

Aesthetic Provisions Pertaining to Energy Efficient Measures and Renewable Energy Generation Devices

The following Aesthetic Provisions Pertaining to Energy Efficient Measures and Renewable Energy Generation Devices were adopted by Resolution of the Board of Directors of Mill Run Homeowners Association ("the Association") pursuant to Colorado law at a regular meeting of the Board.

Recitals:

A. Colorado Revised Statute 38-33.3-106.7 ("Energy Efficiency Statute") became effective relative to enforcement actions pending or commenced on or after August 5, 2008. The Statute generally prohibits unreasonable restrictions on Energy Efficient Measures.

B. The Energy Efficiency Statute defines Energy Efficient Measures to include only the following types of devices or structures:

1. An awning, shutter, trellis, ramada, or other shade structure that is marketed for the purpose of reducing energy consumption;
2. A garage or attic fan and any associated vents or louvers;
3. An evaporative cooler;
4. An energy-efficient outdoor lighting device, including without limitation a light fixture containing a coiled or straight fluorescent light bulb, and any solar recharging panel, motion detector, or other equipment connected to the lighting device; and
5. A retractable clothesline.

C. Colorado Revised Statute 38-30-168 ("Energy Generation Statute") generally prohibits unreasonable restrictions on Renewable Energy Generation Devices.

D. The Energy Generation Statute defines Renewable Energy Generation Devices to include:

1. A solar energy device as defined by Colorado Revised Statute 38-32.5-100.3.
2. A wind-electric generator that meets the standards set forth in Colorado Revised Statute 40-2-124.

E. The Energy Efficiency Statute, and the Energy Generation Statute shall be referred to collectively as ("the Statutes").

F. The Statutes allow the Association to adopt reasonable aesthetic provisions to govern the dimensions, placement, or external appearance of Energy Efficient Measures and Renewable Energy Generation Devices.

G. The aesthetic provisions adopted by the Association should consider:

1. the impact on the purchase price and operating costs of the energy efficient measure;
2. the impact on the performance of the energy efficient measure;
3. the criteria contained in the governing documents of the common interest community; and
4. for wind-electric generators, the Association may also consider the noise created by the device and its interference with the use and enjoyment by residents of property situated near wind-electric generators.

H. The Energy Generation Statute requires that the restrictions adopted by the Association cannot significantly increase the cost of the device, or significantly decrease the performance of the device.

I. In accordance with the Association's Procedures for the Adoption and Amendment of Policies, Procedures, and Rules as required by 38-33.3-209.5(1)(b)(vii) C.R.S., the Association desires to adopt these aesthetic provisions pertaining to Energy Efficient Measures or Renewable Energy Generation Devices.

THEREFORE, IT IS RESOLVED:

The following provisions shall apply to installing, changing, or modifying Energy Efficient Measures and Renewable Energy Generation Devices within the Association.

1. An Owner may install, change, or modify an Energy Efficient Measure or Renewable Energy Generation Device on property the Owner owns provided the following conditions are strictly met.
2. The Energy Efficiency Measure or Renewable Energy Generation Device (including the installation and/or construction thereof) must comply with all applicable building codes, building requirements, and all applicable safety standards.
3. The Owner must submit detailed Plans and Specifications for the Energy Efficiency Measure or Renewable Energy Generation Device to the Architectural Control Committee ("Committee") and obtain written approval from the Committee prior to installing, changing or modifying the Energy Efficiency Measure or Renewable Energy Generation Device.

4. Detailed Plans and Specifications generally include, but are not necessarily limited to:

a. The name of the manufacturer and the model number of the improvement. Any marketing materials from the manufacturer outlining objective effect the improvement is expected to have on energy consumption. Location, dimensions (in both its extended and retracted configuration), materials, color, style, and depiction of any awning, shutter, trellis, ramada, or other shade structure used to reduce the Owner's energy consumption.

b. Location, dimensions, materials, color, and style of exterior vents and/or louvers associated with a garage or attic fan; the expected impact to adjoining property from the exhaust from the garage or attic fan (including the level of noise and amount of exhaust expected when fan is running at full speed).

c. Location, dimensions, materials, color, and the type and style of any evaporative cooler.

d. Location, materials, color, style, type, and wattage of bulb, intensity and direction of any outdoor lighting device.

e. Location, dimensions (in all configurations which the panels may be used or maintained), materials, color, style, type, and orientation of any solar charging or recharging panels.

f. Location, dimensions (in all configurations the generator and related equipment may be used and maintained), materials, color, style, type and orientation of any wind-electric generator and the expected impact to adjoining property (including the level of noise expected when the wind-electric generator is running at full speed).

g. Location, style, materials, color and depiction of retractable clothesline (shown in both its extended and retracted configurations) and other elements associated with the clothesline.

5. In passing upon plans and specifications for Energy Efficient Measures and Energy Generation Devices, the Committee shall:

a. Follow the procedures as outlined in Part 2, Architectural Control Committee of Mill Run Homeowners Association Book of Resolutions Part I;

b. Consider the factors enumerated in Article V, Article VI and Article VII of the Declaration;

c. Consider how the improvements harmonize with the existing structures and landscape of both the property to be improved and adjoining property,

including but not limited to a scale and use of materials to promote designs which create a visual extension of the architecture of the residence and conform to the community wide standards;

d. Consider the impact contingent requirements or alternatives imposed by the Committee have on the purchase price and operating cost of the Energy Efficient Measure or Energy Generation Device; the impact the contingent requirements or alternatives have on the performance of the Energy Efficient Measure or the Energy Generation Device;

e. Consider bona fide safety requirements of an applicable building code or recognized electrical safety standard; and

f. In passing on plans and specifications for wind-electric generators, the Committee shall also consider the projected sound of the device and any anticipated interference that sound will have on the use and enjoyment of other property and residents of the Community.

6. The Committee shall act reasonably and in good faith in passing on the Owners request; and shall not arbitrarily prohibit, or effectively prohibit, an Owner from installing or using an Energy Efficient Measure or an Energy Generation Device.

7. Notwithstanding any language to the contrary in the Declaration, or governing documents, the Owner must maintain Energy Efficient Measures or Renewable Energy Generation Devices in operational condition and in a manner consistent with community wide standards. In the event the Owner does not maintain the improvements in a manner consistent with community wide standards, these provisions may be enforced in accordance with the Association's Enforcement Procedure.

8. In the event the Association, in the performance of an exterior maintenance obligation set forth in the Declaration, deems it necessary that the Energy Efficiency Measure or Renewable Energy Generation Device be removed for the maintenance project, Owner shall, at the Owner's sole expense, upon thirty (30) days written notice, remove and store the improvement during the maintenance project and reinstall the Energy Efficiency Measure or Renewable Energy Generation Device upon completion of the project.

9. In the event the Owner fails to remove the Energy Efficiency Measure or Renewable Energy Generation Device in accordance with the notice, the Association may remove the improvement at the Owner's expense. Further, Owner shall have been deemed to waive any claim against the Association in connection with the removal of the improvement.

10. The Owner must also add the Energy Efficient Measure or Renewable Energy Generation Device to their insurance and agree to indemnify the Association, its officers

and agents for all claims, causes of action, demands, damages, injury, and costs associated with the Energy Efficient Measure or Renewable Energy Generation Device.

Policy adopted this 20 day of Jan, 2009 Resolution of the Board of Directors of Mill Run Homeowners Association.

By [Signature]
Its President