

**ARCHITECTURAL**

**AND**

**LANDSCAPE  
GUIDELINES**

**- Adopted by the Board in November 1996.**

**ARCHITECTURAL AND  
LANDSCAPE GUIDELINES  
ADOPTED BY THE BOARD OF DIRECTORS NOVEMBER  
1996**

The Guidelines were developed to maintain the **Freeport** Homeowners Association's harmonious design and to preserve the original concepts of the development.

The **Freeport** Homeowners' Association, through its Board of Directors, will strictly enforce the Covenants, Conditions and Restrictions (CC&Rs) to control the appearance of its neighborhoods.

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**REAR YARD AND ENTRY EASEMENT  
RESOLUTION**

**Adopted by the Board: July 9, 1996**

**WHEREAS**, each deed to a Lot in the Freeport planned development project contains a grant and reservation of exclusive easements for rear yards and entries;

**WHEREAS**, the easements reserved for rear yards are stated to be for "rear yard purposes including landscaping, fencing, drainage, and general recreational and garden uses";

**WHEREAS**, it is in the best interests of the Association and the Members that more detailed covenants, restrictions, and guidelines be established in order to better define and characterize the rights and obligations of the respective owners of the servient and dominant tenements of such easements;

**NOW THEREFORE**, the Board hereby adopts the following interpretive Rules applicable to the easements for rear yards and entries set fourth in the deeds. These Rules are not intended to modify or amend the easements, but rather shall represent the common intention of the Association and its Members as to the interpretation of the grants and reservations of easements contained in the deeds:

1. Definitions. Capitalized terms used herein, unless otherwise indicated, shall have the meaning given to them in the Declaration of Covenants, Conditions and

Restrictions (CC&Rs) for Freeport.

2. Rights of Servient Tenement: The exclusive easements established in the grant deeds for Lots in the Project for rear yards and for entries (collectively "Side yard Easements") shall be subject to the right of the owner of the servient tenement, at all reasonable times and upon reasonable notice to the owner of the dominant tenement, to enter the Side yard Easements for purposes of maintaining portions of the Residence located on the servient tenement, including without limitation, the right to perform such work in regard to underground gas, electric, telephone, cable T.V. lines or facilities servicing the servient tenement, and maintaining walls, eaves, overhangs and appurtenances thereto, and portions of any structure originally constructed upon the servient tenement or constructed in compliance with the Architectural Standards provided for in the Declaration. In exercising the right to enter upon the Side yard Easements as provided in this paragraph 2, the Owner of the servient tenement shall exercise reasonable care not to damage any landscaping or other items existing in the Side yard Easements, and shall see that the Side yard Easements are cleaned and left in the same condition following the entry as prior thereto.

3. Restrictions on Dominant Tenement: The Owner of the dominant tenement shall not attach any object, vegetation, or structure to a wall or Residence located on the servient tenement, or disturb the grading of the Side yard Easements in any manner which would damage the servient tenement or interfere with the use of the Side yard Easements by the servient tenement or interfere with the use of the Side yard Easements by the servient tenement for maintenance purposes. Any fencing along the borderline of the Side yard Easements shall comply with the Architectural Standards as provided in the Declaration. The Owner of the dominant tenement shall not construct or erect any equipment or games, which may result in balls or recreational devices being bounced against the wall of the Residence on the servient tenement, nor may a swimming pool, wading pool, Jacuzzi, hot tub, or any other structure be constructed upon the Side yard Easements. The Architectural Committee is directed to establish such other reasonable design guidelines concerning the Side yard Easements as may be necessary and appropriate for reasons of aesthetics, safety or compliance with applicable law.

# **FREEPORT ARCHITECTURAL & LANDSCAPE GUIDELINES ADOPTED: NOVEMBER 1996**

**COMMONLY MAINTAINED IMPROVEMENTS IN COMMON AREAS (CC&Rs Article 4.4)** are improvements located on public right of way that are maintained by the **Freeport** Association on behalf of all the Association homeowners as a common benefit and expense, or by the Community of Harbor Bay Isle Association on behalf of all members of the Community Association as a common benefit and expense.

