were provided with open spaces in the side yard greater than five feet (5'). Structural additions in these lots must come no closer to the property line than three feet (3').
 - b. Townhomes at the ends of streets must maintain a five foot (5') setback from the property line on that side of the house that adjoins a street or greenbelt.
 - c. Front additions to townhomes shall be set back a minimum of twenty feet (20') from the front property line.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- d. Existing garages that are set back more than twenty feet (20') from the front property line can make an addition provided the addition is not closer than twenty feet (20') from the front street inside of the curb line in the absence of a sidewalk, or the inside of the sidewalk where the sidewalk exists.
 - e. In certain townhomes, where the rear property line does not abut a downward slope, the rear setback is ten feet (10') from the rear property line or if the rear property abuts the toe of a slope, **Rule 3128.2** applies.
 - f. When the rear property line is at the top of slope, **Rule 3128.1** applies.
 - g. In the Sea Terrace Townhomes, where buildings have common walls, an addition may be made as an extension of that "zero lot line" with no side setback.
- 4) Utility Services: House or garage additions shall not obstruct existing adjacent property utility services.
- 5) Decks: Single story houses may not construct second story decks.
- 6) Exterior Wall Siding Modification Options: The purpose of this rule is to allow townhome owners a greater opportunity to customize their individual townhomes by choosing among different exterior siding materials and to thereby upgrade the exterior of their townhome to provide more interest and curb appeal and to enhance the value of the townhomes in the Sea Terrace I and II Associations. The rule allows a change from only using T1-11 plywood siding that was part of the original townhome development. Townhome owners are strongly encouraged to select one of the exterior siding materials options only or in combination with accent materials with interest and articulation that will enhance the architectural look and appeal of each individual townhouse and, when viewed together, provide a pleasant, compatible and complimentary overall architectural style.
- a. Horizontal Siding - Fiber-Cement Lap siding (non-combustible) such as James Hardie "Hardiplank Lap Siding" or its equal. A smooth or simulated wood grain Lap siding with a six-inch exposure may be used.
 - b. Shingle Siding - Fiber-Cement shingle style siding (non-combustible) such as James Hardie "Hardishingle Siding" or its equal may be used.
 - c. Stucco - Stucco may be used as an exterior finish for the entire townhome or in combination with Option "a", "b" or "d". Stucco finish shall be limited to smooth and certain types of textured finishes.
 - d. Accent materials such as real brick, real stone masonry, or pre-cast molding trim may be used with Options "a", "b", and "c". Brick or stone veneer (manufactured) will be allowed provided it has the appearance of real (natural) brick or stone.
- 7) Exterior Wall Siding Restrictions
- a. Use of the approved exterior siding materials as described above is preferred in lieu of T1-11 plywood siding. While it is not recommended, the current T1-11 plywood siding on all townhomes may continue to be used for repairs and for the exterior modeling of existing townhomes. A Submittal for approval must be made to the AC for any repair that exceeds one-third of the existing T1-11 plywood siding.
 - b. The same exterior wall siding modification options must be applied to all exterior exposed walls of a townhome (including the garage). The amount and type of

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

accent material that may be used on any section of an exterior wall or garage of a townhome will be determined by the AC on a case-by-case basis. For example, an owner may propose to use accent materials as an exterior wainscot or apply the accent materials to the entire front wall surface of a garage. The AC will determine the appropriateness and dimensions of the accent material application with the objective of achieving an integrated, harmonious high-quality architectural look.

