

**FIRST AMENDMENT OF  
FIRST RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE OAKS COMMUNITY ASSOCIATION**

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FOR  
THE OAKS COMMUNITY ASSOCIATION

This First Amended, First Restated Declaration of Covenants, Conditions and Restrictions for the Oaks (the "Declaration") is made by The Oaks Community Association, a California nonprofit mutual benefit corporation (the "Association").

**RECITALS**

**A.** The Association is an "association", as that term is defined in California Civil Code Section 4080, which has been created to manage that certain common interest development located in Amador County, California commonly known as the Oaks and more particularly described as follows (the "Development"):

Lots 1 through 14, inclusive, Lots 16 through 210, inclusive, and Lot C, as shown on the Final Map of Subdivision No. 53, "The Oaks Mobile Home Community", filed for record in the Office of the Amador County Recorder on January 22, 1993, in Book 6 of Subdivision Maps, at Page 98 et seq.

**B.** The original developer of the Development, Gold Country Mobile Home Park Limited, a California limited partnership ("Declarant"), executed that certain instrument entitled Declaration of Covenants, Conditions and Restrictions of The Oaks which was recorded on March 10, 1993 as Instrument No. 1993-002449 in the Official Records of Amador County, California (the "Original Declaration").

**C.** An instrument entitled First Amendment to Declaration of Covenants, Conditions and Restrictions of the Oaks was recorded on December 4, 1997 as Instrument No. 1997-009961 in the Official Records of Amador County, California (the "First Amendment").

**D.** The Original Declaration, as amended by the First Amendment, establishes certain limitations, easements, covenants, restrictions, conditions, liens, and charges which run with and are binding upon all parties having or acquiring any right title, or interest in the real property comprising the Development.

**E.** Pursuant to Paragraph 51 of the Original Declaration, (i) at least a bare majority of the Class 1 members, and a bare majority of the votes of Class 1 members not counting the votes held by the subdivider, (ii) at least a bare majority of the Class 2 members, and a bare majority of the votes of Class 2 members not counting the votes



held by the subdivider, and (iii) at least a bare majority of the Class 3 members, and a bare majority of the votes of Class 3 members not counting the votes held by the subdivider, voted to amend, restate and supersede the Original Declaration.

NOW, THEREFORE, it is hereby declared as follows:

1. The Original Declaration, as amended by the First Amendment, is hereby amended, restated and superseded in its entirety to read as set forth in this Declaration.
2. All of the real property comprising the Development constitutes a "planned development", as that term is defined in California Civil Code Section 4175.
3. All of the real property comprising the Development is held and owned and shall be held, owned, operated, managed, conveyed, hypothecated, encumbered, leased, used, occupied, and improved subject to the following covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of a plan and purpose of protecting, preserving, and enhancing the value, desirability, and attractiveness of the Development and every part thereof and of fostering the development, management, improvement, enjoyment, and sale of the real property comprising the Development and any part thereof.
4. All of the covenants, conditions, and restrictions set forth in this Declaration shall constitute enforceable equitable servitudes as provided in California Civil Code Section 5975, shall constitute covenants that shall run with the real property comprising the Development, and shall be binding upon and inure to the benefit of each Owner of any portion of such real property or of any interest therein and their heirs, successors, and assigns.

## **ARTICLE 1 DEFINITIONS**

**1.1 Absolute Majority.** "Absolute Majority" shall mean a majority of the Total Voting Power of the Association.

**1.2 Addendum A Owner.** "Addendum A Owner" shall mean the owner of the Addendum A Property, including Contract Sellers, but excluding Contract Purchasers and excluding those having such interest merely as security for the performance of an obligation.

**1.3 Addendum B Owner.** "Addendum B Owner" shall mean the owner of the Addendum B Property, including Contract Sellers, but excluding Contract Purchasers and excluding those having such interest merely as security for the performance of an obligation.

**1.4 Addendum A Property.** "Addendum A Property" shall mean the real property in the County of Amador, State of California, which is more particularly described on attached Addendum "A".

**1.5 Addendum B Property.** "Addendum B Property" shall mean the real property in the County Of Amador, State of California, which is more particularly described on attached Addendum "B".

**1.6 Additional Charges.** "Additional Charges" shall mean all costs, fees, charges, and expenditures, including without limitation, interest, late charges, attorneys' fees, Recording and filing fees, and all other costs actually incurred by the Association in collecting and/or enforcing payment of Assessments, fines, and/or penalties.

**1.7 Architectural Rules.** "Architectural Rules" shall mean those Rules adopted by the Board pursuant to Section 10.4.

**1.8 Articles.** "Articles" shall mean the Articles of Incorporation of the Association, as they may be amended from time to time, and as filed with the Office of the Secretary of State of California.

