

274807
421 924

Recording Requested By, And
When Recorded, Mail To:

CARROLL HIER
RECORDER

SEP 17 2 12 PM '81

WHEN RECORDED RETURN TO:

Mission Viejo Company
6 Inverness Court East
Englewood, Colorado 80112
ATTN: Legal Affairs

(Space Above For Recorder's Use)

COMMUNITY DECLARATION
FOR
HIGHLANDS RANCH COMMUNITY ASSOCIATION, INC.

ARCHITECTURAL APPROVAL

Section 10.1. Approval of Improvements Required. The approval of the Architectural Committee shall be required for any Improvement to Property on any Residential Site and, if so provided in the Supplemental Declaration covering any Commercial Site or Industrial Site, then for any Improvement to Property on any such Commercial Site or Industrial Site, except for any Improvement to Property made by Declarant and except as prior approval may be waived or certain Improvements to Property may be exempted in writing or under written guidelines or rules promulgated by the Architectural Committee because approval in such case or cases is not reasonably required to carry out the purposes of this Community Declaration.

Section 10.2. Improvement to Property Defined. "Improvement to Property", requiring approval of the Architectural Committee, shall mean and include, without limitation: (a) the construction, installation, erection or expansion of any building, structure or other Improvements, including utility facilities; (b) the demolition or destruction, by voluntary action, of any building, structure or other Improvements; (c) the grading, excavation, filling or similar disturbance to the surface of the land including,

without limitation, change of grade, change of ground level, change of drainage pattern or change of stream bed; (d) landscaping, planting, clearing or removing of trees, shrubs, grass or plants; and (e) any change or alteration of any previously approved Improvement to Property including any change of exterior appearance, color or texture.

Section 10.3. Membership of Committee. The Architectural Committee shall initially consist of three (3) members, all of whom shall be appointed by Declarant. Declarant shall have the continuing right to appoint three (3) members during the Appointment Period (as hereinafter defined) of the Project Area. The Community Association shall have the right to appoint two (2) members during the Appointment Period and, thereafter, the right to appoint all members. The "Appointment Period" shall mean the period of time commencing as of the date of Recordation of this Community Declaration and continuing until the earliest to occur of the following events:

(a) At such time as the deeds have Recorded for the sale by Declarant of at least thirty thousand (30,000) Privately Owned Sites in the Community Association Area; or

(b) At such time as Declarant no longer has authority to unilaterally annex real property in the Annexable Area to the Community Association Area without the consent of the Delegates as authorized in Section 3.2; or

(c) December 31, 2013.

Members of the Architectural Committee may, but shall not necessarily be Members of the Community Association. Members of the Architectural Committee to be appointed by the Community Association shall be appointed at the organization meeting of the Board of Directors. Members of the Architectural Committee appointed by Declarant may be removed at any time by Declarant and shall serve until resignation or removal by Declarant. Members of the Architectural Committee appointed by the Board of Directors may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board. During the period of development of the Project Area while Declarant has rights to appoint members of the Architectural Committee, Declarant and the Community Association shall each give written notice to the other of the appointment or removal of any member of the Committee. After the Appointment Period, the Community Association may at any time, and from time to time, change the authorized number of members of the Architectural Committee, but the number of members shall always be an odd number and shall not be less than five (5).

Section 10.4. Address of Committee. The address of the Architectural Committee shall be at the principal office of the Community Association.

Section 10.5. Required Approval by Any Subassociation Architectural Committee. In addition to approval of Improvement to Property by the Architectural Committee of the Community Association, approval of Improvement to Property shall also be required by the Architectural Committee of any Subassociation if and to the extent set forth in the Supplemental Declaration creating such Subassociation.

Section 10.6. Submission of Plans. Prior to commencement of work to accomplish any proposed Improvement to Property, the Person proposing to make such Improvement to Property ("Applicant") shall submit to the Architectural Committee at its offices such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors as the Architectural Committee shall reasonably request showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to Property. The Applicant shall be entitled to receive a receipt for the same from the Architectural Committee or its authorized agent. The Architectural Committee may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement to Property. Until receipt by the Architectural Committee of all required materials in connection with the proposed Improvement to Property, the Architectural Committee may postpone review of any materials submitted for approval.

Section 10.7. Criteria for Approval. The Architectural Committee shall approve any proposed Improvement to Property only if it deems in its reasonable discretion that the Improvement to Property in the location indicated will not be detrimental to the appearance of the surrounding areas of the Community Association Area as a whole; that the appearance of the proposed Improvement to Property will be in harmony with the surrounding areas of the Community Association Area; that the Improvement to Property will not detract from the beauty, wholesomeness and attractiveness of the Community Association Area or the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Community Association. The Architectural Committee may condition its approval of any proposed Improvement to Property upon the making of such changes therein as the Architectural Committee may deem appropriate.