**TENANTS:** Owners are accountable and responsible for the consequences of their tenant's activities. Owners shall provide copies of the Association's CC&Rs, Rules and Regulations, and Architectural and Landscape Guidelines to tenants. Lease and rental agreements shall include a requirement that tenants must comply with all Association regulatory documents.

**CC&R COMPLIANCE:** When you purchased your home, you took title to your Lot subject to all restrictions, easements, etc. that were recorded on your Lot as set forth in your Policy of Title Insurance. You also took title to your Lot subject to all of the provisions set forth in the CC&Rs recorded on your property as set forth by the Community of Harbor Bay Isle (Community) and the **Freeport** Homeowner's Association (Association.)

**COMMUNITY ARCHITECTURAL REVIEW:** Owners should review the Community's Architectural Rules and Standards and Landscape Guidelines for the specific requirements that apply to proposed property improvements. The Association has created these more specific Guidelines for use by **Freeport** homeowners. The term "**Guidelines**" shall have the same force and effect as the term "**Rules and Regulations.**" **This document covers those subjects not included in the Community's document, or requirements the **Freeport** Association wishes to be more restrictive than the Community's rules and standards.**

**Application and Plans Review:** Architectural applications and plans must be submitted and approved by the Architectural Committee prior to commencing property improvement work. Architectural applications are available through the Community of Harbor Bay Isle's offices. Please check the Community Architectural Committee's annual meeting schedule on the back page to avoid delays in processing your applications. The Architectural Administrator is available to help you complete the application and plans review process as quickly as possible.

Property improvements include all improvements to the exterior surfaces of the house, including repainting, any building modifications, and all improvements to the land, including landscape, hardscape, or any structural additions to the land.

**Final Inspections Required:** Applications approved by the Architectural Committee have a one-year life. Owners must complete the work and call or write the Architectural Administrator to request a final inspection of their installations before the application approval expires.

## **SECTION 1 - ARCHITECTURAL MODIFICATIONS AND PROPERTY IMPROVEMENTS**

**ADDITIONS TO EXISTING DWELLINGS (CC&Rs Article 5.4):** All proposed building modifications require the submission of an architectural application and plans prior to the commencement of property improvement work. Refer to the Community's document, Section 2 - Architectural Rules and Standards - Additions to Existing Dwellings.

Proposed improvements must be appropriate to their immediate surroundings, and be compatible with the architectural and landscape characteristics of the **Freeport** Association.

**Approval/Codes/Appeal Process:** Approval for any proposed addition must first be obtained from the **Freeport** Architectural Committee and the Community of Harbor Bay Isle Architectural Committee. Subsequent to approval by these Committees, approval by the City of Alameda, pursuant to zoning codes under the Planned Development Agreement between the City and the Developer, and any other applicable City Codes and Ordinances, including all building design and setback requirements must be obtained.

**Design Standards:** *In addition to the Community's document, the following shall apply to Freeport Association properties:*

Design: The design of the proposed addition(s) must be consistent and aesthetically compatible with the architectural design, scale, material and color of the existing house and surrounding **Freeport** properties.

Building Mass: Any addition to an existing house or garage shall not be permitted which will result in excessive building bulk, insufficient back or front yard open space, insufficient set backs, inadequate privacy, sight-lines, light and open space or other negative impacts on neighboring properties. **Partial or full third story additions are not permitted under any circumstance.**

Minimum Set Back: The minimum required setback of a back yard addition (the distance from the rear-most portion of the house, including any proposed addition, to the rear yard common fence) is defined in Exhibit A of the Community Architectural Committee Rules and Standards.

