

Article VII
TELECOMMUNITY

The Community Council's mission to perpetuate a sense of community life and spirit is an essential element of DC Ranch. In order to promote this goal, the Community Council may provide or facilitate technology, activities, services, educational opportunities, entertainment, health care information, social events and other programs. These aspects of life at DC Ranch enhance its unique character and value. By promoting these aspects of life at DC Ranch, the

Community Council endeavors to establish community building and networking opportunities among all members of the DC Ranch community.

As one means to encourage awareness of, and participation in, such technology, activities, opportunities, events, and programs, Declarant has developed a "Telecommunity System" for DC Ranch. The Telecommunity System takes advantage of the popularity and usefulness of Internet technology, advanced technological infrastructure, and a community intranet system, known as "RanchNet," which provides a universal network to connect all owners, residents, and businesses in DC Ranch. The objective of the Telecommunity System is to provide all such owners, residents, and businesses access to advanced information and communications technology in order to encourage interaction between members of the community, stimulate participation in the community, disseminate information about activities and programs, and to foster a sense of community. As such, the Telecommunity System is an essential part of DC Ranch.

Because technology is rapidly changing, it is foreseeable that new technology and services may become available that could be utilized by the Community Council to modify, enhance, maintain, or even replace the existing Telecommunity System. Therefore, the Community Council must have the flexibility to design and redesign the Telecommunity System as well as to designate and redesignate the providers, managers, and operators of the Telecommunity System, to meet the evolving needs of the DC Ranch community.

7.1 Establishment and Management of the Telecommunity System.

(a) The Community Council shall have the sole authority, but not the obligation, to provide for the establishment, operation, management, maintenance, repair, modification, enhancement, and/or replacement of the Telecommunity System, and, in doing so, shall have the sole authority to select the provider(s) of the particular hardware, software, programming, infrastructure, services, management, and administration constituting the Telecommunity System (collectively, "System Components"). The Community Council shall have the sole authority to terminate the Telecommunity System. Except as expressly provided in this Article, the Community Council shall be the sole source provider for the Telecommunity System and all System Components. No Person shall have the authority to utilize or provide another source for the Telecommunity System or any System Component other than that utilized or provided by the Community Council.

(b) The Community Council shall have the sole authority to select the vendor or vendors of the System Components, and shall have the sole authority to enter into contracts with such vendors (which may include vendors affiliated with Declarant, so long as the terms of the relevant contracts are commercially reasonable). The Community Council shall also have the authority to enter into contracts with Persons for the maintenance, management, administration, and operation of the Telecommunity System, and to enter into contracts with Persons to modify or enhance the Telecommunity System (which may include contracts with Persons affiliated with Declarant, so long as the terms of the relevant contracts are commercially reasonable).

Depending on the requirements of such contracts, it may be necessary for owners or tenants to execute contracts directly with such vendors or other Persons as a condition to gaining access to the Telecommunity System, and each such owner and tenant, by accepting title to real property (or leasing real property) within DC Ranch, agrees to do so, provided that such contracts do not impose any monetary obligation on such owner or occupant (other than the Telecommunity Fee described in Section 7.4). Subject to the foregoing, such contracts may contain terms and conditions with regard to use of and access to the Telecommunity System in addition to those contained in this Article.

(c) Declarant and the Community Council make no representation or warranty as to the quality, fitness, or performance of the Telecommunity System, or as to the quality, fitness, or performance of any of the System Components, or that any particular System Component or type of System Component will be utilized for the Telecommunity System, or that the Telecommunity System will continue to be provided to DC Ranch.

(d) The Community Council reserves the authority to implement such rules and regulations concerning all aspects of the use of the Telecommunity System as the Community Council may deem desirable or appropriate in its sole and absolute discretion, including without limitation rules and regulations imposed under a user agreement pertaining to use of the RanchNet.

(e) The Community Council reserves the authority to adopt and implement additional provisions regarding the Telecommunity Fee insofar as it applies to commercial property (as distinguished from residential property) by one or more separate Recorded declarations affecting such commercial property. Such additional provisions may include, without limitation, provisions concerning different types or levels of connections or services to be provided to commercial property owners, and provisions as to when a Telecommunity Fee will be levied with respect to such commercial property owners.