**1.9 Assessment.** "Assessment" shall mean a charge levied by the Association against an Owner and his or her Lot as provided in Article 6 of this Declaration. "Assessment" shall include any or all of the following:

(a) Annual Assessments, which shall have the meaning set forth in Section 6.6.

(b) Enforcement Assessments, which shall have the meaning set forth in Section 6.10.

(c) Reimbursement Assessments, which shall have the meaning set forth in Section 6.9.

(d) Special Assessments, which shall have the meaning set forth in Section 6.8.

(e) Variable Utility Assessments, which shall have the meaning set forth in Section 6.7.

**1.10 Association.** "Association" shall mean The Oaks Community Association, its successors and assigns.

**1.11 Board of Directors.** "Board of Directors" or "Board" shall mean the governing body of the Association.

**1.12 Bylaws.** "Bylaws" shall mean the Bylaws of the Association as they shall be adopted by the Board of Directors and Members and any duly-adopted amendments thereof.

**1.13 Capital Improvement.** "Capital Improvement" shall mean the original construction of an improvement that did not previously exist, as distinguished from the repair, upgrading, or replacing of an existing improvement.

**1.14 Class 1 Member.** "Class 1 Member" shall mean a member of the Association pursuant to Section 5.2(a) (i).

**1.15 Class 2 Member.** "Class 2 Member" shall mean a member of the Association pursuant to Section 5.2(a) (ii).

**1.16 Class 3 Member.** "Class 3 Member" shall mean a member of the Association pursuant to Section 5.2(a) (iii).

**1.17 Common Area.** "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and Residents of the Development and, in the case of the Sewer Treatment Plant and the Mutual Water Facilities, for the benefit of the Class 2 Members all as more particularly described in this Declaration. The Common Area includes without limitation (i) lot C as shown on the Subdivision Map, (ii) the Sewer Treatment Plant, and (iii) the Mutual Water Facilities.

**1.18 Contract Purchaser.** "Contract Purchaser" shall mean the purchaser under an installment land contract in which title to the property is transferred after the final installment payment is made.

**1.19 Contract Seller.** "Contract Seller" shall mean the seller under an installment land contract in which title to the property is transferred after the final installment payment is made.

**1.20 County.** "County" shall mean the County of Amador, State of California.

**1.21 Declaration.** "Declaration" shall mean this instrument, as it may be amended from time to time.

**1.22 Development.** "Development" shall mean all the real property described in the Declaration comprising The Oaks residential planned development, including such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**1.23 Governing Documents.** "Governing Documents" shall mean the Articles, Bylaws, Declaration, Rules, and the policies and resolutions duly adopted by the Board and distributed to the Members.

**1.24 Lot.** "Lot" shall mean any plot of land shown upon any Recorded subdivision map for any portion of the Development with the exception of the Common Area.

**1.25 Manufactured Home.** "Manufactured Home" shall mean a structure transportable in one or more sections which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when on site is eight hundred

(800) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, if any, and electrical systems contained therein. The terms "Manufactured Home" shall exclude recreational vehicles, motor homes, campers, camping trailers, and any other like or similar self-propelled, towed shelter not designed to be used as a permanent dwelling.

**1.26 Member.** "Member" shall mean a Class 1 Member and/or Class 3 Member,

**1.27 Member in Good Standing.** "Member in Good Standing" shall mean a member who is current in the payment of all dues, Assessments, fines, penalties, and other charges imposed in accordance with the Governing Documents, and who is in compliance with all of the provisions of the Governing Documents, as may be more particularly set forth in the Bylaws.

**1.28 Mortgage.** "Mortgage" shall mean a deed of trust as well as a mortgage in the conventional sense. "First Mortgage" shall mean any Recorded Mortgage with first priority over other Mortgages.

**1.29 Mortgagee.** "Mortgagee" shall mean a beneficiary under a deed of trust as well as a mortgagee under a mortgage.

**1.30 Multiple Lot Owner.** "Multiple Lot Owner" shall mean any person or entity which acquires more than one (1) lot.

**1.31 Mutual Water Facilities.** "Mutual Water Facilities" shall mean the Water Treatment Plant Site and all other portions of the common water distribution center which are located within lot C. The Mutual Water Facilities do not include any lines or facilities beyond the boundary of the Development and do not include individual lateral lines which serve an individual Lot.

