

**COOLPONT MOUNTAINSIDE ASSOCIATION, INC.
REGULATIONS REGARDING THE USE OF PROPERTY**

ENACTMENT AND TITLE

The Coolfont Mountainside Association, Inc., (hereafter “the Association”) pursuant to the requirement of Article VI, Section 1 of the Declaration of Covenants and Restrictions (as amended), after notice and membership approval as prescribed by the Declaration of Covenants and Restrictions and Applicable Bylaws, does:

1. hereby establish and adopt these regulations to supersede in full any other regulations *
2. hereby authorize the Board of Directors (Board) to prepare and adopt administrative procedures to implement these Regulations.

The regulations shall become effective at 12:01 a.m. January 1, 1989.

DIVISION 1 - PURPOSE OF THE REGULATIONS

ARTICLE 1.1 - GENERAL

The Association and the uses of its common lands, are designated in the Declaration of Covenants and Restrictions as “... a recreational community with permanent parks, wilderness, open spaces, and other common facilities for the benefit of the said community...”

Lots within the Association are designated in the Declaration of Covenants and Restrictions for development as “single family residential homes on single lots.”

ARTICLE 1.2 - PURPOSE

These regulations are adopted for the purpose of protecting the Association - and promoting the health, safety, comfort and welfare of the present and future inhabitants of the Association.

DIVISION 2 - DEFINITIONS AND INTERPRETATION

ARTICLE 2.1 - DEFINITIONS

Building. A structure having one or more stories and a roof, designed primarily for the shelter, support or enclosure of persons, animal(s) or property of any kind.

Building, accessory. A building subordinate to, and located on the same lot with a main building, the use of which is incidental to that of the main building (a single family residence) or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building,

Dwelling, single family. A main building containing not more than one dwelling unit and used exclusively as a residence for a single family.

Such dwelling may be occupied by not more than a single family (which definition shall not be deemed to exclude additional occupancy resulting from occasional overnight guests of the single family or co-owners).

Tenant (rental) use of houses consistent with the above single family occupancy requirements, leased on other than a daily basis, and not open to the general public, shall be considered to conform to this definition, Such rental shall be also subject to a maximum occupancy (total occupancy) which does not exceed the number of bedrooms times two persons,

Family, single. Generally: a group of immediate kindred constituting a single household, which may include

- o children and parents, or married couples without children, and grandparents and great grandparents and unmarried brothers and/or sisters and which may also include;
- o not more than 2 nonpaying unrelated cohabiting persons in addition to such family,
- o or, instead of such family, not more than four (4) unrelated co-owners.

Land, common. Lands owned by the Association, subject to the Declarations of Covenants and Restrictions, and held for the common enjoyment of the members.

Structure. An assembly of materials forming a construction for occupancy or use including but not limited to buildings, decks, platforms, radio and TV broadcasting or reception tower(s), antenna or antennae, bridges, open sheds, shelters, fences, walls and utility poles or pipelines.

Use, accessory. A use of a building lot, or portion thereof which is incidental and subordinate to the principal use of the main building or lot, such as a trailer used temporarily for construction administration.

ARTICLE 2.2 - INTERPRETATION

In these regulations, words used in the present tense include the future. Words in the singular include the plural and words in the plural include the singular. In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements for the protection of health, safety and general welfare of the members of the Association.

These regulations shall be deemed to not interfere with, abrogate or annul or otherwise affect in any manner whatsoever any ordinances, rule, regulations or easements, covenants or other agreements between parties.

Where these regulations impose a greater restriction upon the use of buildings or premise or upon the sizes or volumes of buildings, structures or open spaces than are imposed or required by other ordinances, rules, regulations or permits, or by easements, covenants, or agreements, the provisions of these regulations shall prevail.

DIVISION 3 - LAND USES

ARTICLE 3.1. - GENERAL

No use shall be allowed except such uses identified as permitted under Article 3.2, or authorized as a special exception under Division 4, subject to all applicable regulations.

ARTICLE 3.2 – PERMITTED USES

3.2.1 - Common Land

Common land. shall be left in a natural or wilderness state, or improved with recreational facilities, permanent parks, open spaces, and other common facilities for the benefit of the community as approved by the Members of the Association. in accordance with its By-Laws.

3.2.2 - Individual Lots.

