

CHAPTER 81

ANNEXATION REGULATION

81.01 Scope and Purpose. The purpose of this regulation is to establish procedures and standards for the annexation of properties to the jurisdiction of the Protective Covenant, pursuant to the requirements of the Governing Documents.

81.02 Authority. These procedures are authorized by, and are intended to be consistent with the Protective Covenant, with specific reference to the applicable provisions in Declarations 1, 2 and 3 [Paragraphs 171, 231 and 259 respectively], and the Bylaws, with specific reference to Article IV, Section 6(c) and (d).

81.03 Application Submittal Requirements. Property owners (applicants) shall submit annexation applications with such documentation as is necessary for the Manager, the Art Jury and the Board of Directors (“Board”) to process and understand the proposal. Such submittals shall at a minimum include:

81.0301 Letter of Request. A signed letter from all owners of record requesting the annexation. This letter shall include the following:

- a. The proposed class of use district that the applicant is requesting for the subject property, as those classes are established in Article IV, Section 2 [Paragraphs 92-95] of the Protective Covenant; and
- b. A statement explaining the reason(s) for the annexation request.

81.0302 Proof of Ownership. A current copy of a recorded vesting deed, title report or other proof of ownership of the affected property in a form acceptable to the Manager to verify that all owners of record have signed the letter of request.

81.0303 Application Fee. The applicable annexation fee as stated on the current “Rancho Santa Fe Planning Department Schedule of Fees for Land Use Applications.” This fee is non-refundable and the applicant must remit such fee to the Association concurrently with the other documents described in this §81.03 for the application to be deemed complete.

81.0304 Property Map. A map, at a readable scale and in a form acceptable to the Manager, showing the property for which the annexation is being sought. This map shall include the following:

- a. The external boundaries of the property;
- b. The boundaries and location of any existing roads, driveways, and easements, drawn to scale with dimensions clearly shown;

- c. The boundaries and location of any existing buildings or other accessory structures, drawn to scale with dimensions and square footage clearly shown;
- d. The existing topography of the property shown in contours mapped at intervals of two feet; and,
- e. North arrow, written scale, graphic scale, vicinity map, legal description, tax assessor parcel number(s), county zoning, community plan designations, gross acreage, net acreage (net acreage shall be calculated based on the criteria in §60.0705 of Chapter 60 of the Code), number of lots, minimum acreage required per parcel, signature, address and telephone number of map preparer, pursuant to §81.0306, and signature(s), address(es) and telephone number(s) of property owner(s).

81.0305 Notice Map. The applicant shall submit a map delineating a distance of 300 feet, extending outward, from all external boundaries of the property proposed for annexation, for the purpose of noticing. This Notice Map must depict all parcels (including parcel portions) and the names of all property owners whose properties are under the jurisdiction of the Protective Covenant (herein referred to as “Covenant Ownerships”), if any, within the 300 foot distance.

81.0305.01 Exception: Minimum Number of Notices. The 300 foot distance from the subject property must include no fewer than 20 separate Covenant Ownerships. Multiple ownerships of the same parcel or parcels shall be considered as a single ownership. In cases where a distance of 300 feet would include fewer than 20 separate Covenant Ownerships, the distance shall be extended further outward from the subject property until it encompasses no fewer than 20 separate Covenant Ownerships. In no case, however, shall a distance of greater than 500 feet be required, the number of separate ownerships, if any, notwithstanding. In cases where the distance must be extended beyond 300 feet, a line delineating a distance of 500 feet from all external boundaries of the subject property shall be clearly depicted on the Notice Map.

81.0306 Preparer of Maps. A California registered civil engineer or California licensed land surveyor shall prepare, stamp and sign all maps.

81.0307 Reduced Maps. One reduced copy of each map required to be submitted in §81.0304 and §81.0305 (Property and Notice Maps) shall be submitted at the time of application. The reduced size maps shall be scaled to fit on an 8.5 x 11 inch sheet of paper and be legible and reproducible in black and white.

81.0308 Digital Files. Digital computer files of each map required to be submitted in §81.0304 and §81.0305 (Property and Notice Maps) shall be submitted at the time of application. Digital map files shall be submitted in a form acceptable to the Manager and shall be consistent in every detail with submitted paper plans. In the case of inconsistencies between digital and paper plans, the duly stamped and ink-signed paper plans shall prevail.

81.0309 Annexation with Concurrent Subdivision. The Board in their sole discretion may require an annexation and subdivision to be processed concurrently where more than one building site is proposed by an applicant. If the Board requires an applicant to process a

subdivision as a condition of a proposed annexation, the property shall not be annexed unless and until the Board approves the subdivision in accordance with Chapter 60 of the Code.