- c. All exterior wall siding modification options and trim of townhomes must be painted colors from the color palette as submitted by the Sea Terrace I and II Associations and approved by the AC under **Rule 3133**.
 - d. The removal of all existing T1-11 siding of a townhome (including the garage) and replacement with any approved "Option" requires the approval of the AC and the City of Dana Point before a "Work in Progress Card" will be issued by the NSCA and work can proceed. These approvals are also required if an approved "Option" is applied as an overlay to the existing T1-11 plywood siding of a townhome. An owner will be required to submit an engineering analysis by a qualified professional engineer supporting how the new exterior wall siding will maintain or increase the structural integrity of the townhome structure.
 - e. The AC may consult with the Sea Terrace Association I and II Board of Directors on townhome submittals for exterior wall siding modifications as appropriate.
 - f. The AC responsibilities under the NSCA rules concerning exterior wall siding modifications to the Sea Terrace I and Sea Terrace II Townhomes is confined to the aesthetic suitability of the design and materials of the structures in order to maintain a compatible and harmonious appearance of the townhomes composing the Sea Terrace Tracts. The AC's responsibility to consider the adequacy of structural design, and material is limited as described in **Rule 3102.6**.
- 8) **Painting**
- a. The paint colors for the townhomes shall be selected by the individual Sub-Association Townhomes I and II Board of Directors and submitted to the AC for approval.
 - b. Homes in a two or three townhome unit must be painted the same base and trim color. Trim includes anything added to the unit for decorative purposes. It is Sub-Association policy to maintain an overall pattern of clusters of homes with varying colors to enhance the complete community. Changes and variation in trim colors, within the permitted range of colors, is available to the Association members upon request and subsequent approval by the townhome board and the AC.
 - c. Wooden fences in Sea Terrace I must be painted the same color as the base or trim.
 - d. All wooden privacy fences facing common greenbelt areas must be painted a uniform color as selected by the individual Sub Association Townhome I and II Board of Directors and submitted to the AC for approval.
 - e. All garage doors in Sea Terrace I must either be painted the base or trim color or white.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- f. All garage doors in Sea Terrace II must be painted white.

3143 Reserve Easement Areas

01-16-02

1. NSCA landscape easement areas
 - a. This area extends from the inside of the front sidewalk or curb line to the front fence/wall of residences. Landscape maintenance easements have been granted to the NSCA for the entire front yard area of each lot. Improvements or changes of any kind these easement areas, e.g., driveways, walkways, fences, walls, patios or structures, etc., are not permitted without proper approval of the AC.
 - b. An application for encroachment or improvement in the front yard easement areas must include the applicant's written agreement to waive the forty-five (45) day limit for the AC approval or disapproval and the applicant must agree to a sixty (60) day AC review period.
 - c. The AC shall advise the appropriate Sea Terrace Board of Directors of an owner's application regarding an improvement in an easement area and request the Board's comments.
 - d. Conditions of AC approval require and include, but are not limited to:
 - The improvement area is fully described in a covenant running with the land that is recorded as part of the title to the property. The covenant provides that the owner and his/her successors and assigns are responsible for future repair, maintenance and replacement of the improvement or change. If the improvement includes an exterior wall or fence, the Sea Terrace I, or II Association, as appropriate, shall also be a party to the covenant. The covenant shall be executed prior to the start of any improvement.
 - The consent and execution of the covenant by the NSCA Board of Directors shall be recorded in connection with the approved improvement.
 - Fees and costs to be paid by the owner are:
 - Processing fees of \$750 covering legal/architectural costs of preparation and recording of the covenant and any other expenses.
 - Any additional charges in excess of the \$750 processing fee pertaining to filing fees, photo copies, legal fees, etc.
 - Any later changes after the covenant has been recorded will necessitate a new covenant and related fees and costs.
- 2) NSCA slope easement areas
 - a) These areas extend from the top of slope to the bottom of the slope. No construction, excavation, alteration, or landscaping by owners is permitted in these areas in order that the slope portions of the lots may continue as a composite parcel under the control of the NSCA with the landscaping, drainage, and aesthetic appeal unchanged.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

3144 Roofs

12-17-03

When replacing a roof or adding to an existing roof, the product used on the roof must conform to the current design and appearance of the roof. The entire roof must be uniform shingle style roofing. Approval of new contemporary roofing material colors should be limited to uniform brown and gray. Wood shakes and wood shingles may not be used for the replacement of an existing roof (see **Rule 3132.2**). The AC will consult with the Sea Terrace I or Sea Terrace II Associations as appropriate.