The following uses are permitted by right on each single lot of record:

Main building - shall be only a single family dwelling, which may include a home occupation where conducted by a permanent resident of the dwelling, provided that such uses (taken together or in combination):

- do not employ any persons unrelated to the single family residents
- do not deal in person with the public at the residence,
- do not utilize outdoor areas for storage, or fabrication,
- and which, as determined by the Board of Directors do not produce, obnoxious or toxic wastes or odors, sound, noise or vibration, or objectionable traffic.
- Attached private garage/storage or carport, not exceeding 500 square feet in area, and, designed to house no more than 2 motor vehicles.
- Accessory use, a temporary trailer for the construction industry that is incidental to erection of buildings or other structures permitted. (Such trailer may not be used for habitation.) Such trailer shall be subject to Development and Architectural Control Committee (DACC) approval regarding type and location. No trailer may remain on a lot for more than 6 months. A bond, or letter of credit in the amount determined by the DACC shall be posted with Coolfont Mountainside Association, Inc. to ensure removal of such trailer.
- Accessory buildings or structures including decks, trash containers and firewood enclosures or structures, swimming pools, walls and privacy fencing, antennae and exterior air conditioning equipment. All accessory buildings or structures shall be subject to DACC approval for type, construction and location.

ARTICLE 3.3 - PROHIBITED USES

The following uses and structures are prohibited:

- Multi-family residential uses including guest houses and apartment buildings (but see accessory apartments, and. group rental housing under special exceptions).
- Commercial uses including retail or wholesale sales and retail or wholesale services. Prohibited uses include but are not limited to hotels, motels, boarding and. rooming houses, animal hospitals, kennels and veterinary offices, antique shops parking lots serving adjacent commercial or industrial property, general offices, insurance or real estate sales offices, medical practitioner office, or photography studio.
- Industrial operations of all types including but not limited to outside storage, warehousing and manufacturing.
- Resource extraction including but not limited to the mining or transport of ores, gravel and rock, earth and topsoil, or the extraction or conveyance of oil, or gas.
- Institutional and. educational facilities including but not limited, to churches, day care, hospitals, nursing or care home, schools public or private.
- Miscellaneous uses including but not limited to: agriculture other than a residential garden, wayside stands or seasonal sales, raising or breeding of livestock or poultry, housing of more than 2 household pets or housing of pets outside, and housing of animals not customarily household pets.
- No vehicle larger than a passenger or step van may be stored or parked on a lot. Trailers shall be permitted only when parked or stored in a garage; No more than 4 vehicles may be regularly parked on a lot (but note that vehicles parked in a garage shall not count toward this total of 4 vehicles.)
- No advertising of any type shall be allowed on lots or common land except realty signs or directional or identification signs approved by the DACC. Vehicles displaying advertising shall be parked in a garage only, and shall not be parked on a lot.

DIVISION 4 - SPECIAL EXCEPTION USES

ARTICLE 4.1 - AUTHORITY

Pursuant to authority of these Regulations, the Board is authorized to grant special exceptions, as provided herein, where, in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Regulations and will not tend to adversely affect the use of neighboring property, subject in each case to the special conditions specified in this article.

The fact that an application complies with all specific requirements and purposes set forth herein shall not be deemed to create a presumption that the application is, in fact, compatible with surrounding land uses and, in itself, shall not be sufficient to require the granting of any application. The applicant for a special exception shall have the burden of proof which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined.

The following uses are permitted by Special Exception, where approved by the Board, on each single lot of record:

ARTICLE 4.2 - ACCESSORY APARTMENT.

4.2.1 - Purpose. It is the purpose of the Association., in allowing a special exception for an accessory apartment to promote full-time resident occupancy in the community.

This special exception is seen as a measure to aid the handicapped, medically disabled,, retired and elderly through the security afforded by the close presence of another individual or family, a sharing of the expenses of Association residency, and/or a measure which could foster continued, family residency on terms which provide a degree of independence to the family participants.

4.2.2 - Requirements. A special exception may be granted for an accessory apartment subject to the following:

Occupancy shall conform to the purpose clause above.