**1.32 Owner.** "Owner" means any person, firm, corporation or other entity in which fee title to a Lot is vested as shown by the Official Records of the Office of the County Recorder, including Contract Sellers, and Contract Purchasers and excluding those having such interest merely as security for the performance of an obligation. Where the context requires, the term "Owner" shall include the members of the Owner's household and the guests, tenants/lessees (hereafter, "tenants") and invitees of an Owner; provided, however, that such persons are not "Owners" for purposes of exercising voting rights in the Association.

**1.33 Record.** "Record" shall mean, with respect to any document, the recordation or filing of such document in the Office of the County Recorder.

**1.34 Residence.** "Residence" shall mean a residential structure located upon a Lot which is designed for human residential use and occupancy.

**1.35 Resident.** "Resident" shall mean any person who resides on a Lot within the Development whether or not such person is an Owner as defined in Section 1.32 of this Declaration.

**1.36 Rules.** "Rules" shall mean the rules and regulations governing the use, occupancy, management, administration, and operation of the Development or any part thereof as adopted and published by the Board of Directors from time to time.

**1.37 Sewer Issues.** "Sewer Issues" shall mean all issues which materially affect the rights or obligations of Members relating to the Associations operation of the Sewer Treatment Plant.

**1.38 Sewer Treatment Plant.** "Sewer Treatment Plant" shall mean the real property described in attached Addendum "C" and the improvements thereon.

**1.39 Shared Fence and Shared Wall.** "Shared Fence" and "Shared Wall" shall have the meaning set forth in Section 8.4(b) (i) of this Declaration.

**1.40 Simple Majority.** "Simple Majority" shall mean a majority of the votes of the Members (i) represented and voting at a meeting at which a quorum is present, or (ii) cast by written ballot (in conformity with California Corporations Code Section 7513) in which the number of ballots received equals or exceeds the number required to establish a quorum.

**1.41 Subdivision Map.** "Subdivision Map" shall mean (i) the Final Map of Subdivision No. 53, "The Oaks Mobile Home Community", filed for record in the Office of the Amador County Recorder on January 22, 1993, in Book 6 of Subdivision Maps, at Page 98 et seq.

**1.42 Total Voting Power.** "Total Voting Power" shall mean the total number of votes of all Members entitled to vote at a particular time, calculated on the basis of one vote for each Lot, excluding any Lots as to which an Owner is not then a Member in Good Standing.

**1.43 Water Issues.** "Water Issues" means all issues which materially affect the rights or obligations of Members relating to the delivery of water service or to the funding or expenditure of the repair and replacement fund, on which the Members are required by law to vote.

**1.44 Water Service Area.** "Water Service Area" shall mean (i) the Lots, (ii) the Addendum A Property, (iii) the Addendum B Property, and (iv) Lot C as shown on the Subdivision Map.

**1.45 Water Treatment Plant Site.** "Water Treatment Plant Site" shall mean the portion of Common Area lot C adjacent to Lot 194 shown on the Subdivision Map as "WATER PLANT STORAGE RESERVOIR".

## **ARTICLE 2 PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT**

**2.1 No Partition.** There shall be no judicial partition of the Development or any part thereof, nor shall any Owner or any person acquiring any interest in the Development or any part thereof seek any judicial partition thereof; provided, however, that if any Lot shall be owned by two or more co-tenants as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition by sale as between such co-tenants.

**2.2 Common Area.** Subject to the provisions of the Declaration, the Common Area shall be held, maintained, and used to meet the common interests of the Members of the Association, and their families, tenants, resident Contract Purchasers, and guests as provided in the Governing Documents.

**2.3 Owners Non-Exclusive Easements of Enjoyment.** Every Owner shall have a non-exclusive easement of use of and enjoyment in, to, and throughout the Common Area of the Development. Each such non-exclusive easement shall be appurtenant to and pass with the title to every Lot, subject to the following rights and restrictions:

**(a)** The right of the Board of Directors to establish and enforce Rules governing the use of the Common Area and facilities thereon including, without limitation, Rules limiting the number of guests of Members permitted to use the Common Areas and facilities thereon at any one time;

**(b)** The right of the Board, as further provided by this Declaration, to adopt Rules regulating parking upon the Common Area;

**(c)** The right of the Board to charge reasonable admission and other fees for the use of any facilities which are situated on or a part of the Common Area, including without limitation, the Variable Utility Assessments imposed pursuant to Section 6.7 and the water connection fees referred to in Section 5.14;

**(d)** The right of the Board, as may be more particularly addressed in the Bylaws, to suspend an Owner's right to use the recreational facilities for any period during which any Assessment against such Owner's Lot remains unpaid and/or for infraction of the Governing Documents;

**(e)** The right of the Board, as set forth in Section 3.4 of this Declaration, to grant easements and rights of way in, on, over, or under the Common Area subject to such conditions as may be agreed to by the Board;

**(f)** The right of the Board to mortgage, pledge, encumber, or otherwise hypothecate the Common Area and facilities thereon as security for money borrowed by the Association;

**(g)** The right of the Association to the exclusive operation, access to, and control of the Mutual Water Facilities and the Sewer Treatment Plant; and

**(h)** The right of the Association or its authorized agents, as provided in this Declaration, to perform its obligations under this Declaration, including, without limitation, obligations with respect to construction, maintenance, repair, or replacement for the benefit of the Common Area or the Owners in common.