Views, Sight-Lines and Privacy: Proposed exterior alterations which potentially will impact the view of a common area amenity or the view from a neighboring property will be closely reviewed by the **Freeport** Project Architectural Committee. The privacy, sight-lines, light and open space of neighbors shall be carefully considered. Objections from immediate neighbors shall be given weight by the **Freeport** Architectural Committee and Board of Directors in deciding upon any application. Applications will be considered on a case-by-case basis, without creating or being affected by precedent, on the applicant's clearly demonstrated need for privacy, adequate use of property, or other substantial need. Applicants may wish to obtain the written consent of parties whose view or privacy may be affected before submitting their application to the Community Architectural Committee.

Density: No part of any garage may be converted to living space such as to be used as a bedroom. No addition shall be approved which results in a reduction in the number of parking spaces in any garage to less than two (2) full spaces. No additions shall be approved that could result in an occupancy increase of more than two persons per bedroom (based on the number of bedrooms in the house as originally constructed by the Developer.) In determining the number of bedrooms in a house which would exist following completion of the proposed addition(s), rooms with a dual purpose, such as dens or playrooms which could be used as bedrooms, will be counted as bedrooms. Limiting the increase in the number of bedrooms of a house is necessary to prevent any additions from having adverse affects upon the parking and use of the common amenities of the **Freeport** Association.

**SECOND STORY ROOM ADDITIONS, INCLUDING BALCONIES AND DECKS,** will be considered on a case-by-case basis. The proposed addition must be compatible in architectural design, scale, material and color with the owner's house and adjacent properties. The addition shall not impair the views or sunlight or natural ventilation of adjacent properties. Pitched roofs must match the slope of the existing roof. Contact the Architectural Administrator for more information. **Third story additions are not permitted.**

Balconies and second story decks will be reviewed on a case-by-case basis and, if approved, must comply with new City of Alameda ordinances.

**A SOLARIUM** is defined as a glass-enclosed room attached to a house. Pre-fabricated metal and glass solarium additions are discouraged. Owners are encouraged to consider additions to match the design and materials of the existing dwelling. A solarium is not permitted as an addition to an existing dwelling when the proposed solarium is too large relative to the exterior yard in which it is to be located or to the mass of the existing house. Solariums are not permitted in front yards. Reflective or mirrored glass is not permitted. Solariums are not to be considered for use as bedrooms.

This document covers those subjects not included in the Community's document, or requirements the **Freeport** Association wishes to be more restrictive than the Community's rules and standards.

## **SECTION 2 - OTHER MODIFICATIONS:**

**AIR CONDITIONERS** are permitted only in rear, non-window locations and must be concealed from neighboring property. The sound level shall not unreasonably intrude into neighboring property.

**ARBORS, TRELLISES AND GAZEBOS:** In addition to the Community's document such structures shall be reviewed on a case-by-case basis for design, maximum height (generally 8 feet 6 inches from the grade), material and finish. If approved, such structures may be painted to match the appropriate house color as determined by the Architectural Committee.

**ATTIC VENTILATION** devices shall be compatible in design and color with the existing structure. Roof installations shall be located on the least visible side of the roof ridge pole. Ventilators must be painted to match the house siding or trim color if mounted on a gable end. If mounted on the roof, ventilators must be painted to match the roof color or flat black. **Turbine ventilators are prohibited.**

**AWNINGS** are discouraged, but on a case-by-case basis, sun-control devices will be considered provided the design and material is compatible with the architectural character of the house, and shall not adversely affect views, light, winter sun or natural ventilation of adjacent properties. Only solid color sun control devices will be permitted. The condition and appearance of approved sun-control devices must be properly maintained at all times. Air Conditioners are permitted only in rear, non-window locations and must be concealed from neighboring property. The sound level shall not unreasonably intrude into neighboring property.

**BARBECUES OR FIREPITS (PERMANENT)** height must be lower than the fence height and shall be set back from the fence or property line as determined by the Architectural Committee.

**CHIMNEYS, STOVE PIPES AND METAL FLUES, VENTS AND EXHAUST** must be compatible in material and color with the existing structure. If interior stoves are installed, the stove pipe protruding above the roof must be painted to match the roof or enclosed with material matching the house stucco.