7.2 Telecommunity System Connections: Additional Services.

(a) Each single family residential property in DC Ranch must include at least one connection to the Telecommunity System; each multi-family residential property must include at least one connection to the Telecommunity System per residential unit. The number of connections required for parcels of commercial property in DC Ranch shall be established by separate Recorded instrument on such terms as the Community Council determines.

(b) Each owner in DC Ranch may obtain additional Telecommunity System connections, or obtain any available additional or enhanced Telecommunity System services, at such owner's own expense, subject to the requirements of the Community Council and the particular vendor of the relevant System Components or services. Such owner may be required to pay additional fees to the Community Council or such vendor (or both), as well as to execute additional contracts with the Community Council or such vendor (or both), as a condition of receiving such additional connections or such additional or enhanced services. Such contracts may contain terms and conditions with regard to use of and access to the Telecommunity System

in addition to those contained in this Article. Declarant and the Community Council make no representation or warranty that additional Telecommunity System connections or additional or enhanced services will be provided.

7.3 Governmental Regulation. The Telecommunity System, and the providers, managers and operators of the Telecommunity System, may be subject (currently or in the future) to federal, state, or municipal regulations, laws, and ordinances (collectively, "Governmental Regulations"). Such Governmental Regulations may have a significant impact on certain aspects of the Telecommunity System including, but not limited to, the fees charged, the method of delivery, the rights of the users of the Telecommunity System, as well as the rights of the providers, managers or operators of the Telecommunity System. These Governmental Regulations, and their impact, are beyond the control of the Community Council. The Community Council may impose additional obligations on owners in DC Ranch (in addition to those contained in this Article or any contracts pursuant to Sections 7.1 or 7.2 (collectively, "Provider Contracts"), as well as any other rules and regulations that may be adopted by the Community Council), if the Community Council determines that such additional obligations are necessary or appropriate due to such Governmental Regulations.

7.4 Telecommunity Fee.

(a) The Telecommunity System shall be funded through collecting from each property owner in DC Ranch (i) a one-time charge levied with respect to each connection to the Telecommunity System (the "Connection Fee") and (ii) a separate periodic fee (the "Periodic Fee"), which collectively are referred to herein as the "Telecommunity Fee." Except as required by any applicable Governmental Regulation or Provider Contract (which may dictate, in whole or in part, the amount of the Telecommunity Fee), the amount of the Telecommunity Fee will be determined in the sole discretion of the Community Council. If the Community Council provides different types or levels of connections or services to commercial property owners (as distinguished from residential property owners), then the amount of the Telecommunity Fee for single-family and multi-family properties may be different from the Telecommunity Fee for commercial properties, in the discretion of the Community Council.

The Periodic Fee shall be levied each fiscal year and shall be paid in monthly installments; provided, that the Board shall have the authority to require (either of all owners or of owners with a history of delinquent payment) that the Periodic Fee shall be due and payable in advance on the first day of the fiscal year. In addition, if any Owner is delinquent in paying any installment of the Periodic Fee, the Board may require all outstanding installments for the current fiscal year to be paid in full immediately.

(b) Each owner of property in DC Ranch shall be obligated to pay the Telecommunity Fee for each Telecommunity System connection that is installed at its property and for each connection required to be installed pursuant to Section 7.2. The levying of the Connection Fee shall occur, and the levying of the Periodic Fee shall commence, upon the issuance of a certificate of occupancy (or equivalent governmental approval) for the relevant dwelling or building. Notwithstanding the foregoing, subject to the provisions of applicable

Provider Contracts and Governmental Regulations, (i) the Community Council, in its discretion, may establish a reduced Telecommunity Fee payable by commercial owners with respect to any tenants occupying less than a specified minimum floor area, or utilizing its property for a specified use, as determined by the Community Council, and (ii) where such Provider Contract provisions expressly permit, the Community Council may establish rules whereby the Periodic Fee is waived for commercial or multi-family owners with respect to tenant suites or residential units for which such fee was previously collected but which later become unoccupied.

