



**AMENDMENT TO THE DECLARATION OF  
CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS  
OF  
HIGHLANDS OF TURKEY CANON RANCH FILING NO. 2  
(Prohibited Uses)**

**THIS AMENDMENT** is made effective as of the date on which it is recorded in the real property records of El Paso County, Colorado by the HIGHLANDS OF TURKEY CANON RANCH HOMEOWNER'S ASSOCIATION, a Colorado nonprofit corporation (hereinafter called the "Association").

**WITNESSETH:**

**WHEREAS**, the Highlands of Turkey Canon Ranch, Inc., as Declarant, recorded that certain Declaration of Conditions, Covenants, Restrictions and Easements for Highlands of Turkey Canon Ranch on December 5, 2003, in Reception No. 203282283 of the real property records of El Paso County, Colorado (hereinafter collectively called the "Covenants");

**WHEREAS**, Section 101 of the Covenants provides that all Tracts within the Property shall be utilized by any Owner for residential purposes and in accordance with applicable county or other governmental regulations, rules, codes, ordinances or laws (collectively, "Applicable Laws"), and that no business, commercial use or other activity conducted for gain shall be carried on by any Owner within the Property, except for home occupation businesses allowed pursuant to Applicable Laws;

**WHEREAS**, Section 607 of the Covenants provides that the Covenants may be amended or added to by way of an instrument signed and acknowledged by the Owners of at least sixty-seven percent (67%) of the Tracts and filed for record with the County Clerk and Recorder of El Paso County;

**WHEREAS**, the Association and the Owners desire to amend the Covenants in order to prohibit commercial uses.

**NOW, THEREFORE**, the Association and the Owners do hereby amend the Covenants as provided herein and declare that the following covenants, terms, provisions and restrictions shall run with the real property described in the Covenants, shall be a burden upon any person or party acquiring, encumbering, owning, leasing or otherwise holding any interest in said real property, and shall be incorporated into the Covenants as originally set forth therein:

1. The following shall be added to the Covenants as Section 101(A):

"Commercial and Non-Single Family Residential Uses Prohibited. Section 101 of these Covenants requires that all Tracts be used for single family residential purposes and prohibits any business, commercial use or other activity conducted for gain, except for home occupation businesses allowed pursuant to Applicable Laws. The Owners of Tracts within Highlands at Turkey Canon Ranch wish to

further clarify the commercial or non-single family residential uses which are prohibited; in addition to other prohibitions of the Covenants, those prohibited uses include, without limitation, any of the following prohibited uses, if ongoing, as continuing activities:

(i) any growing, assembling, manufacture, distribution, or sale of marijuana or any substance which is related to marijuana or which is illegal under Federal, State or Local laws;

(ii) any short-term rental of a house or portion of a house, including without limitation, Airbnb or VRBO (all leases or similar rental arrangements of any Tract shall have a term of at least six months in duration);

(iii) any boarding house, dormitory, bed and breakfast, group home, nursing home, halfway house, drug rehabilitation house, medical treatment house, human services home, shelter or facility, hospice, healthcare support facility, duplex, apartments, hotel, or motel;

(iv) any use involving the raising, training, veterinary care or kenneling of any animals for commercial purposes;

(v) any use involving the manufacture, distribution or sale of any product for retail or wholesale purposes, including without limitation, any warehouse or self-storage, any repair, storage, display, rental or sale of automobiles, boats, other vehicles or equipment, building supplies or construction materials;

(vi) any use involving the provision of any retail service operation, including without limitation, repair shop, beauty shop, gym, school, daycare, preschool, student housing, massage parlor, outdoor ATV trails, outdoor shooting range, trucking, hauling, taxi, landscaping, catering, food service, or any other similar service which operates or advertises as a business or commercial service available to the general public;

(vii) any other commercial type or non-residential use which generates unreasonable traffic, noise, odors, or nuisance or unreasonable annoyance to the Subdivision or which violates any Federal, State or Local law or regulation or any use which the Board in its reasonable discretion determines is a commercial or non-single family residential use in violation of this Section 101(A).

These prohibitions shall apply to all Owners, tenants, occupants or other persons on any Tracts within Highlands of Turkey Canon Ranch. Notwithstanding any provision of the Covenants, the Association's Board may adopt Rules and Regulations to enforce, define, implement or clarify any provision of the



Covenants, including without limitation, Section 101(A), and any such Rule shall be deemed to be incorporated herein and conclusively presumed to be valid and binding on all Owners and other persons.

The Association shall have all enforcement rights and remedies as set forth in the Covenants, including without limitation, Section 605, and Colorado law and statutes. Those remedies shall apply to Section 101(A) above as well as all other provisions of the Covenants and Rules. In the event of any violation of Section 101(A) or any other provision of the Covenants or Rules, the Board may impose a fine, after notice and an opportunity for a hearing, in any amount that it deems reasonable, including without limitation, a daily fine (not to exceed \$300.00 per day) for any continuing violations. In addition, the Association shall be entitled to obtain an injunction, without posting a bond, to enjoin any violation. Any and all remedies are independent of each other and may be undertaken consecutively or concurrently.”

IN WITNESS WHEREOF, the undersigned have executed and have caused this Amendment to be recorded.

HIGHLANDS OF TURKEY CANON RANCH  
HOMEOWNER'S ASSOCIATION  
a Colorado nonprofit corporation

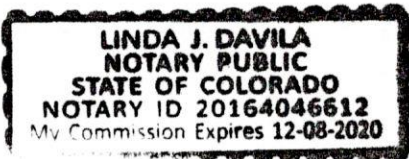
By: [Signature]  
Title: President

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF EL PASO     )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of November, 2017, by Mark Meadows as President of Highlands of Turkey Canon Ranch Homeowner's Association, a Colorado nonprofit corporation.