**DECKS:** In addition to the requirements of the Community's document, ground level decks shall not exceed a height of 12 inches from the grade and shall be no closer than 6 inches to a fence. Adequate drainage and weed control must be maintained beneath above-ground decks.

**DOOR** design, color or stain, and replacement hardware must match or be compatible with the existing developer-installed door or alternate compatible design approved by the Architectural Committee on a case-by-case basis.

Screen or storm doors for front entrances and garage rear doors are permitted provided they are of similar material and finish to the developer-installed doors and must be compatible with the overall appearance of the house.

**DRIVEWAY** extensions of existing driveways, or extensions into landscape areas for additional parking, are prohibited. Colored coatings or painting of driveways is prohibited except for clear sealers. Excessive oil or rust stains must be promptly removed.

**FENCE/WALL REPLACEMENT AND FENCE EXTENSIONS (see also CC&Rs Article 5.5)** must meet the Community of Harbor Bay Isle Fence Extension Guidelines, (as appropriate to **Freeport's** fences), and shall be constructed of materials matching the existing fence/wall. Fiberglass or plastic materials are prohibited. Replacement fences must match the original developer-installed fence. Fence wood shall be left natural or sealed with a clear sealer. Redwood color paint or stain is prohibited. Wrought iron fence extensions (using galvanized bolts) shall not be attached to the house, and shall not exceed a height of two feet. The combined height of the fence and fence extension shall not exceed 6 feet from the grade.

**Wrought iron fencing on lagoon lots:** Lagoon lots may install wrought iron fencing along the end of their rear yard lot (not to be located further down than the wood fencing installed by the Developer) upon the condition that the height does not exceed the wood fence height. The wrought iron fencing shall be painted dark brown or black. Fence may be free standing or may be attached to the wood fencing with galvanized bolts. Owner of wrought iron fencing shall assume maintenance of the fence posts where the wrought iron fence is attached.

**GARAGE** attic areas may be constructed without prior Community approval, ***except for any necessary City of Alameda permits***, if structural members are not altered. Installation of windows or vents in garages requires application and plan submission (and may include an interior garage inspection) and approval by the Community and **Freeport** architectural committees.

**GARAGE DOORS** must match the developer-installed door in design. The door color shall match the house siding or trim color. Two-color doors are not permitted. Roll-up wood or wood-grained metal doors that match or are compatible the developer-installed doors in design and finish are permitted. Windows in garage doors are not permitted.

**GATES AND GATE REPLACEMENTS** shall be constructed of fence material matching the existing developer-installed fence in design, material and finish. Hinges must not be visible from the outside. Gates through commonly owned fences are prohibited.

**GUTTER AND DOWNSPOUT** design must match the developer-installation in materials, and shall be painted to match the appropriate house color. Plastic-type snap-together gutters and downspouts are not permitted. Gutters and downspouts must be properly installed and maintained in good condition so that drainage shall not adversely impact on the adjacent property.

**HOUSE-MOUNTED STREET NUMBER** replacements require approval by the Architectural Committee if they differ significantly from the developer-installed numbers. Lighted house numbers (which improves visibility of City emergency vehicles, e.g. fire, police, ambulance) will be considered on a case-by-case basis.

**PAINTING:** The **Freeport** Board encourages owners to repaint with the existing house colors. Color changes will be considered on a case-by-case basis for suitability and compatibility with the immediate neighborhood and the **Freeport** Association. Owners must submit architectural applications for all house repainting, including repainting with the existing colors. Two sets of color samples must be submitted with the application.

Houses must be painted with two colors: one for the siding and one for the trim. House colors used must be selected from the paint palette created by the developer or as modified and approved by the **Freeport** Board of Directors. The new color must completely cover the old color. The final inspection must demonstrate the finished work matches the approved colors.