Section 10.8. Committee Guidelines or Rules. The Architectural Committee shall issue guidelines or rules relating to the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement to Property. Such guidelines or rules may specify circumstances under which the strict application of limitations or restrictions under this Community Declaration will be waived or deemed waived in whole or in part because strict application of such limitations or restrictions would be unreasonable or unduly harsh under the circumstances. Such

guidelines or rules may waive the requirement for approval of certain Improvements to Property or exempt certain Improvements to Property from the requirement for approval, if such approval is not reasonably required to carry out the purposes of this Community Declaration.

Section 10.9. Architectural Review Fee. The Architectural Committee may, in its guidelines or rules, provide for the payment of a fee to accompany each request for approval of any proposed improvement to Property. The Architectural Committee may provide that the amount of such fee shall be uniform for similar types of any proposed Improvement to Property or that the fee shall be determined in any other reasonable manner, such as based upon the estimated cost of the proposed Improvement to Property.

Section 10.10. Decision of Committee. The decision of the Architectural Committee shall be made within thirty (30) days after receipt by the Architectural Committee of all materials required by the Architectural Committee unless such time period is extended by mutual agreement. The decision shall be in writing and, if the decision is not to approve a proposed Improvement to Property, the reasons therefor shall be stated. The decision of the Architectural Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Architectural Committee.

Section 10.11. Appeal to Association Board. If the Architectural Committee denies, imposes conditions on, or refuses approval of a proposed Improvement to Property, the Applicant may appeal to the Board of Directors by giving written notice of such appeal to the Community Association and the Architectural Committee within twenty (20) days after such denial or refusal. The Board of Directors or a Tribunal appointed pursuant to the Bylaws shall hear the appeal in accordance with the provisions of the Bylaws for Notice and Hearing, and the Board shall decide whether or not the proposed Improvement to Property or the conditions imposed by the Architectural Committee shall be approved, disapproved or modified.

Section 10.12. Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Architectural Committee within thirty (30) days after the date of receipt by the Architectural Committee of all required materials.

Section 10.13. Prosecution of Work After Approval. After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be accomplished as promptly and diligently as possible and in complete conformity with the description of the proposed Improvement to Property, any materials submitted to the Architectural Committee in connection with the proposed Improvement to Property and any conditions imposed by the Architectural Committee. Failure to complete the proposed Improvement to Property within one (1) year after the date of

approval or to complete the Improvement to Property in accordance with the description and materials furnished to, and the conditions imposed by, the Architectural Committee, shall constitute noncompliance with the requirements for approval of Improvements to Property.

Section 10.14. Notice of Completion. Upon completion of the Improvement to Property, the Applicant may give written Notice of Completion to the Architectural Committee. Until the date of receipt of such a Notice of Completion, the Architectural Committee shall not be deemed to have notice of completion of such Improvement to Property.

Section 10.15. Inspection of Work. The Architectural Committee or its duly authorized representative shall have the right to inspect any Improvement to Property prior to or after completion, provided that the right of inspection shall terminate thirty (30) days after the Architectural Committee shall have received a Notice of Completion from the Applicant.

Section 10.16. Notice of Noncompliance. If, as a result of inspections or otherwise, the Architectural Committee finds that any Improvement to Property has been done without obtaining the approval of the Architectural Committee or was not done in substantial compliance with the description and materials furnished to, and any conditions imposed by, the Architectural Committee or was not completed within one (1) year after the date of approval by the Architectural Committee, the Architectural Committee shall notify the Applicant in writing of the noncompliance; which notice shall be given, in any event, within thirty (30) days after the Architectural Committee receives a Notice of Completion from the Applicant. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

Section 10.17. Failure of Committee to Act After Completion. If, for any reason other than the Applicant's act or neglect, the Architectural Committee fails to notify the Applicant of any noncompliance within thirty (30) days after receipt by the Architectural Committee of written Notice of Completion from the Applicant, the Improvement to Property shall be deemed in compliance if the Improvement to Property was, in fact, completed as of the date of Notice of Completion.

Section 10.18. Appeal to Association Board of Finding of Noncompliance. If the Architectural Committee gives any notice of noncompliance, the Applicant may appeal to the Board of Directors by giving written notice of such appeal to the Board and the Architectural Committee within thirty (30) days after receipt of the notice of noncompliance by the Applicant. If, after a notice of noncompliance, the Applicant fails to commence diligently to remedy such noncompliance, the Architectural Committee shall request a finding of noncompliance by the Board of Directors by giving written notice of such request to the Community Association and the

Applicant within thirty (30) days after delivery to the Applicant of a notice of noncompliance from the Architectural Committee. In either event, the Board of Directors or a Tribunal appointed pursuant to the Bylaws shall hear the matter in accordance with the provisions of the Bylaws for Notice and Hearing, and the Board shall decide whether or not there has been such noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same.