VILLAS, TRACTS 9098 (Map pages 53 – N)

3145 Modification Restrictions

01-16-02

In this neighborhood there are one-story detached homes built close to lot lines with as little as three feet between neighboring houses. Flat roofs on these houses are designed to provide openness between these houses and lessen a row house effect or look. Home sites in this neighborhood are designed to have only one-story houses. No second story additions are permitted. Also, no deck shall be allowed to be constructed on or over any roof or patio cover.

3146 Reserve Easement Areas

01-16-02

NSCA slope easement areas - These areas extend from the top of slope to the bottom of the slope. No construction, excavation, alteration or landscaping by owners is permitted in these areas in order that the slope portions of the lots may continue as a composite parcel under the control of NSCA with the landscaping, drainage, and aesthetic appeal unchanged.

3147 Setbacks

05-04-11

- 1) The side yard setback must be at least five feet (5') from the property line and roof overhangs must be at least three feet from the property line when adding room or house additions to these homes.
- 2) Certain homes were originally built with a three foot (3') side setback from the property line. Additions to this side must maintain a minimum of a three foot (3') setback.
- 3) Where one side of the building is a "zero lot line", an addition may be made as an extension of the "zero lot line" with no setback.
- 4) The rear of a home, which does not abut a downward or upward slope, must have a minimum of a ten foot (10') setback from the rear property line.
- 5) When the rear property of a home is at the top of a slope, or toe of slope, **Rule 3128.1** or **3128.2** applies respectively.
- 6) Living space of a home must be setback at least twenty feet (20') from the front (street) property line.

3148 Painting

05-17-10

- 1) The exterior stucco surfaces of a home and garage and the property border wall surfaces facing toward the house are to be painted at the same time using the following Dunn-

**NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11**

Edwards (or equivalent) colors:

DEC 722 Baja White	DEC 772 Navajo White	DEC 747 Sahara
DEW 339 Bone China	DEC 748 Oyster	DEW 336 White Sand
DEC 741 Bone White	DEW 328 Pearl White	
DEC 762 Milkweed	DE 6213 Fine Grain	

These colors may also be used for the garage door and other trim areas. Optionally, standard white may also be used for the garage door, provided the gutters, and/or window frames are standard white also.

- 2) The trim surfaces of the house (fascia boards, doors, overhangs, etc.) are to be painted using the following Dunn-Edwards (or equivalent) colors.

DEC 752 Birchwood	DEC 750 Bison Beige	DEC 767 Riverbed
DE 6132 Big Stone Beach	DEC 718 Mesa Tan	DEC 715 Sandal
DEC 755 Cocoa	DEC 756 Weathered Brown	DEC 759 Hickory
DEC 770 Drifting	DE 6215 Wooden Peg	

Color boards and chips are available in the Association office. These colors may also be used for the garage doors and other trim areas, if desired. A brown stain, compatible with the colors listed above, may be used on the doors. Optionally, standard white may also be used for the garage door, provided the gutters, and/or the window frames are standard white also.

- 3) When the house is painted, the surfaces of the property line walls facing toward Garibaldi and Via Del Cielo or common area greenbelts must be painted at the same time using Dunn-Edwards DEW 339 Bone White, or equivalent.
- 4) Before repainting, all clinging vines and their tendrils must be removed from all exterior stucco surfaces of houses and border walls. All walls and the garage door must be painted. Refer to **Rule 3133** for general guidance in painting requirements.