**PATIO** (and other hardscape) areas shall be in reasonable and appropriate proportion to the landscaped yard area, but shall not exceed 75% of the total rear yard area. In addition to the Community's document, acceptable patio surfaces are brushed neutral, earth-tone, or aggregate mix concrete, brick, flagstone, slate and tile. Paint or colored coatings are prohibited, except for a clear sealer.

**PLANTER AND WINDOW BOXES** shall be compatible with the house and overall neighborhood design. They shall be constructed of redwood or masonry matching any exterior house masonry. The redwood shall have a clear finish, be unfinished, or painted to match the appropriate house color.

**ROOFS:** In addition to the Community's document, roof materials are limited to the tiles and colors originally installed by the developer. Replacement roofs are to be installed and maintained in good condition in accordance with all applicable City of Alameda Codes and requirements. The homeowner is responsible for all architectural and/or engineering necessary to assure structural and functional integrity of the house and new roof.

**SATELLITE DISHES/ANTENNAS:** An application for antenna installation will be considered on a case-by-case basis based upon meeting all of the established criteria. A satellite dish antenna is an electronic element utilizing a parabolic dish to receive or transmit telecommunication signals such as radio or television. The antenna may be a dish form or other, less intrusive design, as evolving technology provides. When the antenna design permits interior installation, owners are encouraged to install antennas inside the house attic.

Exterior antennas, such as satellite dishes, microwave transmitters, radio or television aerials, etc., shall not be mounted on roofs, on chimneys, walls or other yard structures if such areas are visible from public ways (both private and City streets) or from Association Common Areas.

Location and height: When visible from public ways and common areas, ground-installed antennas, which do not significantly increase the cost of the video or television antenna system including all related equipment, or significantly decrease its efficiency or performance, may be permitted.

A dish antenna's height above the adjoining finished grade to the topmost part of the antenna shall, in all cases, not exceed the height of nearest, but lower height fence. Antennas shall not be installed closer than five feet to the property line. Such ground-installations shall be visually screened from adjacent properties, association common areas, public and private ways by a solid fence or other appropriate plant material.

The appropriateness of antenna installation setbacks, height limitations, and screening will be considered on a case-by-case basis for antenna installations on lots with narrow sideyards or low height fences, (e.g. corner lots with three-foot high fences), or on lagoon or bay-front lots.

The maximum height of non-dish type antennas will be considered on a case-by-case as appropriate to the antenna design.

Sound: The antenna equipment shall be sound-muffled to the extent technically possible to prevent sound intrusion into neighboring property.

Maintenance Agreements: Associations with lots maintained by the Association may require the property owner to agree to reimburse the association for loss or damage caused by the installation, maintenance, or use of an antenna, due to its installation on any portion of the dwelling or lot for which maintenance, repair, and replacement is the responsibility of the Association.

**SHEDS** shall be constructed of material and colors matching the house. Shed construction, windows or roofs with metal, fiberglass, or plastic is prohibited. Sheds shall be roofed with tiles matching the existing roof. Sheds shall not be higher than the fence unless, on a case-by-case basis, a shed's roof matching that of the house roof slope creates a more compatible appearance and does not interfere with a neighbor's view. Sheds shall be set back from the fence at least 6 inches. Approval for shed sites on lagoon-side lots will be considered on a case-by-case basis.

**SOLAR COLLECTORS** are permitted if compatible with the house and roof design and are properly concealed, and are installed and operated to meet all City and State codes.

**SPORTS APPARATUS**, which are permanent installations, are permitted provided that they do not exceed the height standards for trellises and gazebos. All such structures are not permitted in front yards (also see Freeport Rules re: Basketball Standards).

**WALKWAYS:** In addition to the Community's document, walkway materials are limited to brushed cement or aggregate finish compatible with the house and overall neighborhood design. On a case-by-case basis, the Architectural Committee will consider other surfaces. Painted surfaces or colored coatings are prohibited, except for a clear sealer. Non-plant material borders must be compatible with the existing house and overall neighborhood design.