- o The apartment shall be internal to the dwelling, and the dwelling in which the accessory apartment is to be created or added must be at least 3 years old on the date of application for the special exception.
- o combined occupancy of the single family dwelling and accessory apartment shall not exceed twice the number of bedrooms or a maximum of 10 persons.
- o The owner of the subject lot shall occupy one of the dwelling units, except for bona-fide absences not exceeding six months in any twelve month period. The period of temporary absence may be increased by the Board upon a finding that a hardship would result. For purposes of this section, "owner" means an individual who owns or whose parent or child, owns a substantial equitable interest in the property as determined by the Board.
- o Accessory apartments shall not, when considered in combination with other existing or approved accessory apartments, result in an excessive concentration of such uses within the community.
- o Any separate entrance must be away from the road on which the main dwelling fronts. The accessory apartment must have the same address (identification) as the main dwelling. All proposed external modifications and improvements shall be submitted with the application.
- o Adequate parking shall be provided. There shall be sufficient off-street parking to accommodate all owned and two (2) guest vehicles, located so as to be compatible with surrounding properties.
- o Accessory apartments shall not be detrimental to the use and peaceful enjoyment of surrounding properties or the general neighborhood, and shall cause no objectionable noise, traffic or other adverse impacts. Accordingly, the Board may impose additional restrictions or conditions as are deemed appropriate to the purpose of this article and, the specific location and character of the residence and lot.

4.2.3 - Duration. The special exception, once approved, shall remain in force for the period of 10 years; and shall, in the absence of complaint(s) be automatically renewed, subject to continued conformance to the above conditions and every additional condition of approval. Upon transfer or sale of the property, the accessory apartment may not be maintained unless the Board affirms the applicability of the purpose clause to the new Owner(s), and there is continued conformance with the above conditions and every additional and then current condition of approval

ARTICLE 4.3 - GROUP RENTAL HOUSING

4.3.1 Purpose. While the Association regards permanent residency as the greatest support and enhancement of both the community and property values, and the best source of security the history of the community evidences the prevalence of second home development, and the desirability of rental occupancy and activity in preference to vacant homes and lots.

As well as being the family oriented rental retreat allowed as a permitted use, it is perceived that the residences may be a desirable location for group seminars - or a quiet home base for recreational or conference functions at neighboring areas.

It is the purpose of the Association, in allowing a special exception for group rental housing, to foster occupancy of homes and activity within the lands of the Association while protecting the character of the community.

4.3.2 - Group Rental Housing Categories

Class A. Class A group rental housing, is a category intended to most closely conform to the character and use of a quiet single family community. Restrictions on occupancy to a maximum of 6 persons with no more than 3 cars seek to minimize conflicts with the peaceful and natural environment of the Association.

Class B. Class B group rental housing is a category whose restrictions on occupancy to a maximum of 10 persons with no more than 4 vehicles is judged to be acceptable if careful management and controls are maintained.

4.3.3 - General Provisions

- o Occupancy shall conform to the category of use approved. Rentals shall be for a maximum period of two (2) weeks but not less than two (2) days.
- o The residence shall provide a quantity of bedrooms, toilet and bath facilities, kitchen. And living space areas and, seating commensurate with the occupancy limit requested in the application for a special exception as determined by the Board. The use of living spaces as multi-use living/sleeping areas will not be permitted in the determination of permitted occupancy. For purposes of determining occupant capacity, bedroom occupancy will be restricted to a maximum of two (2) persons per bedroom,
- o On site parking shall be adequate for the proposed occupancy, and in accordance with other provisions of these regulations.
- o At all times, current Association rules with regard to group rental occupancy will be observed and such rules shall be posted in a conspicuous location. Such rules shall

include such provisions as designation of quiet hours, prohibition of open fires, parking requirements, and maximum occupancy.

o The Owner and/or the Owner's agent shall maintain, for a period of not less than 1 year, the names, addresses and, as practical, phone numbers of renters - and upon request by the Board or its authorized agent, shall provide such information for dates requested.

o Group rental houses shall not be detrimental to the use and peaceful enjoyment of surrounding properties or the general community, and shall cause no objectionable noise, traffic or other adverse impacts. Accordingly, the Board may impose additional restrictions or conditions as are deemed appropriate to the purpose of this article and the specific location and character of the residence and Lot.

4.3.4 - Special Requirements

Class B - Group rental housing, shall not, when considered in combination with other existing or approved Class B quarters, result in an excessive concentration of such uses within the community.