**2.4 Assignment of Rights of Use.** Any Owner may assign his rights of use and enjoyment, including easements, in the Development to the members of his or her household and his or her tenants, Contract Purchasers, guests and invitees, subject to the terms of the Governing Documents. Upon the leasing or renting of a Lot, or upon occupancy of a Lot by a Contract Purchaser, the Owner shall be deemed to have assigned all such rights exclusively to the tenants or Contract Purchasers of such Lot. Each Owner shall notify the Secretary of the Association of the names of any tenants or any such Contract Purchasers of such Owner's Lot. Each Owner, tenant, or Contract Purchaser shall also notify the Secretary of the Association of the names of all members of his or her household to whom such Owner, tenant, or Contract Purchaser has assigned any rights of enjoyment in the Development as provided herein and the relationship which each such person bears to such Owner, tenant, or Contract Purchaser. Any rights of enjoyment assigned pursuant to this section are subject to the Governing Documents including, without limitation, the provisions concerning suspension to the same extent that rights of Owners are subject to suspension. It is the express purpose and intent of the provisions of this section to limit the right of use and enjoyment of the Common Area to Residents of the Development and their guests.

**2.5 Common Area Construction.** Except as may be authorized by the Board, no person or entity, other than the Association or its duly-authorized agents, shall construct, reconstruct, refinish, alter, or maintain any improvement upon the Common Area, or shall make or create any excavation or fill upon the Common Area, or shall change the natural or existing drainage of the Common Area, or shall plant, remove, or destroy any seed, plant material, tree, shrub, or other vegetation upon the Common Area.

**2.6 Mechanic's Liens.** In the event there shall be Recorded against the Common Area a Notice of Mechanic's Lien for, or purporting to be for, labor or materials alleged to have been furnished or delivered for any Owner within the Development or his or her Lot, such Owner shall forthwith cause such lien to be discharged by payment, bond, or otherwise. If the Owner fails to cause the lien to be discharged, the Board may send written notice to the Owner specifying that unless the Owner causes the lien to be discharged within five (5) days from the date of such notice, the Board may cause the lien to be discharged. Within such five (5) day period, the Owner shall be permitted a hearing before the Board regarding the validity of such lien and any offsets or defenses thereto. At that time, the Board shall determine whether the lien adversely and improperly affects and encumbers the rights and interests of the Association or the other Owners. If the Board of Directors determines that the lien does adversely and improperly affect and encumber such rights and interests and that adequate protection of such rights and interests has not been provided, the Board may cause the lien to be discharged by payment, bond, or otherwise. The Board shall have the right to levy a Reimbursement Assessment against the Owner responsible for causing the lien to be discharged in an amount equal to all amounts



paid by the Association together with interest thereon at the legal rate and all costs and expenses paid or incurred in connection therewith, including reasonable attorneys' fees.

### **ARTICLE 3 EASEMENTS**

**3.1 Easements in General.** In addition to all easements reserved and granted on the Subdivision Map and the easements provided in Article 2 of this Declaration, there are hereby specifically reserved and granted for the benefit of the Lots and Lot Owners in common and for each Lot and Owner severally, and for the Association, as their respective interests shall obtain, the easements, reciprocal negative easements, secondary easements and rights of way as particularly identified in this article.

#### **3.2 Utility Easements.**

**(a)** Easements over and under the Development or any portion thereof for the installation, repair, maintenance, and replacement of electric, telephone, water, gas, and sanitary sewer lines, meters, and facilities, cable lines, drainage facilities, walkways, and landscaping as shown on the Subdivision Map, and as may be hereafter required or needed to service the Development, are reserved by and shall exist in favor of The Association, together with the right to grant and transfer the same.

**(b)** Wherever sanitary sewer, water, electric, gas, telephone or television connections, cables or lines are installed within the Development, exclusively serve a Lot, and they, or any portion thereof, lie in or upon the Common Area or other portions of the Development not owned by the Owner of such Lot, that Owner shall have the right and is hereby granted an easement to the full extent necessary therefor, to enter upon such portion of the Development or to have utility companies enter Thereupon to repair, replace and generally maintain such connection, cables or lines as and when the same may be necessary.