(c) The Telecommunity Fee shall be paid in such manner and on such dates as the Community Council may establish, which may include discounts for early payment or similar time/price differentials. The Community Council may require advance payment of the Telecommunity Fee at the closing of the transfer of title to a lot or parcel of real property and impose special requirements for owners with a history of delinquent payment.

(d) Simultaneously with any statement setting forth the amount of any unpaid assessment against the owner's property in accordance with A.R.S. § 33-1807, or otherwise, the Community Council shall also provide a statement setting forth the amount of any unpaid Telecommunity Fee affecting the owner's property. The statement shall be binding on the Community Council, the Board, and the other property owners in DC Ranch, if the statement is requested by an escrow agency licensed pursuant to Title 6, Chapter 7 of Arizona Revised Statutes. Failure to provide the statement to the escrow agent within the time provided for in this subsection shall extinguish any lien for any unpaid Telecommunity Fee then due. The Community Council may require the advance payment of a reasonable processing fee for the issuance of such statement.

(e) *The Community Council expressly intends that the Telecommunity Fee is not a "regular assessment" or other type of "assessment" of an "association," as those terms are used in A.R.S. § 33-1803, as amended from time to time, and that the Telecommunity Fee is not subject to the limitations set forth in A.R.S. § 33-1803, as amended from time to time. Without limiting the generality of the foregoing, the Community Council expressly intends, and all Persons taking subject to this Declaration acknowledge, that the Telecommunity Fee is not and shall not be subject to any limitation (set forth in A.R.S. § 33-1803 or otherwise) on annual increases in the amount of regular assessments or other assessments of an association.*

7.5 Enforcement: Lien.

(a) The Telecommunity Fee is mandatory; no owner may avoid the obligation for payment of the Telecommunity Fee through a claim of nonuse of the Telecommunity System or any other claim, excuse, or exception. The Telecommunity Fee shall be in addition to, and not in lieu of, any assessment provided for under this Declaration. The obligation to pay the Telecommunity Fee is separate and apart from any other fee or any assessment provided for by this Declaration. No diminution, abatement, or set-off of the Telecommunity Fee shall be claimed or allowed for any alleged failure of the Community Council to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Failure of the Board to fix the amount of the Telecommunity Fee for any fiscal year or to deliver or mail each owner a notice of the amount of the Telecommunity Fee shall not be deemed a waiver or modification of, or a release of any owner from, the obligation to pay the Telecommunity Fee during such fiscal year. In such event, each owner shall continue to pay the Telecommunity Fee on the same basis as during the prior fiscal year until a new Telecommunity Fee is levied, at which time the Community Council may retroactively assess any shortfalls in collections. Any election by Declarant in any given year to subsidize the budget deficit of the Community Council, rather than pay assessments, pursuant to Section 9.3, shall not excuse Declarant from payment of the Telecommunity Fee.

(b) The Telecommunity Fee, together with interest (computed from its due date at a rate of ten percent per annum or such higher rate as the Board may establish, subject to the limitations of Arizona law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each property for which a Telecommunity Fee is payable, as more particularly described in Section 7.5(c). The Telecommunity Fee, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the owner of such property as of the date the Telecommunity Fee was levied. Upon a transfer of title to any such property, the grantee shall be jointly and severally liable with its grantor for any Telecommunity Fee due at the time of conveyance. Each Owner, by accepting a deed or entering into a Recorded agreement for sale for any portion of DC Ranch, is deemed to covenant and agree to pay the Telecommunity Fee, on the terms and subject to the conditions set forth in this Article. However, no first mortgagee that obtains title, directly or through an affiliate, by exercising the remedies provided in its mortgage, or any other Person purchasing at a foreclosure sale pursuant to a first mortgage, shall be liable for any unpaid Telecommunity Fee which accrued prior to such acquisition of title.

