

CHAPTER 1

GENERAL PROVISIONS

1.01 Title. This document, which consists of the regulations of the Rancho Santa Fe Association (the "Association"), shall be known as the Rancho Santa Fe Regulatory Code (the "Code"). The Code, the Association's Protective Covenant ("Protective Covenant"), the Association's Bylaws ("Bylaws") and the Association's Articles of Incorporation ("Articles of Incorporation") are hereinafter collectively referred to as the "Governing Documents" of the Association.

1.02 Scope and Purpose of the General Provisions. Chapter 1 of the Code shall be known as the "General Provisions." The purpose of the General Provisions is to specify the nature, purpose, authority, basic structure, procedures and applicability of the Code. The General Provisions apply to the entire Code.

1.03 Applicability of the Code. This Code shall be applicable, as provided herein, to all real property under the jurisdiction of the Association and encumbered by the Protective Covenant, as amended, originally recorded with the Recorder of San Diego County as follows: (1) on February 9, 1928 in Book 1412, Pages 436 et. seq. of Deeds (for Declaration No. 1); (2) on April 17, 1928 in Book 1447, Pages 468 et. seq. of Deeds (for Declaration No. 2); and (3) on December 10, 1928 in Book 1560, Pages 77 et. seq. of Deeds (for Declaration No. 3).

1.04 Effective Date. The effective date of the Code shall be October 7, 1993.

1.05 Existing Law Continued. The provisions of the Code, to the extent they are substantially the same as Association procedures and regulations in existence immediately prior to the effective date of the Code, shall be construed as restatements and continuations thereof and not as new regulations.

1.06 Construction. The provisions of the Code and all enforcement proceedings under it are to be construed with the view to effect its purpose and intent and to promote justice.

1.07 References in Existing Documents to Specific Regulations. If documents or matters of record refer to or otherwise relate to former Association regulations which are now included within the Code, such references shall be construed to apply to the corresponding provisions contained within the Code.

1.08 Scope of Provisions. The provisions of the Code shall be considered minimum requirements for the promotion of the comfort, convenience and general welfare of the citizenry, and the protection of community character and property values. No approvals or permits granted under any provision of the Code shall be construed to grant any right or privilege to construct, alter or use any building, structure or other improvement on a property for any purpose that is, or may hereafter be, contrary to or prohibited by any public or private restrictions (whether or not of

record) applicable to said property. The granting of an Association permit shall not affect or prejudice any claim of title to, or right of possession in, the property described in such permit.

1.09 Authority. Pursuant to the authority vested in it by, among other things, Article IV, Section 2(d) of the Bylaws, Article II of the Articles of Incorporation and Article I, Section 13 [paragraph 14] of the Protective Covenant, the Association is empowered to establish, adopt, implement and enforce the regulations in the Code. Article II, Section 4 [Paragraph 37] of the Protective Covenant states: "The regulations of said Association shall have full force and effect from and after the time of their adoption as provided in the Bylaws of the Association and shall thereafter be as binding upon the owners of said property and each of them, their successors and assigns, as if set out in full herein."

1.10 Purpose and Intent. In addition to the specific intentions and goals of the Association expressed in other chapters of the Code, the general purpose and intent in establishing the Code, pursuant to the Association's Governing Documents, is to:

1.1001 Preserve, continue and maintain community character, rare landscape and contour features;

1.1002 Uphold the quality and appearance of all existing and future architecture, improvements and alterations;

1.1003 Restrict the use, height and bulk of buildings;

1.1004 Ensure a uniform and reasonably high standard of artistic result and attractiveness in the physical appearance of property and its improvements;

1.1005 Assure adequate and physically suitable building sites;

1.1006 Regulate the subdivision and adjustment of land;

1.1007 Provide for the uniform, equitable and effective enforcement of Association authority;

1.1008 Implement the Governing Documents through fair and reasonable standards;

1.1009 Give notice to Association members of the standards and practices used to implement the Association's Governing Documents;

1.1010 Protect the rural character and ambiance of the community; and

1.1011 Protect, maintain, preserve and defend the general welfare of the community.

1.11 Interpretation of Numbering System. In reading the numbering system of the Code from left to right, the first one or two digits to the left of the first decimal point shall designate the chapter of the Code. The first two digits to the right of the first decimal point shall designate the article number of the applicable chapter. The third and fourth digits to the right of the first decimal point shall designate the section of such article. Whenever subsections are indicated, they shall be designated by numbers to the right of the second decimal point reading from left to right. Thus, "Code §15.0304.6" refers to Chapter 15, Article 3, Section 4, Subsection 6 of the Code.