**WEATHER VANES** will be considered on a case-by-case basis.

**WINDOWS:** Additions or replacements must match or be compatible with the existing installation. Window modifications and new windows shall not result in a decrease of neighbor privacy. Window screens must match or be compatible the developer installation. **Grills or bars are not permitted.**

Reflective-type window film is not permitted except for film installed by developer (e.g. model homes) prior to sale. The prior written approval of the **Freeport** Board of Directors may permit window tinting of non-reflective, dark charcoal color material.

**WIRES OR LINES** that are visible from public ways or neighboring property are prohibited. Cable television or telephone lines shall be installed in an unobtrusive and, to the extent possible, a compatible, shielded manner. Low voltage garden light cable shall be properly installed underground.

### **SECTION 3 - LANDSCAPE GUIDELINES**

**PRIOR APPROVAL REQUIRED:** No landscaping may be installed nor any existing landscaping modified without the prior approval of the Architectural Committee. An architectural application and plans must be submitted for approval prior to commencing landscape installations. Owners should review the Community's Landscape Guidelines for the specific requirements that apply to proposed property improvements. The Association created these more specific Guidelines for use by **Freeport** homeowners.

**LANDSCAPE COMPLETION DEADLINES:** **the owner shall landscape all lot areas not landscaped by the developer within six months of the date of purchase of a lot from the developer.**

**COMMON AREAS:** Homeowners shall not place objects or plant trees, shrubs or other plant materials in the Association's Common Areas. Any object or plant materials planted without the prior written consent of the **Freeport** Homeowners Association are subject to removal at the homeowner's expense.

**DRAINAGE** must be appropriately maintained to avoid impacting on neighboring property, including common areas. Drain outlets and the grade of concrete and/or soil shall not drain or slope into neighboring properties.

**EARTH-WOOD** clearance of at least six (6) inches shall be maintained. Construction or landscape shall not bring earth or other materials into contact with fences above the bottom rail.

**FOUNTAINS AND ORNAMENTAL STATUES:** Fountains are permitted in rear yards. Their height shall be at least one foot lower than the nearest fence. Fountain operating noise shall not disturb adjoining neighbors. Ornamental statues in front yards are discouraged. Consideration of front yard statuary that is appropriate to the property setting, design, material finish, size and height will be considered on a case-by-case basis.

**GROUNDCOVER** installations shall be in reasonable proportion to other plantings. Artificial turf of any kind is not permitted.

**HARDSCAPE** (house additions, patios, decks or other non-live materials) shall not exceed 75% of the total rear yard area.

**LAGOON LANDSCAPING:** Special provision may apply, please refer to the Community Architectural Standards.

**ROCK GARDENS** in back yards will be considered on a case-by-case basis.

Rock in rear yards shall not cover more than 30% of the yard. Gray, beige, or aggregate rock ground cover is permitted. White or red rock is prohibited.

**TREE** installation requires prior approval of the species and planting location. Trees should be planted no closer than three feet from the fence or property line and tree branches should not touch or overhang roofs. Root guards must be installed for any tree planted within six feet of any structure, fence or walkway to minimize root invasion damage.

Fruit-bearing trees are permitted only in back yards.

Replacement of problem trees will be considered on a case-by-case basis provided a replacement tree or shrub is approved by the architectural committee. Trees shall be maintained in a healthy condition. If a tree's disease becomes un-treatable, or it dies, the owner should promptly apply to the architectural committee for approval of an appropriate replacement tree.

The Community Board of Directors or the **Freeport** Board of Directors shall have the right, but not the obligation to require any owner to remove, trim, top, or prune any shrub, tree, bush, plant or hedge which the Community or **Freeport** Board reasonably believes impedes the view of any residence lot or is detrimental to enjoyment of the Common Area, including the view there from.

**VEGETABLE GARDENS** are permitted only in rear yards and in reasonable proportion to other landscape.