

CHAPTER 62

COMMON INTEREST DEVELOPMENTS REGULATION

62.01 Purpose and Intent. The purpose of this regulation is to provide standards and procedures for the review and approval of subdivisions which include Common Interest Developments (defined below), or the creation of Common Interest Developments without a formal subdivision of land. The intent of this regulation is to protect and preserve the rural character, landscape features and ambiance of the community pursuant to the Governing Documents, Association policies and procedures, and to ensure the development of appropriately sized, separated and located lots and building sites and building pads of contiguous residence structures in a proposed Common Interest Development, as applicable, that meet the standard of "high artistic result," are compatible with community standards and character, and give due consideration to neighborhood and site characteristics, and to enhance compliance with the Governing Documents, particularly the Articles of Incorporation and Bylaws of the Association.

62.02 Authority. This regulation is established pursuant to the authority established in the Governing Documents including: the Preamble, Article I, Section 13 [Paragraph 14]; Article II, Section 2 [Paragraph 20], and Section 4 [Paragraphs 36 and 37]; and Article III, Section 1 [Paragraph 46] of the Protective Covenant; Article VI (a)(4) and (b) of the Articles of Incorporation; and Article II, Sections 1(b)(3)(iii) and 1(c) of the Bylaws.

62.03 Applicability. This chapter applies to any property for which a subdivision application or application to change a condition of an approved tentative or final subdivision map which includes a Common Interest Development, and to any property with respect to which a Common Interest Development is intended to be created but would not be subject to the California Subdivided Lands Act or the California Subdivision Map Act. Such actions are found by the Board of Directors ("the Board") to constitute the subdivision of property as that term is used in the Governing Documents, pursuant to the authority of the Board to make such determinations in Article V, Section 10 [Paragraph 180] of the Protective Covenant.

62.04 Definitions. In addition to the definitions provided in §60.04 of the Code, the following terms shall have the meanings provided below:

62.04.01 "Common Interest Development" means any Common Interest Development as defined in California Civil Code section 1351, or successor statute, and affecting real property subject to the Governing Documents, but excludes a planned development as defined in California Civil Code section 1351(k)(2) and as to which California Civil Code section 1351(k)(1) is not applicable.

62.04.02 "Declaration" means a declaration of conditions, covenants and restrictions upon the use or enjoyment of any portion of a Common Interest Development that are intended to be enforceable equitable servitudes.

62.04.03 "Unit" means any separate interest as defined in California Civil Code section 1351(l).

62.05 Common Interest Developments as Subdivisions. Each Common Interest Development shall be deemed a Subdivision and shall be subject to Chapter 60 of the Code.

62.06 Required Submittals. In addition to the materials required pursuant to Section 60.05 of the Code, an application for a Subdivision which includes a Common Interest Development, and for

approval of a Common Interest Development not otherwise subject to the California Subdivided Lands Act or the California Subdivision Map Act, shall include the following:

62.06.01 Charter Instrument. The proposed articles of incorporation of the corporation which will serve as the association of the Common Interest Development or, if no corporation is proposed to serve as an association, the charter document of the unincorporated association which will serve as the association of the Common Interest Development.

62.06.02 Bylaws. The proposed bylaws of the corporation or unincorporated association which will serve as the association of the Common Interest Development.

62.06.03 Declaration. In addition to the provisions required by California Civil Code section 1353, the Declaration shall contain the following, in form satisfactory to the Manager:

- a. A method for selecting Units, or the identification of the Units, the owners of which will have the right to register as voting members of the Association, consistent with the Bylaws of the Association.
- b. A provision that owners of Units other than those selected in accordance with the provisions described pursuant to §62.06.03.a shall have no voting rights in the Association.
- c. A provision that the association of the Common Interest Development shall be deemed the sole person holding title to any and all building sites, as defined in the Articles of Incorporation of the Rancho Santa Fe Association, as amended, and that no person holding title to any Unit shall be deemed a member of the Association or entitled to the rights and privileges of membership in the Association except those owners of Units selected in accordance with the provisions described pursuant to §62.06.03.a.
- d. A provision that the Declaration may not be amended or restated without the written consent of the Association and recorded with the amendment or restatement of the Declaration.

62.07 Findings. In addition to the findings required pursuant to §60.0707 of the Code, the following findings shall be considered by the Art Jury and made by the Board in the approval or conditioned approval of any subdivision including a Common Interest Development or of any Common Interest Development otherwise requiring approval:

62.07.01 The Declaration complies with the standards of §62.06.03 of the Code.

62.07.02 In addition to the findings required pursuant to §60.0707.04, the proposed Common Interest Development, if it is a planned development, results in a physically suitable and adequately sized and separated building pad (for both residences and accessory uses and structures) on each legally created lot or parcel, as lot and parcel are defined in Article IV, Section 1 [Paragraphs 73 through 76] of the Protective Covenant, or if the proposed Common Interest Development is other than a planned development, the proposed Common Interest Development results in a physically suitable and adequately sized and separated building pad (for both residences and accessory uses and structures) for each contiguous structure on each

legally created lot or parcel, as lot and parcel are defined in Article IV, Section 1 [Paragraphs 73 through 76] of the Protective Covenant.

62.08 Common Interest Development Considered Final. In addition to the requirements of §60.0801, no subdivision including a Common Interest Development or any Common Interest Development otherwise requiring approval, approved or conditionally approved by the Board shall be considered final unless and until the California Department of Real Estate has issued a final public report with respect to the Common Interest Development pursuant to California Business & Professions Code section 11010.2, if applicable.

62.09 Records. The Applicant shall file the following information with the Manager:

62.09.01 Following the incorporation of the association, or organization of the unincorporated association, that is intended to serve as the association of the Common Interest Development, the applicant shall file a copy of the articles of incorporation certified by the California Secretary of State, or a copy of the charter documents of an unincorporated association certified by the chief executive officer and secretary of the same.

62.09.02 Following the adoption of bylaws of the association, or organization of the unincorporated association, that is intended to serve as the association of the Common Interest Development, the applicant shall file a copy of the bylaws certified by the secretary of the association.

62.09.03 Following the recordation of the Declaration, a copy of the Declaration certified by the Recorder of the County of San Diego.

62.10 Effective Date. The effective date of this chapter is November 1, 2007.

CHAPTER 63 RESERVED