4.3.5 - Duration of Special Exception

The special exception, once approved, shall remain in force for a period of 5 years, and shall, in the absence of complaint(s), be automatically extended during the period of applicant ownership, subject to continued conformance to the above conditions, every additional condition of approval, and conformance to any changes to the conditions resulting from a text amendment approved by the Membership of the Association.

Upon transfer or sale of the property, the special exception for group rental housing may be maintained subject to the new Owners' continued conformance with all the above conditions, every additional term of approval, and conformance to any changes to the conditions resulting from a text amendment approved by the Membership of the Association.

ARTICLE 4.4 - SPECIAL HOME OCCUPATIONS

4.4.1 - Purpose. It is the purpose of the Association, in allowing a special exception for special home occupations to promote full-time resident occupancy in the community while protecting the character of the community.

4.4.2 - Requirements. A special exception may be granted for a home occupation or more than one home occupation, as an accessory use in a dwelling, subject to the following;

- o Generally, the occupation or occupations, taken alone or together shall employ not more than the equivalent of one (1) full time person unrelated to the permanent residents. The board may approve up to the equivalent of two (2) full time persons where the location of the lot and/or nature of the occupation is determined by the Board to be consistent with the intent of this Article, and
- o the occupation(s) deal in a limited manner with the public. Such occupations would include accountants, architects, clergymen, engineers, lawyers, and similar recognized and learned professions; or
- o the occupation(s) do not involve public access to the residence, but rather the occupant travels from the residence to the public.
- o Special Exception home occupations shall not be detrimental to the use and peaceful enjoyment of surrounding properties or the general community, and shall cause no objectionable noise, traffic or other adverse impacts. Accordingly, the Board may impose such restrictions or conditions as are deemed appropriate to the purpose of this article and the specific location and character of the residence and lot.
- o Special home occupations shall not, when considered in combination with other existing or approved special home occupations, result in an excessive concentration of such uses within the community.

4.4.3 - Application. Requirements. The applicant, as part of the Special Exception application, shall identify in detail the proposed occupation(s) to be practiced at the residence, hours of operation, the number of non-related employees and nonresident employees to be located at the residence, the frequency of public access and deliveries or shipping, and such other information as may be required by the Board. Any toxic or dangerous chemicals to be stored or used, and any noise making machinery or process shall be identified in the application, and measures for the mitigation of any possible adverse impacts shall, be addressed.

4.4.4 - Duration

The special exception., once approved, shall remain in force for a period of 10 years. Not later than 90 days prior to the expiration of the special exception, a new application shall be submitted if the applicant wishes to continue operation as a special home occupation.

Upon transfer or sale of the property, the special exception for a special home occupation shall automatically cease.

It shall be permitted for prospective owner(s) to apply for a special home occupation special exception while contract purchasers of a home or lot.

DIVISION 5 - NONCONFORMING USES

ARTICLE 5.1 - DEFINITION

A building, structure, or use which was lawful when established under these regulations and legally continued, whether as a permitted use or special exception use, but which no longer conforms to the requirements of these (current) regulations because of the adoption of an amendment of revision to the text of these regulations.

ARTICLE 5.2 - CONTINUATION

A nonconforming use may be continued, subject to the following provisions:

5.2.1 - Duration. No nonconforming use of a building structure, or parcel, lot, tract, the subject of a special exception, shall continue beyond the duration stipulated for the special exception.

A permitted use under these regulations made nonconforming by a text amendment may be maintained until a change in ownership of the property, at which time the property shall be brought into conformance with the regulations currently in force.

5.2.2 - Extension or structural alterations. No nonconforming use of a building structure, or parcel, lot, tract of land shall hereafter be extended in any way; except that a nonconforming use may be initiated or extended throughout those parts of a building which were manifestly designed or arranged for such use prior to adoption of these regulations or prior to the text amendment which made it nonconforming.

5.2.3 - Change of use and abandonment. No building or use which is nonconforming and has been changed in whole or part to a more restricted use, or whose nonconforming use has been abandoned shall be again devoted to a less restricted or nonconforming use.

5.2.4 - Reconstruction. No building or structure of a nonconforming use shall, in the event of destruction or serious damage by fire, flood or similar cause, be reconstructed for the purpose of carrying on the nonconforming use. "Serious Damage" shall be defined as damage which reduces the value of the building or structure by more than half its prior value as determined by a professional appraiser approved by the Association.