**(c)** Wherever sanitary sewer, water, electric, gas, telephone or television connections, cables or lines are installed within the Development and serve more than one (1) Lot, the Owners of each Lot served by such connections, cables or lines shall be entitled to the full use and enjoyment of the portions of such connections, cables or lines which service their Lots.

**3.3 Encroachment Easements.** Each Lot is hereby declared to have an easement over adjoining Lots and the Common Area for the purpose of accommodating any encroachment for elements of any improvement built in accordance with the original design, plans and specifications of the original developer of the Development, or due to minor engineering errors, minor errors in original construction, settlement or shifting of an element of any improvement, or similar causes. There shall be valid easements for the maintenance of such encroachments as long as they shall exist and the rights and obligations of Owners shall not be altered in any way by such encroachment, settlement or shifting. In no event shall a valid easement for encroachment be created in favor of an

Owner or Owners if such encroachment occurred due to the intentional conduct of such Owner or Owners. In the event a structure is partially or totally destroyed and then repaired or rebuilt, the Owners of each adjoining Lot agree that minor encroachments over adjoining Lots and Common Area shall be permitted and that there shall be valid easements for the maintenance of the encroachments so long as they shall exist

**3.4 Easements Granted by Board.** The Board shall have the power to grant and convey to any person or entity easements and rights of way, in, on, over, or under the Common Area for the purpose of constructing, erecting, operating, or maintaining thereon, therein, or thereunder overhead or underground lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities, and for any other purposes deemed by the Board to be appropriate and not inconsistent with the purposes and interests of the Association, and each purchaser, in accepting a deed to a Lot, expressly consents thereto. Notwithstanding the foregoing, no such easements may be granted if such easement would interfere with the use, occupancy, or enjoyment by an Owner or Resident of any Lot and any existing exclusive easements over Common Area appurtenant thereto, if any, without the consent of the affected Owner(s).

**3.5 Association Easements for Maintenance and Repair.** The Association shall have an easement in, on, over or under every Lot as reasonably necessary to (i) maintain and repair the Common Area including without limitation the private streets within the Development, the Sewer Treatment Plant, and the Mutual Water Facilities, (ii) perform maintenance upon a Lot which is not performed by its Owner as provided by Section 8.2 and Section 8.5, and (iii) perform its obligations under this Declaration.

## **ARTICLE 4 USE RESTRICTIONS**

**4.1 Single Family Residential Use.** Except as provided in Section 4.3, Residences shall be occupied and used for single-family residential purposes as defined by and in accordance with all applicable federal, state and local laws and ordinances.

**4.2 Manufactured Homes.** Except as otherwise approved in accordance with Article 10, no Residence (excluding garages) may be erected or maintained upon any Lot except for a single-family Manufactured Home. Upon the change in ownership of any Lot, when no existing Manufactured Home is to remain on such Lot as part of the transaction, the new Owner shall install a Manufactured Home within a reasonable time. The installation, erection and maintenance of Manufactured Homes upon the Lots shall be in accordance with the provisions of this Declaration including, without limitation, those found in Article 10.

**4.3 Restriction on Businesses.** No business of any kind shall be established, maintained, operated, permitted, or conducted within the Development except such professional and administrative businesses as may be permitted by applicable governmental ordinances and provided that there shall be no external evidence thereof

and such other businesses which by law must be permitted to be conducted within the Development shall be permitted.

**4.4 Offensive Conduct, Nuisances, Noise.** No noxious, harmful, or offensive activities shall be conducted upon or within any part of the Development, nor shall anything be done thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to any Residents of the Development, or which shall in any way interfere with their use of the Common Area and facilities thereon or the use and enjoyment of their Lots or Residences. Without limiting any of the foregoing, no Resident shall permit noise, including without limitation, the barking of dogs or excessively loud music, to emanate from the Resident's Lot, which would unreasonably disturb another Resident's enjoyment of his or her Lot or of the Common Area. Each Owner and Resident shall comply with all requirements of all federal, state, and local governmental authorities and all laws, ordinances, rules and regulations applicable to his or her Lot and Residence. Subject to the owners' hearing rights as more particularly described in the Bylaws, the Board of Directors shall have the authority and discretion to determine whether violations of this section have occurred, which determination shall be final and conclusive.

