

ARTICLE 11 DESIGN REVIEW BOARD

Section 11.1 Design Review Board and Guidelines. There is hereby established a Design Review Board (the "Design Review Board"), which will be responsible for the establishment and administration of Design Guidelines to facilitate the purpose and intent of this Declaration.

Section 11.2 Purpose and General Authority. The Design Review Board will review, study and either approve or reject proposed improvements on the Property, all in compliance with this Declaration and as further set forth in the Design Guidelines and such rules and regulations as the Design Review Board may establish from time to time to govern its proceedings. No improvement will be erected, placed, improved, reconstructed, replaced, repaired or otherwise altered, nor will any construction, repair or reconstruction be commenced until plans for the improvements shall have been approved by the Design Review Board; provided, however, that improvements that are completely within a dwelling structure may be undertaken without such approval. In addition, the Design Review Board shall have the authority to establish, cancel, modify and enforce rules and regulations relating to construction activities undertaken within the Community.

Section 11.3 Board Discretion. The Design Review Board will exercise its reasonable judgment to see that all improvements conform and harmonize with any existing structures as to external design, quality and type of construction, sealants, stains, materials, color, location on the building site, height, grade and finished ground elevation, landscaping, and the schemes and aesthetic considerations set forth in the Design Guidelines and other Association Documents. The Design Review Board, in its sole discretion but in compliance with the Development Approvals and other restrictions and easements to which the Property is subject, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. The approval by the Design Review Board of improvements on the Property shall carry no precedential weight when reviewing subsequent requests for approvals, and the Design Review Board shall not be required to approve requests for the same or similar improvements.

Section 11.4 Design Guidelines. The Design Guidelines may include, among other things, at the sole discretion of the Design Review Board, the restrictions and limitations set forth below:

11.4.1 Procedures and necessary fees for making application to the Design Review Board for design review approval, including the documents to be submitted and the time limits in which the Design Review Board must act to approve or disapprove any submission.

11.4.2 Time limitations for the completion, within specified periods after approval, of the improvements for which approval is required under the Design Guidelines.

11.4.3 Designation of the building site on a Unit and establishing the maximum developable area of the Unit.

11.4.4 Minimum and maximum square foot areas of living space that may be developed on any Unit.

11.4.5 Landscaping regulations, with limitations and restrictions prohibiting the removal or requiring the replacement of existing trees, the type and use of plants, and other practices benefiting the protection of the environment, conservation of water (including regulations required to enforce the Design Guidelines and any rules and regulations adopted pursuant thereto), exterior color schemes, aesthetics and architectural harmony of the Community.

11.4.6 Fire mitigation requirements, including, without limitation, fire resistant landscaping and the creation of wildfire defensible zones, as described in the Design Guidelines.

11.4.7 General instructions for the construction, reconstruction, refinishing or alteration of any improvement, including any plan to excavate, fill or make any other temporary or permanent change in the natural or existing surface contour or drainage or any installation or utility lines or conduits on the Property, addressing matters such as trash removal, equipment and materials storage, grading, transformers and meters.

The Design Review Board may amend, repeal and augment the Design Guidelines from time to time, in the Design Review Board's sole discretion. The Design Guidelines will be binding on all Owners and other Persons governed by this Declaration. Notwithstanding the foregoing, the Design Review Board is empowered in its discretion to grant variances from the requirements of the Design Guidelines under unique or unusual circumstances. The Design Review Board is authorized to adopt different Design Guidelines to apply to different portions of the Community or Neighborhoods within the Community at the discretion of the Design Review Board.

Section 11.5 Design Review Board Membership. The Design Review Board will be composed of three (3) persons. The Design Review Board need not include any Member of the Association. All of the members of the Design Review Board will be appointed, removed and replaced by Declarant, in its sole discretion, until all the Units comprising the Property have been conveyed by Declarant and Declarant no longer has the right to create additional Units within the Property, or such earlier time as Declarant may elect to voluntarily waive this right by notice to the Association, and at that time the Executive Board will succeed to Declarant's right to appoint, remove or replace the members of the Design Review Board.

Section 11.6 Organization and Operation of Design Review Board.

11.6.1 The term of office of each member of the Design Review Board, subject to Section 11.5, will be one year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a Design Review Board member die, retire or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided below.

11.6.2 So long as Declarant appoints the Design Review Board, Declarant will appoint the chairman. At such time as the Design Review Board is appointed by the Executive Board, the chairman will be elected annually from among the members of the Design

Review Board by a majority vote of such members. In the absence of a chairman, the party responsible for appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, an interim chairman.

11.6.3 The Design Review Board chairman will take charge of and conduct all meetings and will provide reasonable notice to each member of the Design Review Board prior to any meeting. The notice will set forth the time and place of the meeting, and notice may be waived by any member.

11.6.4 The affirmative vote of majority of the members of the Design Review Board will govern its actions and be the act of the Design Review Board.

11.6.5 The Design Review Board may avail itself of other technical and professional advice and consultants as it deems appropriate, and the Design Review Board may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the Design Review Board.

Section 11.7 Expenses. Except as provided in this Section below, all expenses of the Design Review Board will be paid by the Association and will constitute a Common Expense. The Design Review Board will have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Design Review Board from time to time, and such fees will be collected by the Design Review Board and remitted to the Association to help defray the expenses of the Design Review Board's operation. Further, the Design Review Board may retain the services of a third party consultant, architect or other professional as reasonably necessary or customary to assist the Design Review Board in reviewing a particular application. In such event, the Design Review Board may charge the applicant for the professional fees incurred in retaining such consultant, architect or other professional.