1.12 Not Included, Nonetheless Regulated. Activities, uses, construction, improvements and standards not specifically regulated, defined or referred to in the Code remain subject to all applicable provisions of the other Governing Documents and other Association authorities. The Code is not intended to limit Association powers, authorities and standards granted by the other Governing Documents.

1.13 Policies Applicable. Policies and guidelines including, but not limited to, the Residential Design Guidelines and the Village Commercial District Architectural Design Guidelines, have been and will be adopted from time to time to establish generalized criteria and to provide guidance to staff and Association members. Nothing in the Code shall be taken to prohibit the application of these policies and guidelines to activities regulated herein, as appropriate.

1.14 Conflict Between Other Governing Documents and Code. Where a conflict exists between the provisions of the Code and the provisions of other Governing Documents, the provisions of the other Governing Documents shall prevail.

1.15 Revision of Previous Regulations. The following previously adopted regulations have been incorporated into the Code and, upon the adoption of the Code, are hereby repealed (subject to Code §§ 1.05, 1.15 and 1.16).

REGULATION	ADOPTED	AMENDED
Accumulation of Junk & Storage of Non-Passenger Vehicle	10-17-68	04-02-81
Aircraft Landing & Take-Off	09-07-89	
Animal	12-01-66	02-15-68 09-15-71 10-20-77 10-16-80 08-20-81
Enforcement	11-17-88	11-02-17
Land Division & Boundary Adjustment	01-08-87	
Landscape	10-07-82	
Reg. For Multiple Covenant Acceptance Agreements Covering Property Proposed for Land Division or Boundary Adjustment	06-05-86	

Special Assessment Lien	02-04-93	11-02-17
Multi-Family Building	04-15-90	09-06-90
REGULATION	ADOPTED	AMENDED
Off-Street Parking	03-06-80	10-16-80 09-06-90
Outdoor Lighting	03-06-80	10-16-80 10-07-82 04-15-93 01-06-94
Slope Protection Regulation Relative to Land Division & Boundary Adjustment (Request for Approval of)	01-08-87	
Standard Conditions and Acknowledgments Pertaining to the Issuance of Construction Permits	03/04/93	
Subdivisions: A Guideline		02-20-69 03-71 05-02-74 1976-77
Temporary Construction Sign	12-07-89	
Tennis (Residential Development Regulation of:)	04-02-81	
Trail Easement	07-18-85	
Village Commercial District Design (RSF) and Development	02-01-90	
Works of Art (Resolution)	09-21-89	

1.16 Effect of Code on Actions and Obligations Previously Accrued. Neither the adoption of the Code nor the repeal hereby of any existing regulation of the Association shall in any manner affect or constitute a waiver of the Association's right to enforce regulations violated prior to the effective date of the Code.

1.17 Treatment of Nonconforming Uses and Structures. Uses and structures established pursuant to Association approvals granted prior to the adoption of the Code shall continue to be governed, while in their approved form and use, by the regulations, terms and conditions under which they were approved.

1.18 Applications in Process at Time of Adoption of Regulation. Any improvement or use for which an application has been filed and accepted by the Manager as complete prior to the date of the enactment of a regulation or amendment of the Code, and which application has not expired, shall be subject to the regulations in effect at the time that the application was accepted, Bylaw Article IV, Section 6(e) notwithstanding. Thereafter, such uses and structures shall be treated in accordance with Paragraph 1.17 above.

1.18.01 Exception. Nothing in Paragraph 1.18 above shall limit the authority of the Board of Directors to enact regulations which would apply to applications in process where a statement of such applicability is contained in the regulation, amendment, or accompanying resolution, as adopted.

1.19 Severability. If any provision, term or condition in the Code is for any reason held to be invalid, such determination shall not affect the validity of the remaining portions of the Code, or the validity of the other Governing Documents.