Witness my hand and official seal.

[Signature: Linda Davila]  
Notary Public  
My commission expires: 12-8-2020



## **Highlands of Turkey Canon Ranch Annual HOA Meeting**

Tuesday, November 14, 2017 6:30 PM

Home of Paul and Laura Kolivoski

15510 S CUERNO VERDE, COLORADO SPRINGS CO 80926-9528

### **Meeting Agenda**

#### **1. Call to Order/Review of past meeting minutes**

Meeting call to order at 7:03 PM.

In attendance: Mark and Susan McClurg, Jerry and Karen Moore, Laura and Paul Kolivoski, Doug and Lisa Weiss, Ken and Carol Bishop, George and Mary Wadeson, Josh and Tiffany Moore, Charles Smith, Eric and Stacy Rasmussen, Marcia Hill (via phone). Total of 21 lots represented via proxy and in person.

Motion to accept minutes from 2016 Annual Meeting: Eric R. Second: Ken B. Approved: Unanimous

#### **2. Old Business**

##### **a. Road condition review**

Avery Asphalt historically used for roadways. Old contact has retired. Need to do more crack sealing in the coming year so we'll be contacting this coming year for road review and possible estimates for repair. Ridge Ride is a little rough from cracks. More reviews of roads coming this year.

##### **b. Trash collection**

Highlands HOA took over trash collection for our HOA in January. Initially every other week but now we are having pick up every week at a cost of \$240/month. Remember to lock the dumpster. A question on possible recycling for our HOA, but unfortunately not practical for us. Recycling

available in Penrose for metals, batteries, etc. and Colorado Springs for paint cans, etc.

### 3. New Business

#### a. Election of Officers-President

Mark McClurg nominated for three year term for President

Move: Ken B. Second: Eric R. Approved: Unanimous

b. Consider Amendment(s) to HPCR Declaration of Conditions, Covenants, Restrictions and Easements for Highlands of Turkey Canon Ranch, Fil. No.2

1. Discussion regarding the number of dogs per household. No action to be taken.

2. Ken and Carol B. have been operating an Airbnb in the HOA for the past several months. Several residents noted that access and security are very important to all residents. Many HOA covenants are in place to protect privacy. Roads are all private HOA common areas. Ken and Carol respect privacy. Covenants restrict commercial business within the HOA but need clarification if short-term rentals to be precluded.

Issues raised: TCR HOA also has an entrance gate with codes for entrance into TCR HOA. Liability issues -- the HOA insurance carrier was unsure about HOA liabilities in the event of an accident or incident involving short-term rentals. If there's an incident, the HOA would likely be sued, in addition to the officers of the HOA. Having one person with an Airbnb invites other owners to offer short-term rentals. Residents moved here to live safely and without excess traffic. This is a "we" environment where we need to decide what risks we are willing to take as a group. We could all make money from offering short-term rentals, but how do we live as a community,

We contacted the HOA legal counsel regarding the position of having short-term rental guests in the HOA. The attorney drafted an amendment to



the HOA restrictive covenants for activities that may be precluded by  $\frac{2}{3}$  majority vote of owners. Items 1-7 from legal counsel refer to the legal issues coming up for communities including marijuana; short term rentals (less than six months duration), animals for commercial purposes, product for resale/wholesale purposes -- focus of amendment to limit traffic within the HOA. It was noted that it is important to be proactive now. Legal counsel recommended we notarize and file the Amendment with the county as drafted. This will be item 101(a) if passed.

Move: Ken B. moves the Amendment to the Declaration of Conditions as drafted by legal counsel. Seconded: Doug W. Approved: Unanimous (21 owners voted affirmative).

c. HOA access/security, change gate entrance code?

Gate code to be changed after January 1, 2018. There will be a code for residents and a code for vendors.

Move: Eric R. to change the gate code(s) Second: Ken B. Approved: Unanimous

d. HTCR 2017 Financial Report/2018 Operating Budget

e. HTCR Developed/Undeveloped Proposed Dues for 2018  
Developed Lot \$75/month (billed as \$900 @ year), Undeveloped Lot \$25/mo. (billed as \$300 @ year).

Move to approve Income Statement, 2018 Proposed Budget and 2018 Proposed Dues structure: Eric R. Second: Paul K. Approved: Unanimous

f. HTCR 2017 Delinquent Dues Report

No delinquent dues.

g. 2017 HOA Expense Reimbursement

Move to reimburse Mark McClurg for HOA expenses personally paid: Doug W. Second: Chuck S. Approved: Unanimously

#### h. Hitch Rack Ranch Gravel Quarry report

Local residents opposed the initial permit application by Transit Mix and won. Everyone who objected was sued by Transit Mix. Now a second application has been filed. If approved, it will go before county for possible rezoning. Many thanks to Jerry M. for all his time, energy and efforts.

#### i. BLM Land access

A new owner has purchased 100 acre parcel contiguous to BLM land and HOA homeowner easement access. Owner(s) are trying to limit access to the BLM land by HOA members. The new owner has posted No Trespassing signage without survey. Unknown parties set up targets and left trash and spent shells on private property, contributing to the current strained relations.

#### j. Other business

Salt was put on the roads last year by a builder/contractor and many trees were killed. HOA Document introduced to require future builders to comply with HOA restrictions on access and use of HOA common areas and to post a \$20,000 bond for possible damages. Violations will produce a fine of up to \$5,000 plus clean-up costs. No construction will commence without executed document.

4. Adjournment 8:53 p.m.

Mark McClurg, President