81.04 Application Review Process. Annexations must be approved by the Art Jury and the Board, pursuant to Declarations 1, 2 and 3 [Paragraphs 171, 231 and 259] of the Protective Covenant. Approval of an annexation (1) shall not be valid unless and until a public hearing is held on the application and (2) is subject to member petition and potential denial pursuant to Article IV, Sections 6(c) and (d) of the Bylaws. Final Association approval of a proposed annexation shall be evidenced by a recordable instrument prepared, signed, and notarized by the Manager and all owners of the annexed property (the "Covenant Acceptance Agreement").

81.0401 Notification. After the Manager or his or her designee determines the applicant's annexation application package is complete, the Manager or his or her designee shall notify the applicant in writing of the date the Manager has accepted the application as complete. The Association shall then post a notice of the proposed annexation on the Association's bulletin board and mail the notice to all owners of property under the jurisdiction of the Protective Covenant indicated on the Notice Map prepared pursuant to §81.0305 et. seq. above. The bulletin board posting and the postmark of the mailed notices shall be at least 15 days prior to the Art Jury's consideration of the application. The Association shall provide notice to all of its members of the Board's public hearing date to consider the application by posting the Board's agenda on the Association's bulletin board pursuant to the Association's standard agenda posting practice.

81.0402 Findings. The Board and Art Jury will review annexation applications on a case-by-case basis. The Board and Art Jury may approve or deny applications for annexations for any reason or for no reason, in their sole and absolute discretion. In general, the Board and Art Jury will only approve applications for annexation if the Board and the Art Jury, acting separately, determine that:

- a. The annexation and any conditions attached thereto will benefit the Association and,
- b. The annexation and any conditions attached thereto will have no foreseeable or unmitigable adverse effect on the Association.

81.0403 Considerations for Approval. In reviewing applications for annexation, the Art Jury and the Board will take into consideration, among other things, the size and topography of the site, the potential impact of the site on surrounding properties, and the impact of the annexation on Association capital facilities and services.

81.0404 Art Jury and Board Approval.

81.0404.01 Art Jury Review. The Art Jury will schedule the annexation application for review at a regularly scheduled meeting after the completion of noticing pursuant to §81.0401, subject to agenda constraints. Upon the Manager's determination that the necessary information has been provided, pursuant to §81.03 et. seq., the Art Jury will review the application and make their determination of approval, conditional approval or

denial. If the Art Jury denies the application, the review process is over and the applicant will be informed in writing that the application was denied.

81.0404.02 Public Hearing and Board Determination. If the Art Jury approves or conditionally approves the proposed annexation, the Board will review the application and the Art Jury's recommendation and conduct a public hearing on the application pursuant to the Bylaws Article IV, Section 6(c)(1). At or subsequent to the hearing, the Board shall approve, conditionally approve or deny the application. If the application is approved or conditionally approved, the applicant will be notified of the Board's approval, and notice will be posted on the Association bulletin board for 30 days. If the Board denies the application, the review process is over and the applicant will be informed in writing that the application was denied.

81.0404.03 Conditional Approvals. If both the Board and the Art Jury determine to conditionally approve an annexation but their recommended conditions of approval are not the same, then the following shall apply:

- a. If conditions affect different issues, then the applicant must comply with the conditions of both the Board and the Art Jury.
- b. If the Board and the Art Jury impose conditions that affect the same issue, the more stringent conditions shall apply.
- c. If the Board determines to impose a condition that is contrary to the Art Jury's condition(s), the Board shall return the application to the Art Jury for reconsideration of the opposing condition(s).
- d. If, subsequent to reconsideration as stated above in 81.0404.03(c), the Board and Art Jury's conditions of approval are still conflicting and not in accordance with §81.040403(a) or (b) above, the Board shall deem the application denied (since it would be impossible for the applicant to satisfy opposing conditions).

81.0405 Internal Annexations: Member Petition. Association approval of a proposed internal annexation is subject to member petition and potential denial pursuant to Article IV, Sections 6(c) and (d) of the Bylaws.

81.0406 External Annexations: Membership Vote. All external annexations (that is annexations of properties located outside that area described in Article IV, Section 6(c)(2) of the Bylaws) to the jurisdiction of the Protective Covenant must be approved by the Association voting membership, pursuant to Article IV, Sections 6(c) and (d) of the Bylaws.

81.0407 Processing Time Limitations. If the Board (and Association membership, if §81.0406 applies) fails to approve or conditionally approve the applicant's annexation application within six months after the Manager accepts the application as complete, the annexation application shall be deemed expired and the Association shall close its file, with no refund or credit of fees to the applicant.