1.20 Definitions. Definitions of applicable terms are contained within various chapters of the Code and within the other Governing Documents. It is the intent of the Code that no conflict shall exist in the definition and meaning of terms within the Code, or between the definitions and meaning of terms in the other Governing Documents and the Code. Where conflicts are found to exist, such terms shall maintain their separate meanings within the applicable chapter of the Code and within the other Governing Documents.

1.2001 Delegation by Manager and Building Commissioner. The terms "Manager" and "Building Commissioner" as used herein shall have the same definition as contained in Article V of the Bylaws and elsewhere within the Governing Documents, with the exception that the responsibilities of the Manager and Building Commissioner as established herein may be delegated by those officers to other employees of the Rancho Santa Fe Association. Nothing in this paragraph shall limit the implied or expressed authority of these officers to delegate pursuant to other provisions of the Governing Documents.

1.21 Permissive and Mandatory Provisions. The terms "may," "should," and "can" in this Code are permissive. The terms "shall," "will" and "must" are mandatory.

1.22 Interpretation. In case of uncertainty as to the meaning of any provision of the Code, the Board of Directors, pursuant to Protective Covenant, Declaration No. 1, Article V, Section 10 [Paragraph 180], Declaration No.2, Article I, Section 17 [Paragraph 236] and Declaration No. 3, Article I, Section 17 [Paragraph 264] shall in all cases interpret the same, and such interpretation shall be final and conclusive upon all parties.

1.23 Service of Notices. Whenever a notice is required to be given under the Code, unless different provisions in any of the Association's Governing Documents provide to the contrary, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such person to be notified at his or her last known address as such address appears in the records of the Association. Service by mail shall be deemed to have been completed at the time of deposit in the mail.

1.24 Variances. Where the Association Board of Directors finds that extraordinary hardships or practical difficulties may result from strict compliance with the regulations in the Code in a specific

situation, and where the purposes of the Code may be served to a greater extent by an alternative proposal, the Board of Directors may approve a variance to regulations in the Code so that substantial justice may be done and the public interest secured. However, a variance shall only be approved if (1) such variance will not have the effect of nullifying the intent and purpose of the Code and (2) the Board of Directors makes all of the following findings based upon the evidence presented to it in each specific case:

1.2401 Findings.

1.2401.01 The granting of the variance will be in harmony with the general purpose and intent of the applicable chapter in the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

1.2401.02 The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;

1.2401.03 Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the Code is carried out; and

1.2401.04 The variance will not in any manner vary the provisions of the other Governing Documents.

1.2402 Limitation on Variances. Variances for use and class use shall not be granted. Procedures for class use change are contained in Chapter 80 of the Code. Variances are not available concerning matters under the following chapters 80 and 81 of the Code. Chapter 17 is exempted from the variance requirements of §1.24 et. seq. of the General Provisions. Chapter 17 contains its own respective variance procedures and requirements. Variance requirements for setbacks are contained in Article VI, Section 4 [Paragraph 209] of the Protective Covenant.

1.2403 Variance Procedures. A variance application and fee payment shall be submitted by the property owner/applicant at the time of filing an application for permit or permission, or at the time when the tentative map, preliminary architectural plans or building plans are filed for consideration by the Association. The request shall state fully the grounds for the application and all the facts relied upon by the applicant for such variance. The variance application may be considered as part of, and processed along with, the Association's review and action on the application for which the variance is sought.

1.2404 Notification. A notice of the hearing for the variance will be posted on the Association bulletin board as well as mailed to all Covenant property owners within 500 feet of the subject

property. The bulletin board posting and the postmark of the notice shall be at least 15 days prior to the Art Jury's consideration of the variance application.

1.2405 Board Approval. Subject to any contrary provisions in other chapters of this Code or the Governing Documents, the Board of Directors shall be the final authority to approve, conditionally approve, or deny a variance application. Pursuant to Article IV, Section 6(b) of the Association's Bylaws, Art Jury review and recommendation is required for variances.

1.2406 Conditions. In approving variances, the Board of Directors (or Art Jury, if applicable) may require such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of the Code chapter applicable to such variance request.

1.25 Amended Date. Amended June 1, 1995 at §§1.2303 and 1.2304. A new §1.18 was added, §§1.08, 1.1011, 1.22 and 1.2405 were amended and the original §1.2306 was rescinded on January 15, 1998.