BERKUS HOMES, TRACTS 7447, 8038 (Map pages 53 – G)

3149 Modification Restrictions

01-16-02

The Berkus neighborhood is designed to have a balanced mix of one-and-two-story detached houses. The site dimensions of this tract could lead to consideration of the addition of a second story to a one-story house on certain lots. The criteria as documented under Article VII, Section 1 of the CC&Rs applies to the decision to allow for the addition of a second story.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

3150 NSCA Slope Easement Area

01-16-02

For only those lots in the tract that abut outside streets, the slope easement area extends from the top of slope to the bottom of slope. No construction, excavation, alteration, or landscaping by owners is permitted in these areas in order that the slope portions of the lots may continue as a composite parcel under the control of the NSCA with the landscaping, drainage, and aesthetic appeal unchanged.

3151 Setbacks

04-16-08

3151 Setbacks (04-16-08)

- 1) The side yard setbacks must be at least five feet (5') from the property line and the roof overhangs must be at least three feet (3') from the property line.
- 2) In certain homes, where the rear property does not abut a downward slope, the rear setback is ten feet (10') from the rear property line or if the rear property abuts the toe of a slope, **Rule 3128.2** applies.
- 3) When the rear property of a home is at the top of the slope, **Rule 3128.1** applies.
- 4) The front setback of a home with a front entering garage must be setback at least twenty feet (20') from the front (street) property line.
- 5) The location of a side-entering garage cannot be changed from its existing location.

BOARDMOOR HOMES, TRACTS 9635 (Map pages 53 – A)

3153 Modifications Restrictions

12-17-03

- 1) This neighborhood is designed to have only detached one-story homes. No second story additions to the one-story homes are permitted.
- 2) On the side of the home opposite to the side with a three foot (3') easement, no setback will be less than five feet (5') from the property line and roof overhangs must be at least three feet (3') from the property line; however, if the existing structure is less than five feet (5') from the property line, an addition may be made as an extension of that wall with the same setback from the property line.
- 3) On certain lots which have a three foot (3') easement extending from the front lot line to the rear lot line of the lot, no improvements are allowed except as noted in **Rule 3154.2**, Reserved Easement Areas.
- 4) Street end lots do not have a three foot (3') homeowner easement area. Side yard setbacks must be at least five feet (5') from the property line and roof overhangs must be at least three feet (3') from the property line.
- 5) No front improvements to a home facing the street can be made that extend beyond the furthest existing structure front setback. When the existing home is twenty feet (20') or more from the front property line, the living space shall be permitted to expand to within ten feet (10') of the back of the front sidewalk.
- 6) When the rear property of a home is at the top of a slope, **Rule 3128.1** applies.
- 7) Current driveway capacity shall be maintained.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

3154 Reserved Easement Areas

01-16-02

- 1) NSCA slope easement areas - These areas extend from the top of slope to the bottom of the slope. No construction, excavation, alteration, or landscaping by the owner is permitted in these areas in order that the slope portions of the various lots may continue as a composite parcel under the control of the NSCA with the landscaping, drainage, and aesthetic appeal unchanged.
- 2) Homeowner easement areas – Certain lots have an easement three feet (3') in width along one side of the lot extending from the front lot line to the rear lot line of the lot. The easement area is for the purpose of enabling the owner of the lot on which the easement is located to maintain, repair or restore the structural wall of his/her dwelling, the structure of which it is a part, and the fence owned by him/her which adjoins and abuts the easement; and, to enable the owner of the lot adjoining and abutting the easement to use the easement area as a general recreational and garden area. Improvements in the easement area are limited to such modifications as landscaping and fences or walls with access gates, as approved by the AC, which will not obstruct or change the direction of drainage or volume of surface water flow.

3155 Painting

01-16-02

When repainting a Broadmoor home, the owner must use the same color of paint approved for painting all the walls of the house including the wall of the house abutting the easement on the owner's lot listed in *Article VIII, Section 2 B II*, of the *CC&Rs*. Broadmoor homeowners are not permitted to paint the exterior walls of adjoining residences.