81.05 Conditions of Approval. As a condition of annexation, the Board or Art Jury may require the applicant to effect specified changes to the subject property and its improvements as well as provide additional benefits to the Association including, but not limited to, dedicated open space, trail easements, capital facilities or a contribution to capital facilities and other monetary fees and assessments. The Board and Art Jury may also impose conditions that prohibit the applicant from expanding existing non-conforming improvements or require the applicant to alter or remove some or all of the non-conforming improvements (To the extent the Board and Art Jury allow the property to be annexed with non-conforming improvements, the annexation shall not serve as a precedent for proposed improvements on the same property or on other properties). The Art Jury and the Board may require such conditions and/or contributions as will, in their opinion, fulfill the findings established in §81.0402(a) and §81.0402(b) above. All required conditions of approval shall be clearly stated in the Board's resolution of approval of the annexation and the Covenant Acceptance Agreement.

81.06 Class of Use District. The Art Jury and the Board shall establish the class of use district for the subject property. The established class of use district shall be stated in the Board's resolution of approval of the annexation and shall be contained in the recorded Covenant Acceptance Agreement.

81.07 No Changes Allowed to Property. Between the date the Manager notifies the applicant that the annexation application is complete, and the date the Manager approves the applicant's recorded Covenant Acceptance Agreement (as described in Section 81.08(d) below), the applicant shall not construct new improvements, modify existing improvements, grade or otherwise alter the existing landscape in any way, other than those improvements and alterations that the Board or Art Jury may expressly require as a condition to their approval of the annexation application. If any of the foregoing occurs *before* the Board or Art Jury has approved or conditionally approved the annexation, the annexation application shall be deemed void. If any of the foregoing occurs *after* the Board and Art Jury have approved or conditionally approved the annexation, then (1) the Board's and Art Jury's annexation approvals shall be automatically rescinded, (2) the annexation application shall be deemed void and (3) the applicant shall immediately return any unrecorded Covenant Acceptance Agreement to the Manager; provided, however, if the Board and Art Jury both determine in their sole and absolute discretion that the applicant's modifications to the improvements or land (1) are inconsequential and immaterial and (2) do not affect the Board's and Art Jury's prior findings of approval, then the applicant shall be permitted to finalize their annexation application and record the Covenant Acceptance Agreement.

81.08 Finalization. Upon the applicant's receipt of all annexation approvals pursuant to the requirements of this chapter and the Governing Documents, the Board shall direct the Manager to:

- a. Collect any and all monetary fees and assessments and accept any dedications which are associated with the annexation approval.
- b. Instruct the applicant to prepare all easements, record them with the San Diego County Recorder and file copies of any recorded easements that are a condition of the annexation approval with the Association. The applicant shall provide drafts of all recordable documents to the Manager for review to ensure their acceptability prior to recording. Recordation and recordation costs are the responsibility of the applicant.

- c. Verify that all the prerequisite conditions to the recordation of the Covenant Acceptance Agreement have been fulfilled and are in substantial conformance with the approval or conditional approval granted by the Association.
- d. Upon the completion of all of the foregoing, prepare for recording with the San Diego County Recorder acceptance of an annexation into the Rancho Santa Fe Protective Covenant (Covenant Acceptance Agreement) pursuant to Declarations No. 1, 2 and 3 [Paragraphs 171, 231 and 259 respectively] of the Protective Covenant. The annexation shall not be considered effective or complete until the applicant files the Covenant Acceptance Agreement for record in the Office of the San Diego County Recorder and delivers a copy thereof to the Manager, and the Manager approves the recorded Covenant Acceptance Agreement in writing.

81.09 Time Requirements for Finalization. The applicant will have one year from the date of final Board or Association membership approval pursuant to the Bylaws Article IV, Section 6(c), (2) or (3), whichever is applicable, to satisfy all the requirements and conditions of the approval necessary for the Manager to allow the applicant to record the Covenant Acceptance Agreement. If the applicant fails to timely satisfy the Board's and Art Jury's conditions of approval or fails to timely record the Covenant Acceptance Agreement, as outlined in §81.08 et. seq., within one such year period, the approval of the annexation will be deemed null and void at the end of the one year time frame. No extensions shall be granted.

81.0901 Time Requirements for Concurrent Subdivision Processing. Notwithstanding §81.09 above, if the Board in their sole discretion, requires the concurrent processing of a subdivision application, then the date for the applicant to satisfy annexation conditions directly relating to finalization of the subdivision shall be automatically extended to coincide with the date(s) set forth in §60.0803, §60.0804 and §60.0804.01 of Chapter 60.

81.10 Effective Date. The effective date of this chapter is June 1, 1995.

81.11 Amended Date. This chapter was amended at §81.0501 and §81.06, §§81.03(e.), 81.0301, 81.0301.01 and 81.0302 were added on April 17, 1997. This chapter was amended at §81.11(b, c and d) on January 15, 1998. This chapter was amended and restated on April 17, 2008.