**4.5 Use of Common Area.** All use of Common Area is subject to the Governing Documents. Without limiting the generality of the foregoing, nothing shall be altered, added to, constructed, placed, kept, stored, parked (except for vehicles on the private streets in accordance with the provisions of Section 4.17), planted on, or removed from the Common Area without the prior written consent of the Board. The Common Area shall be kept free of rubbish, debris, and other unsightly or unsanitary materials. Each Owner shall avoid causing any damage to the Common Area.

**4.6 Acts Affecting Insurance: Governmental Regulations.** Nothing shall be done, placed, or kept within the Development that will increase the rate of insurance or result in the cancellation of insurance under any insurance policy maintained by the Association, or which will be in violation of any governmental statute, ordinance, rule, or regulation.

**4.7 Construction or Modification of Improvements.** As addressed in greater detail in Article 10 of this Declaration, construction, installation, modification, or alteration of buildings, outdoor structures, landscaping, and outdoor lighting are subject to approval of the Board.

**4.8 Sports Apparatus.** Except as specifically provided below, no sports apparatus, whether portable or fixed, including without limitation basketball standards, shall be permitted on any Lot or on the Common Area, including the private streets.

(a) The Board of Directors shall have the power, but not the obligation, to permit the use of portable sports apparatus, including without limitation portable basketball standards, on any Lot.

(b) Use of such portable sports apparatus shall be subject to all rules and regulations, which shall be Rules as defined in Section 1.36 of this Declaration, as the Board may in its discretion adopt.

(c) The Rules adopted pursuant to Section 4.8(b) may include, without limitation, requirements that the apparatus is stored completely out of sight upon an Owner's Lot when not in use, limitations on the times of day during which such apparatus may be used, and regulations regarding the conduct and noise generated in the use of such apparatus.

(d) The Association may, but shall not be obligated to, install portable and/or fixed sports apparatus upon such portions of the Common Area as the Board of Directors deems appropriate subject to the power of the Board to remove such apparatus at any time in its complete discretion.

(e) The term "sports apparatus" does not include bicycles, roller skates, roller blades, scooters or any other similar wheeled equipment, provided that the Board of Directors shall have the discretion to adopt rules and regulations, which shall be Rules as defined in Section 1.36 of this Declaration, governing the use of such equipment and further provided that the use of such equipment is prohibited in certain portions of the Common Area as specified in Section 4.28.

**4.9 Mailboxes and Exterior Newspaper Tubes.** No mailboxes shall be permitted within the Development except for cluster-style mailboxes containing mail receptacles grouped together for multiple Lots in conformance with all applicable postal regulations. There shall be no exterior newspaper tubes within the Development.

**4.10 Outside Drying and Laundering.** No outside clothesline or other outside clothes washing, drying, or airing facilities shall be maintained in the Development.

**4.11 Antennae.** No outside mast, tower, pole, antenna, or satellite dish shall be erected, constructed, or maintained on the Common Area or upon any Lot, including without limitation on the exterior of any Residence or other building, except (i) those erected, constructed, or maintained by the Association, (ii) those expressly approved by the Board of Directors, (iii) those initially installed during the construction of the buildings, or (iv) those specifically permitted by law subject to the Board's authority to adopt restrictions which do not unreasonably delay or prevent, or unreasonably increase the cost of, their installation, maintenance or use or preclude the reception of an acceptable quality signal.

**4.12 Animals.**

(a) **Limitation on Animals.** No dogs, cats, birds, or other animals of any kind shall be kept, maintained, or bred in any Residence or upon any Lot or elsewhere within the Development except that domestic dogs, cats, birds and other customary household pets may be kept in reasonable numbers and size, subject to the Rules, provided they are not kept, bred, or raised for commercial purposes. The owner of an unusual or "exotic" pet, i.e., an animal not widely or commonly kept as a pet, must obtain written approval of the Board of Directors before bringing the animal into the Development. Unless otherwise provided in the Rules, "reasonable

numbers", when applied to cats and dogs, shall be deemed to mean no more than two cats, or two dogs, or one cat and one dog.

While on a Lot, each dog or cat must (i) be contained within a Residence, fenced area, or other enclosure, or (ii) must be restrained by a leash, in a manner which prevents the dog or cat from leaving the Lot. While in Common Areas each dog or cat must be restrained on a leash held by a responsible person capable of controlling the animal. Except as may be required by law, no animals are allowed in the clubhouse or swimming pool areas.