(c) The Telecommunity Fee shall constitute a lien against the property against which it is levied from the time such Telecommunity Fee becomes delinquent until paid. The lien shall also secure payment of interest (subject to the limitations of Arizona law), late charges, and costs of collection (including attorneys' fees, lien fees and administrative costs). Such lien shall be superior to all other liens, except the lien for assessments under this Declaration, the lien for assessments of any Ranch Association, and those other liens deemed by Arizona law to be superior, and, without limiting the generality of the foregoing, shall be superior to any lien asserted or held by any Neighborhood Association (as defined in the Recorded Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Ranch). The Community Council may enforce such lien, when any Telecommunity Fee is delinquent, by suit, judgment and foreclosure. The Community Council may bid for the relevant property at the foreclosure sale and acquire, hold, lease, mortgage, and convey such property. While a lot or parcel of real property is owned by the Community Council following such foreclosure: (i) no right to vote shall be exercised on behalf of such lot or parcel; and (ii) no assessment or Telecommunity Fee shall be levied on such lot or parcel. The Community Council may sue for unpaid Telecommunity Fees without foreclosing or waiving the lien securing the same. The sale or transfer of any lot or parcel shall not affect the foregoing lien or relieve such lot or parcel from the lien for any subsequent Telecommunity Fee. However, the sale or transfer of any lot or

parcel pursuant to foreclosure of a first mortgage shall extinguish the lien as to any installments of such Telecommunity Fees due prior to the mortgagee's foreclosure. The subsequent owner of the foreclosed lot or parcel shall not be personally liable for Telecommunity Fees on such lot or parcel due prior to such acquisition of title.

(d) Subject to Governmental Regulations and Provider Contract provisions, the Community Council may collect the Telecommunity Fee (directly or through any other Person designated by the Community Council), or the Community Council may cause a third party provider, manager or operator of the Telecommunity System to collect the Telecommunity Fee (directly or through any other Person designated by such third party provider, manager or operator).

(e) To the extent permitted under any applicable Governmental Regulations and any applicable Provider Contracts:

(i) In addition to any other action it may take, the Community Council may act as the agent for any third party provider, manager or operator of the Telecommunity System, for the purpose of collecting any unpaid Telecommunity Fee. In its capacity as an agent, the Community Council may utilize all methods of enforcement available by law or contract to such third party provider, manager or operator.

(ii) If any third party provider, manager, or operator seeks to collect unpaid fees on its own behalf, or engages the services of another Person for the purpose of collection, the Community Council shall have the authority to assign its enforcement rights under this Declaration (including, but not limited to, its lien rights) to such third party provider, manager, operator, or such other agent.

7.6 Exemptions.

(a) Notwithstanding any other provision of this Declaration, the City of Scottsdale shall not be liable for any Telecommunity Fee on any property dedicated to and accepted by the City ("Dedicated Property") and the City shall have no right or obligation to be connected to the RanchNet or any other component of the Telecommunity System, unless otherwise agreed between the City and the Community Council. Dedicated Property shall include, without limitation, such areas created by or dedicated in the form of easements, including, perpetual easements, tract easements, and easements in favor of the City of Scottsdale. If only a portion of a lot or parcel of real property is dedicated as Dedicated Property, any Telecommunity Fee affecting the lot or parcel which arose prior to the dedication shall remain due and owing against the non-dedicated portion of the lot or parcel, and the lien shall remain in effect with respect to the undedicated portion of the lot or parcel but shall terminate with respect to the Dedicated Property. If the entire lot or parcel is Dedicated Property, any such unpaid Telecommunity Fee shall be deemed to be waived, and the lien shall terminate with respect to the entire lot or parcel.

(b) Notwithstanding any other provision of this Declaration, the Community Council may in its discretion (without need for amendment to this Declaration) exempt any property of the following types from the obligation of payment of all or any portion of the Telecommunity Fee:

(i) Property included in the Area of Common Responsibility pursuant to this Declaration, and property included in the Area of Ranch Responsibility pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Ranch, affecting a portion of DC Ranch and recorded concurrently with this Declaration;

(ii) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common;

(iii) Property owned by Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code, if and for so long as such property is used for purposes listed in Section 501(c); and

(iv) Property owned by a school district or other governmental or quasi-governmental entity (other than the City of Scottsdale).

Without limiting the generality of the foregoing, the Community Council may charge against the owner of any such exempt property (or any other Person not otherwise liable for payment of the Telecommunity Fee) a separate fee for access to the RanchNet, if such owner desires such access, which fee shall be in an amount to be agreed upon between the Community Council and such owner, and (except as otherwise agreed between the Community Council and such owner), such fee shall otherwise be subject to the foregoing provisions concerning the Telecommunity Fee.