ATLANTIC GARDEN HOMES, TRACTS 6782, 8038 (Map pages 53 – K, L)

3156 Modification Restrictions

10/29/08

- 1) These homes are built with zero lot lines and as little as three feet (3') between adjacent lots. They were originally designed as one-story homes. Second story additions and other additions or improvements to provide living space above ground floor are not permitted.
- 2) Certain dwellings in Atlantic Garden Homes were initially provided with open spaces of five feet (5') from the property line in the side yard area. Those homes must come no closer than five feet (5') from the side property lines.
- 3) Where one side of the house has a "zero lot line", an addition may be made as an extension of the "zero lot line" with no side setback.
- 4) The rear property setback can not be less than three feet (3') from the rear property line with the exception of those homes that were originally built with a rear "zero lot line".
- 5) Certain homes' rear property has an upward slope. These homes must have a rear setback as determined at **Rule 3128.2**.
- 6) Homes with front-entering garages must have a home front setback of twenty feet (20') from the front property line.
- 7) Homes with side-entering garages must have a home front setback of twenty-five feet (25') from the front property line.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- 8) The location of a garage can not be changed from its existing location.

3157 Reserved Easement Areas **04-16-08**

- 1) NSCA landscaping easement areas - This area extends from the front sidewalk to the front fence/wall of residences. No modifications are permitted in these easement areas.
- 2) Homeowner easement areas - This easement area is a three-foot strip along the zero lot line side of the lot. See **Rule 3129.2** for purpose and restrictions on use and permitted improvements in these areas.

3158 Painting **01-16-02**

- 1) Colors are to be compatible with the existing slump stone.
- 2) Slump stone walls and pillars visible from outside the lot may not be painted.
- 3) Any walls installed by the owner may be painted with the approval of the AC.

SHORES GARDEN HOMES, TRACTS 6883, 7023, 7573 (Map pages 53 – D, E, F)

3159 Modification Restrictions **01-01-10**

- 1) The Shores Garden Homes are designed to have a balanced mix of detached one- and two-story homes. There are many one-story, and some two-story homes built with as little as three feet (3') between neighboring houses on one side and zero lot lines on the other. Flat roofs on some of these houses are a feature that is intended to provide openness between houses and lessen a row house look.
- 2) A proposal for a second floor addition to an existing one-story house or a second floor expansion to an existing two-story house onto its flat roof must not result in a bulky design, or a row house effect. If individual circumstances do not otherwise prohibit a second floor addition to an existing one-story house or a second floor expansion of an existing two-story house, the second floor addition or expansion shall not come within five feet (5') of the side yard property line and the roof overhang shall be at least three feet from the side yard property line. A second story addition to an existing one-story home may not exceed the currently existing ridge line. Second floor expansions of two-story homes may not have their roof ridge lines exceed twenty-two feet above grade.
- 3) Certain dwellings on lots in Shores Garden Homes were initially provided with open spaces of five feet (5') or more in the side yard. Structural additions in these lots must come no closer than five feet (5') to the side yard property line.
- 4) Where one side of the home has a "zero lot line", an addition may be made on the first floor only as an extension of that "zero lot line" with no side setback.
- 5) The rear property setback for those homes whose rear property does not abut a downward slope, can not be less than three feet (3') from the rear property line with the exception of those homes that were originally built with a rear "zero lot line".
- 6) When the rear property of a home is at the top of a slope, **Rule 3128.1** applies.
- 7) Current driveway parking capacity shall be maintained.
- 8) Homes with front-entering garages must have a minimum front yard building setback of twenty feet (20') from the front property line.

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- 9) Homes with side-entering garages must have a minimum front yard building setback of twenty-five feet (25') from the front property line.

3160 Reserved Easement Areas **04-16-08**

- 1) NSCA landscape easement areas - This area extends from the front sidewalk to the front fence/wall of residences or garages. No modifications to houses are permitted in these easement areas.
- 2) NSCA slope easement areas - These areas extend from the top of slope to the bottom of the slope. No construction, excavation, alteration or landscaping by the owner is permitted in these areas in order that the slope portions of these lots may continue as a composite parcel under the control of NSCA with the landscaping, drainage and aesthetic appeal unchanged.
- 3) Homeowner easement areas - This easement area is a three-foot strip along the zero lot line side of the lots. See **Rule 3129.2** for purpose and restrictions on use and permitted improvements in these areas.