**(b) Owner's Responsibility for Pets.** The owner of each pet shall be responsible for the prompt and sanitary removal and disposal of any waste introduced to any portion of the Development by such pet. The Board shall have the power to impose fines and other sanctions for violations of provisions of the Governing Documents relating to pets, including without limitation fines for failure to remove and dispose of pet waste as required by this section. Each Owner, Resident, and any person bringing or keeping an animal within the Development shall be absolutely liable to the Association and all other persons for any injury or damage to persons or property caused by the animal brought upon or kept upon the Development by such person or by members of his or her family, tenants, guests, or invitees. The Owner shall indemnify the Association and its officers, directors, and agents against any and all claims, damages, losses, demands, liabilities, and expenses, including but not limited to attorneys' fees, arising out of or resulting from the presence or conduct of any animal brought upon or kept within the Development by the Owner, members of his or her family, guests, tenants, or invitees. Because doing so attracts skunks, possums and raccoons, owners of pets shall not feed their pets in the Common Area or Exclusive Use Common Areas. Owners shall not feed animals that do not belong to them, e.g., stray cats.

**(c) Pet Rules.** The Board may adopt and enforce pet rules, which shall be Rules as that term is defined by this Declaration, in addition to the provisions of this section. Such rules may include, without limitation, provisions which require the registration of all animals kept or maintained on any Lot. The Association shall have the right to prohibit the keeping of any animal which constitutes, in the sole and exclusive opinion of the Board, (i) a nuisance to any person, or (ii) a wild animal, or (ii) a threat to the health or safety of Residents.

**4.13 Trash Disposal.** Trash, garbage, accumulated waste plant material, and all other waste and refuse shall be deposited only in covered sanitary containers or recycling containers in accordance with the following provisions:

**a)** The containers shall be located upon each Lot in an area which shall be completely screened or otherwise concealed from view from the Common Area or any other Lot.

**b)** The containers shall be placed for the collection and disposal of such materials, or the Owner of the Lot shall otherwise dispose of such materials as provided in Section 11.6 on a weekly basis. The containers shall be placed for pick up no earlier than 5:00 p.m. on the day prior to collection and must be stored, as provided in Section 4.13(a), no later than twenty-four (24) hours after pick up.

**c)** No Owner or Resident shall permit or cause any garbage, trash, or other waste or refuse to be kept upon any portion of any Lot or elsewhere in the Development, except in such containers.

**d)** Class 3 members shall provide or otherwise require tenants to obtain mandatory commercial refuse collection service at each occupied property.

**4.14 Construction Materials: Construction Debris.** No portion of the Development shall be used for the storage of building materials except by the Association or by an Owner in connection with approved construction. Owners shall pick up and deposit all construction debris in an appropriate container on a daily basis.

**4.15 Machinery and Equipment.** Unless the prior written approval of the Board is obtained, no machinery or equipment of any kind shall be maintained or operated upon a Lot except (i) machinery and equipment which is customary and necessary in connection with approved construction, and (ii) lawnmowers, lawn and gardening equipment, and other usual and customary equipment utilized in the upkeep and maintenance of a home.

**4.16 Signs.** No sign of any kind shall be displayed to the public view from any portion of the Development except that this limitation shall not apply to:

**a)** Signs required by legal proceedings;

**b)** Signs which by law cannot be prohibited;

**c)** A single sign of customary and reasonable dimension and design, complying With the Rules adopted by the Board, if any, and reasonably located on a Lot advertising the Lot for sale or rent;

**d)** A single identification sign which has been approved by the Board of Directors located on a Lot identifying the number or address of the Lot;

**e)** Signs approved by the Board located at or near any entrance to the Development identifying the Development;

**f)** Signs required for traffic control and regulation of streets or open areas within the Development;

**g)** Signs on the Common Area as approved by the Board for a purpose reasonably related to the affairs of the Association.

#### 4.17 **Vehicles and Parking.**

(a) **Limitations on Types of Vehicles.** No trailer, camper, motor home, recreational vehicle, boat, golf cart or similar equipment (except as utilized by the Association), truck (other than a standard-size pickup truck or van), or any commercial vehicle, shall be parked, kept, stored, or permitted to remain upon any area within the Development unless placed or maintained completely within an enclosed garage or carport. In accordance with Section 10.3, such garage or carport must be designed to accommodate a total of at least (2) automobiles and/or standard-sized pickup trucks or vans in addition to the vehicle or vehicles listed above. The Board, in its complete discretion and upon such basis and terms as it deems prudent, shall have the power to adopt, modify and repeal Rules permitting the temporary use and parking within the Development of vehicles otherwise prohibited by the provisions of this section.

(b) **Resident Parking.** Except during such times as may be reasonably necessary to wash a Resident's vehicle or clean the garage on a Lot or perform other similar short-term activities necessitating removal of vehicles from a garage, vehicles of Residents shall not be parked anywhere in the Development except wholly within the Residents garage, carport, or driveway. The Board shall have the power to, in its sole discretion, adopt Rules authorizing the temporary waiver of this provision on such terms and conditions, and subject to such limitations, as the Board shall determine.