Section 10.19. Correction of Noncompliance. If the Board of Directors determines that a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of receipt by the Applicant of the ruling of the Board of Directors. If the Applicant does not comply with the Board ruling within such period, the Board may, at its option, record a Notice of Noncompliance against the real property on which the noncompliance exists, may remove the noncomplying Improvement to Property or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Community Association, upon demand, for all expenses incurred therewith. If such expenses are not promptly repaid by the Applicant or Owner to the Community Association, the Board may levy a Reimbursement Assessment against the Owner of the Privately Owned Site for such costs and expenses. The right of the Community Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Community Association may have at law, in equity, or under this Community Declaration.

Section 10.20. No Implied Waiver or Estoppel. No action or failure to act by the Architectural Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Architectural Committee or the Board of Directors with respect to any Improvement to Property. Specifically, the approval by the Architectural Committee of any improvement to Property shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement to Property or any similar proposals, plans, specifications or other materials submitted with respect to any other Improvement to Property.

Section 10.21. Committee Power to Grant Variances. The Architectural Committee may authorize variances from compliance with any of the provisions of this Community Declaration or any Supplemental Declaration, including restrictions upon height, size, floor area or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Architectural Committee. If any such variance is granted, no violation of the provisions of this Community Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the

provisions of this Community Declaration or any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of any variance affect the jurisdiction of any architectural control of a Subassociation or committee created by a Supplemental Declaration, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned, including, but not limited to, the Development Guide and zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

Section 10.22. Compensation of Members. Members of the Architectural Committee shall receive no compensation for services rendered other than reimbursement of out of pocket expenses incurred by them in the performance of their duties hereunder.

Section 10.23. Meetings of Committee. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may, from time to time, by resolution in writing adopted by a majority of the members, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for or on behalf of the Architectural Committee, except the granting of approval to any Improvement to Property and granting of variances. The action of such Committee Representative within the authority of such Committee Representative or the written consent or the vote of a majority of the members of the Architectural Committee shall constitute action of the Architectural Committee.

Section 10.24. Records of Actions. The Architectural Committee shall report in writing to the Board of Directors all final action of the Architectural Committee and the Board shall keep a permanent record of such reported action.

Section 10.25. Estoppel Certificates. The Board of Directors shall, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Committee, furnish a certificate with respect to the approval or disapproval of any Improvement to Property or with respect to whether any Improvement to Property was made in compliance herewith. Any Person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

Section 10.26. Nonliability for Committee Action. There shall be no liability imposed on the Architectural Committee, any member of the Committee, any Committee Representative, the Community Association, any member of the Board of Directors or Declarant for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Architectural Committee unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of an

Improvement to Property be deemed approval of the Improvement to Property from the standpoint of safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations.

Section 10.27. Construction Period Exception. During the course of actual construction of any permitted structure or Improvement to Property, and provided construction is proceeding with due diligence, the Architectural Committee shall temporarily suspend the provisions contained in this Community Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction; provided that, during the course of any such construction, nothing is done which will result in a violation of any of the provisions of this Community Declaration upon completion of construction and nothing is done which will constitute a nuisance or unreasonable interference with the use and enjoyment of other property.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Term of Declaration. Unless amended as herein provided, each provision contained in this Community Declaration which is subject to the laws or rules sometimes referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation shall continue and remain in full force and effect for the period of twenty-one (21) years following the death of the survivor of the members of the Senate and House of Representatives of the State of Colorado in office on the date of this Community Declaration and the now living children of said Persons, or until this Community Declaration is terminated as hereinafter provided, whichever first occurs. Unless amended as herein provided, all other provisions, covenants, conditions, restrictions and equitable servitudes contained in this Community Declaration shall be effective until December 31, 2039, and, thereafter, shall be automatically extended for successive periods of ten (10) years each unless terminated by the vote, by written ballot, of Members holding at least seventy-five percent (75%) of the voting power of Members of the Community Association at duly constituted meetings of the Delegate Districts. The termination of this Community Declaration shall be effective upon the Recording of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Community Association stating that this Community Declaration has been terminated by the vote of Members as provided herein.

Section 11.2. Amendment of Community Declaration by Declarant. Until the first Privately Owned Site subject to this Community Declaration has been conveyed by Declarant by deed Recorded in the office of the County Clerk and Recorder of Douglas County, Colorado, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Community