3161 Painting **01-16-02**

- 1) Colors are to blend well with the existing slump stone.
- 2) Slump stone walls and pillars visible from outside the lots may not be painted.
- 3) Any walls installed by the owner may be painted with the approval of the AC.

CUSTOM HOMES, TRACT 7156, (Map page 53-B)

3162 Modification Restrictions **05-04-11**

- 1) In this neighborhood the height of the houses is limited to fifteen feet (15') above original grade (as constructed by the original Developer). Remodels or additions which modify the existing massing of the home may not exceed fifteen feet (15') above original grade. New construction homes (vacant lot or complete demolition and removal of previous residential structure from the lot) may not exceed fifteen feet (15') above original grade.
 - a) Any remodel or addition may not unreasonably interfere with neighbor's privacy.
 - b) Any remodel or addition may not unreasonably interfere with neighbors' views. All construction proposed shall be designed to avoid unreasonable view blockage.
 - c) Any remodel or addition must be aesthetically pleasing and must not detract from the architectural look of the neighborhood.
- 2) No improvements of any kind including structures, landscaping, walkways, decks, patios, patio covers, etc., can be installed or constructed by the owner on the NSCA slope control area easement of any lot.

3163 Setbacks **04-18-07**

- 1) The side setback in the Custom Homes must be at least five feet (5') from the side property line and roof overhangs must be at least three feet (3') from the side property

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- line.
- 2) Rear setbacks in the Custom Homes must be at least ten feet (10') from the top of the slope. (**Rule 3128.1** applies)
 - 3) Front setbacks in the Custom Homes must be at least four feet (4') from the front (street) back of sidewalk

3164 Improvements on Slope Control areas **01-16-02**
Easements have been granted to the NSCA over slopes for slope maintenance and drainage purposes.

BREAKERS ISLE, TRACT 6988, (Map page 53-C)

The homes on Breakers Isle consist of two and three (3) stories. The three-story homes are constructed with one basement story set into the slope below original grade level.

3165 Building Height **01-16-02**
The maximum building height of homes on Breakers Isle is twenty four feet (24') above original grade.

- 3166 Building Setbacks** **05-04-11**
- 1) The building must be placed on the lot at least five feet (5') from the side property lines and the roof overhangs must be at least three feet (3') from the side property lines.
 - 2) The rear wall of the building cannot be moved forward (toward the ocean) from its existing location. In determining the existing location of the rear wall, architectural elements such as balconies, decks and patios are not to be considered a part of the rear wall. No architectural elements, such as balconies, decks, patios or other structures on decks, balconies or patios may be moved forward (toward the ocean) from their existing locations, unless the AC determines that they do not unreasonably interfere with the view from other properties.
 - 3) The building must be no closer than two feet (2') from the front (street) back of sidewalk, provided that Breakers Isle homes with front parking do not reduce the number of parking spaces that currently exist.