Section 11.8 Other Requirements. Compliance with the Association's design review process is not a substitute for compliance with the PUD development approvals applicable to the Property and building, zoning and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction.

Further, the establishment of the Design Review Board and procedures for architectural review will not be construed as changing any rights or restrictions upon Owners to maintain and repair their Units and improvements as otherwise required under the Association Documents.

Section 11.9 Limitation of Liability. The Design Review Board will use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither the Design Review Board nor any individual Design Review Board member will be liable to any Person for any official act of the Design Review Board in connection with submitted plans and specifications, except to the extent the Design Review Board or any individual Design Review Board member acted with malice or wrongful intent. Approval by the Design Review Board does not necessarily assure approval by any other applicable governmental or quasi-governmental body. Notwithstanding that the Design Review Board has approved plans and specifications, neither the Design Review Board nor any of its members will be responsible or

liable to any Owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason of such approval of the construction of the improvements. Neither the Executive Board, the Design Review Board, nor any agent thereof, nor Declarant, nor any of its partners, employees, agents or consultants will be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration and the Design Guidelines, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Design Review Board will be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the Design Review Board's decisions. The Association, however, will not be obligated to indemnify each member of the Design Review Board to the extent that any such member of the Design Review Board is adjudged to be liable for malice or wrongful intent in the performance of his duty as a member of the Design Review Board, unless and then only to the extent that the court in which such action or suit may be brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such Person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

Section 11.10 Enforcement.

11.10.1 Any member or authorized consultant of the Design Review Board, or any authorized officer, Director, employee or agent of the Association may enter upon any Unit at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect improvements constructed or under construction on the Unit to determine whether the improvements have been or are being built in compliance with this Declaration, the Design Guidelines and the plans and specifications approved by the Design Review Board.

11.10.2 Before any improvements on a Unit may be occupied, the Owner of the Unit will be required to request and obtain a temporary or final certificate of compliance issued by the Design Review Board indicating substantial completion of the improvements in accordance with the plans and specifications approved by the Design Review Board, and imposing such conditions for issuance of a final certificate of compliance issued by the Design Review Board as the Design Review Board may determine to be appropriate in its reasonable discretion. Without limiting the generality of the preceding sentence, the Design Review Board may require that the Owner deposit with the board at any time (including prior to commencement of construction) such sums as may be necessary to complete the construction and landscaping on the Unit by a specified date. If the construction and landscaping is not completed as scheduled, the Design Review Board may apply the deposit to cover the cost of completing the work and enforce such other remedies as are available to the Association for the failure of the Owner to comply with these covenants, including without limitation the remedies set forth in this Section.

11.10.3 Upon completion of construction, the Design Review Board will issue an acknowledged certificate of compliance at the request of Owner setting forth generally whether, to the best of the Design Review Board's knowledge, the improvements on a particular Unit are in compliance with the terms and conditions of the Design Guidelines.

11.10.4 Every violation of these covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or

equity against an Owner will be applicable. Without limiting the generality of the foregoing, these covenants may be enforced as provided below:

11.10.4.1 The Design Review Board may adopt a schedule of fines for failure to abide by the Design Review Board rules and the Design Guidelines, including fines for failure to obtain any required approval from the Design Review Board.

11.10.4.2 The Association, upon request of the Design Review Board and after reasonable notice to the offender and, if different, to the Owner, may enter upon any Unit at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove, repair, replace or reconstruct any improvement constructed, reconstructed, refinished, altered or maintained in violation of these covenants or take such other action as is necessary to cure the violation. The Owner of the improvement will immediately reimburse the Association for all expenses incurred in connection with such action by the Association. If the Owner fails to reimburse the Association within thirty (30) days after the Association gives the Owner notice of the expenses, the sum owed to the Association will bear interest at the default rate from the date of the advance by the Association through the date of reimbursement in full, and all such sums and interest will be a Default Assessment enforceable as provided in Article 10.

11.10.4.3 All improvements commenced on the Property will be prosecuted diligently to completion and will be completed within two (2) years after commencement unless an exception is granted in writing by the Design Review Board. If an improvement is commenced and construction is then abandoned for more than ninety (90) days, or if construction is not completed within the required two (2) year period, then after notice and opportunity for hearing, the Association may impose a fine of \$1,000 per day (or such other reasonable amount as the Association may determine) to be charged against the Owner of the Unit until construction is resumed, or the improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Executive Board that such abandonment is for circumstances beyond the Owner's control. Such charges will be a Default Assessment and lien as provided in Article 10.

Section 11.11 Binding Effect. The actions of the Design Review Board in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it or with respect to any other matter before it, will be conclusive and binding on all interested parties.

ARTICLE 12 DAMAGE OR DESTRUCTION

Section 12.1 The Role of the Executive Board. Except as provided in Section 12.6, in the event of damage to or destruction of all or part of any Common Area improvement, or other property covered by insurance written in the name of the Association under Article 9, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged property (the property insured by the Association pursuant to Article 9 is sometimes referred to as the "Association-Insured Property").

Section 12.2 Estimate of Damages or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Executive Board shall, unless such damage or destruction shall be minor, obtain an estimate or estimates