

CHAPTER 61
REGULATION FOR THE REALIGNMENT
OF COVENANT ACCEPTANCE AGREEMENT AREA BOUNDARIES
CONCURRENT WITH SUBDIVISIONS AND BOUNDARY
ADJUSTMENTS

61.01 Purpose and Intent. Association members periodically desire to remove or adjust their properties' boundary lines, or create new property lines through subdivision. The purpose of this regulation is to preserve and maintain the validity, authority and applicability of Covenant Acceptance Agreements (defined below) when property owner's request to modify the boundaries of those properties subject to such Covenant Acceptance Agreements. The intent of this regulation is to provide a method by which Covenant Acceptance Agreement Areas (defined below) can be realigned to coincide with the proposed new lots or property boundary lines. This coincidence of boundaries may be necessary to assure that the entirety of the resulting lots or parcels comply with the applicable Covenant Acceptance Agreement in terms of minimum lot size, number of building sites allowed, allowed uses of property and in other respects.

61.02 Authority. This regulation is established pursuant to the Association's authority in Article II, Section 4 [Paragraphs 36 and 37] of the Protective Covenant.

61.03 Definitions.

61.0301 The term "Covenant Acceptance Agreement Area" shall mean any of the following:

- a. That area subject to an agreement to annex property, as described in Article V, Section 5 [Paragraph 171] of Declaration No. 1; Article I, Section 12 [Paragraph 231] of Declaration No. 2; and Article I, Section 12 [Paragraph 259] of Declaration No. 3 of the Protective Covenant.
- b. That area subject to a common use district class, as those classes are established in Article IV, Section 2 [Paragraphs 92-95] of Declaration No. 1 of the Protective Covenant.
- c. Those areas subject to agreements to annex property or subject to a common class of use district, as herein described, which may be subsequently modified in the manner set forth in Article V, Section 3 [Paragraph 165] of Declaration No. 1; Article I, Section 11 [Paragraph 230] of Declaration No. 2; and Article I, Section 11 [Paragraph 258] of Declaration No. 3 of the Protective Covenant.

61.0302 The term "Covenant Acceptance Agreement" shall mean the Protective Covenant, and any other instrument filed for record with the Office of the San Diego County Recorder which regulates the applicable Covenant Acceptance Agreement Area.

61.0302.01 Specific Exception. Specifically omitted from the definition of Covenant Acceptance Agreements are restrictive covenants recorded pursuant to Civil Code Section 1468, which are not of a kind listed in the preceding definitions.

61.04 Applicability. This regulation applies to members' subdivision proposals and boundary adjustment proposals where existing Covenant Acceptance Agreement Area boundaries do not coincide with the proposed lot lines.

61.05 Methods to Align Covenant Acceptance Agreement Area Boundaries with Proposed Lot Lines. The Association finds that Covenant Acceptance Agreement Area boundaries should coincide with the members' proposed subdivision lot lines or boundary adjustment lot lines. One of the following methods shall be used to align Covenant Acceptance Agreement boundaries with lot lines:

61.0501 Land Adjustment Process. The member may realign the Covenant Acceptance Agreement Area boundaries as part of the members' subdivision or boundary adjustment process if, in the opinion of the Manager, (1) the intent of the pertinent Covenant Acceptance Agreement is not changed and (2) the members' development rights and land use restrictions applicable to the affected property after completion of the subdivision or boundary adjustment are equal to or more stringent than before the subdivision or boundary adjustment; or,

61.0502 Covenant Modification Process. If the member is unable to comply with the land adjustment process described in §61.0501 above, the member shall utilize the covenant modification procedures set forth in Article V, Section 3 [Paragraph 165] of Declaration No. 1; Article I, Section 11 [Paragraph 230] of Declaration No. 2; and Article I, Section 11 [Paragraph 258] of Declaration No. 3 of the Protective Covenant and Chapter 80 of the Code.

61.06 Exception. The Board of Directors in its sole and absolute discretion may waive the requirement to align Covenant Acceptance Agreement Area boundaries with lot lines where it determines that doing so would create an extreme hardship to the member and would not serve to maintain or enhance the character of the property.

61.07 Effective Date. The effective date of this chapter is April 20, 1995.

61.08 Amended Date. This chapter was amended and restated on November 1, 2007.