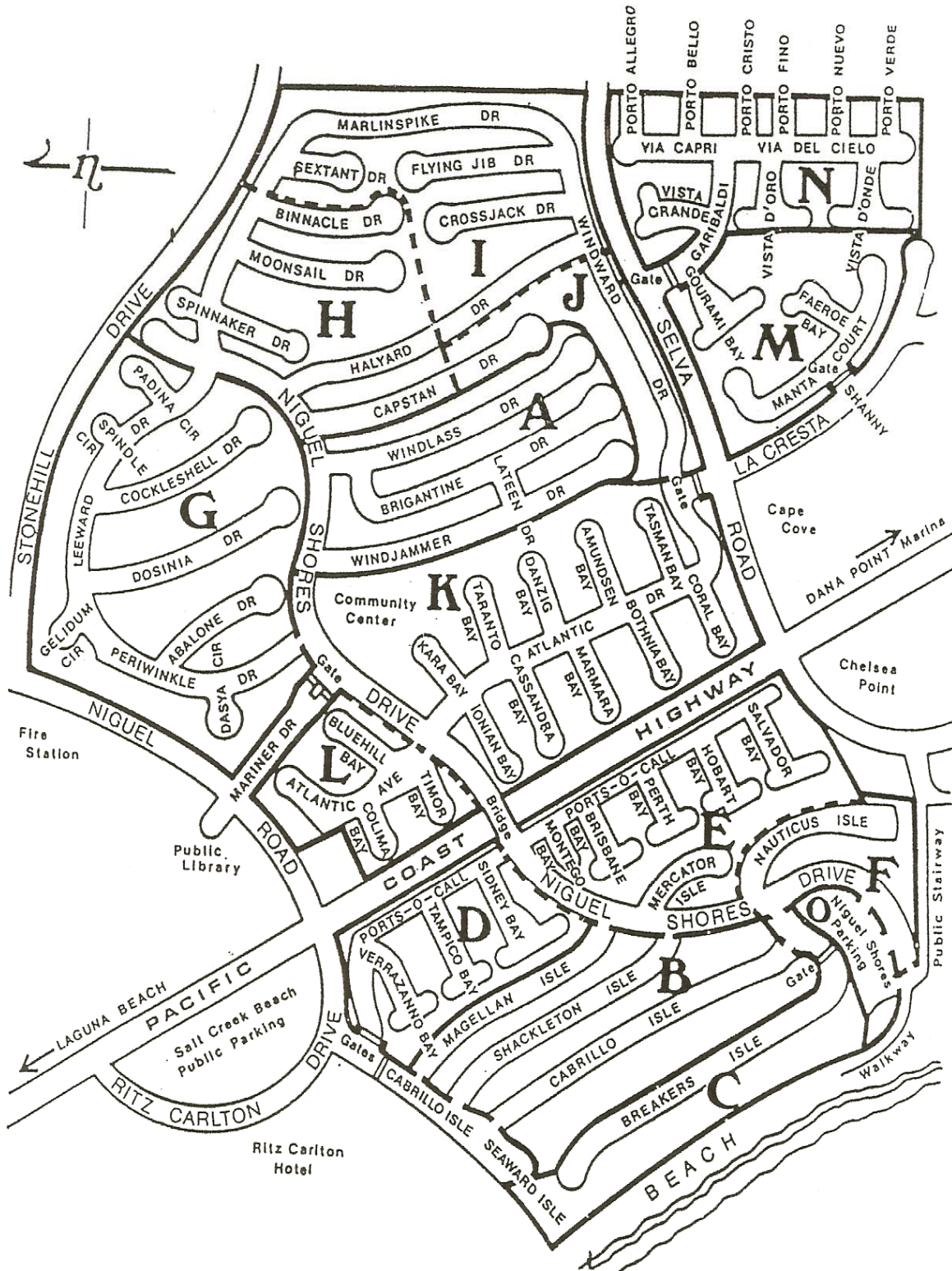
- 3167 Proposed Improvements on Slope Control Areas** **01-16-02**
- 1) No improvements of any kind including structures, landscaping, driveways, walkways, etc., may be begun by the owner on NSCA slope control area easement of any lot in Tract 6988 without the prior written approval of the AC and the Board of Directors of the NSCA. An application must be considered by the committee and the Board of Directors in accordance with, and among other things, the recorded *CC&Rs, Article IX, Section 17* which states: "No structure, planting or other material shall be placed or permitted to remain, or other activities undertaken on slope control areas or other slope areas which might damage or interfere with established slope ratios, create erosion or sliding problems, or interfere with established drainage functions or facilities."
 - 2) Easements have been granted to the NSCA over slopes for walkway, slope maintenance

NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11

- and drainage purposes.
- 3) Any application for encroachment or improvement on or within these easements requires the applicant's written agreement to waive the forty-five (45) day time limit for the AC's and the Board's approval or disapproval. The applicant must agree to a ninety (90) day review period by the AC and the NSCA Board of Directors.
 - 4) All applications submitted under this section for improvement(s) must be reviewed by the Board of Directors, following review by the AC, for the Board's comments, requirements, conditions, recommendations, and approval or disapproval as to placement upon the NSCA easements.
 - 5) All applications must include:
 - a) An engineer's report
 - b) A soil report
 - c) A landscape plan including an irrigation and drainage plan
 - d) Complete, detailed construction plans or such other reports and information as may be required by the AC or the Board of Directors.
 - 6) Conditions of approval may require and include, but not be limited to:
 - a) The improvement area is fully described in a covenant running with the land that is recorded as part of the title to the property. The covenant provides that the owner and his/her successors and assigns are completely responsible for future repair, maintenance and replacement of such improvement or change, and indemnify the NSCA and its representative(s) against all claims arising from such improvement(s). The covenant shall be executed prior to the start of any improvement.
 - b) The consent and execution of the covenant by the NSCA Board of Directors shall be recorded in connection with the approved improvement.
 - c) Fees and costs that are to be paid by the owner are:
 - Processing fees of \$1500 covering legal/architectural costs of preparation and recording of the covenant and any other expenses related thereto.
 - Any additional charges in excess of the \$1500 processing fee pertaining to filing fees, photo copies, legal fees, etc.

NIGUEL SHORES COMMUNITY ASSOCIATION

AC Rules and Regulations as of 5-04-11



**NIGUEL SHORES COMMUNITY ASSOCIATION
AC Rules and Regulations as of 5-04-11**

3181 Schedule of Architectural Fees and Deposits

05-04-11

Replacement of Existing Items – 3 Month Completion Date	Fees	Deposits
Minor items: Door, Garage Door, Mailbox, Paint, Patio Cover, Skylight, Window or other replacement item not listed previously (light, gutter, etc.)	\$0	\$0
Major items: Deck, Driveway, Drainage, Fence/Wall, Patio, Roof	\$0	\$500
Remodel (Structure remains the same size and shape but three (3) or more of the above major items are replaced with the same size and shape items)	\$0	\$1,000
Improvements (Not Replacements) – 6 Month Completion Date	Fees	Deposits
Upon the AC’s determination of the need, the following items may require a design review fee to cover the cost of a consulting architect and/or other professionals payable upon determination (*)	Up to \$5000.00	
Solar Panel(s) and Antenna(s) or Satellite Dish other than “Permitted Antennas” provided for in Rule 3125a	\$0	\$250
Add Door(s), Window(s) or Patio Cover(s)	\$100	\$500
Landscape (Softscape/Plants or Hardscape/Masonry), Drainage, Fence, Wall, Storage Shed, Hot Tub or Pool	\$100	\$1,000
Other improvements not listed above	T.B.D.	T.B.D.
Additions / New Construction – 18 Month Completion Date	Fees	Deposits
Upon the AC’s determination of the need, the following items may require a design review fee to cover the cost of a consulting architect and/or other professionals payable upon determination (*)	Up to \$7500.00	
Small Space Addition - less than 500 square feet	\$1,000	\$2,500
Large Space Addition - 500 square feet or more	\$2,000	\$5,000
Any improvements in Breakers Isle slope control areas	\$2,000	\$5,000
Tear Down	\$2,000	\$10,000
New Home	\$3,000	\$25,000

- After the commencement of construction without prior AC approval, an “after the fact” fine will be imposed as per Rule 2711 (I) Architectural Rules, Section A.
- Any costs incurred by the NSCA relating to a submitted project will be deducted from the deposit prior to refund. (See Rule 3141)

(*) Refer to Rule 3109 for details regarding the design review fee and consulting architect and/or other professional.

T.B.D. = to be determined