(c) **Guest Parking.** Vehicles of guests may only be parked in those portions of the Development designated by the Board as guest parking or on the driveways of the Resident whom they are visiting. Vehicles of guests may not be parked within the Development for a period of more than seventy-two (72) hours without the permission of the Board. Movement of a vehicle for the purpose of avoiding this seventy-two (72) hour restriction shall be ineffective for the purposes of this subsection.

(d) **Vacant Lots.** There shall be no parking of any kind on any Lot not containing a Residence, except in connection with the construction of Residences in compliance with other applicable provisions of this Declaration.

(e) **No Parking Areas.** No parking is permitted upon the Common Area private drive running through the Development. In addition, there shall be no parking on any other portion of the Common Area designated by the Board as "no parking" areas.

(f) **Parking Rules and Enforcement.** In order to prevent or eliminate any parking problems within the Development, or to further define and enforce the restrictions contained in this section, the Board shall have the authority to adopt further reasonable rules and restrictions, which shall be Rules as that term is defined in Section 1.36, regarding vehicles and parking within the Development as

the Board may deem prudent and appropriate. The Board shall also have the power to impose fines and other sanctions for violations of provisions of the Governing Documents relating to vehicles and parking. Such authority and power shall include, without limitation the power and authority to cause the towing, at the vehicle owner's expense, of vehicles which are parked within the Development in violation of any of the provisions of the Governing Documents, provided that towing of vehicles of guests and other non-Residents of the Development shall be subject to the provisions of applicable law. Costs incurred by the Association relating to the towing and/or storage of any vehicle parked in violation of any provision of the Governing Documents shall be assessed as a Reimbursement Assessment against the Lot Owner responsible or whose household members, tenants, Contract Purchasers, or guests are responsible for the presence of such vehicle.

**(g) Registration with Association.** All vehicles operated within the Development by Residents must be registered with the Association by submitting to the Association a written notice of the year, make, model and license number of the vehicle (i) within thirty (30) days in the case of any vehicle first operated within the Development after the date of the recordation of this Declaration, and (ii) within Thirty (30) days after the recordation of this Declaration in the case of any vehicle operated within the Development by an Owner as of the date of the recordation of this Declaration.

**(h) Operation of Vehicles.** All operation of vehicles within the Development shall be conducted in a safe manner, in compliance with posted speed limits and in accordance with all applicable rules. The use of vehicle audio devices, including without limitation stereos, radios and amplifiers, shall be conducted in such a manner as to prevent the sound from such devices from annoying or disturbing the Residents. The Board shall have the authority to prohibit the use within the Development of any such audio device which the Board, in its complete discretion, finds annoying or disturbing to the Residents.

**4.18 Window Coverings.** Drapes, window shades, and other window coverings shall be installed in the windows of all Residences and garages and shall comply with any Rules adopted by, and shall be approved by, the Board of Directors. In no event shall aluminum foil, newspapers, bed sheets, or similar materials be placed in windows. All window coverings shall be maintained in good repair and condition at all times.

**4.19 Fences and Other Structures.** No fences, awnings, ornamental screens, screen doors, sunshades or walls of any nature which are visible from the Common Area shall be erected or maintained within the Development, except those existing as part of the original improvements to the Lots and their duplicate replacements, unless they have been approved by the Board of Directors pursuant to Article 10.

**4.20 Outbuildings.**



(a) No outbuilding, tent, shack, trailer, shed, cabana, umbrella or temporary building of any kind shall be constructed, located or allowed to remain within the Development, except in strict compliance with the provisions of this Declaration, including Article 10. In no event shall any such structure be used as a Residence or for residential purposes, either temporarily or permanently.

(b) In no event shall any storage shed or other storage building exceed a maximum floor area of ninety-six (96) square feet. All such sheds or buildings must be constructed and maintained in accordance with all applicable governmental codes and regulations.

**4.21 Subdivision or Merger of Lots.** No Lot may be subdivided, nor may more than one Lot be combined into a single parcel of land, for any reason.

**4.22 Rental of Lots.** An Owner shall have the right to lease his or her Lot subject to the provisions of the Governing Documents and the following requirements:

(a) **Notification of the Board.** In the event that an Owner's Lot is leased or rented, the Owner shall notify the Board of the name of the Residents of the Lot. The Owner shall have an ongoing obligation to notify the Board of any additions to or other changes in the Residents of his or her Lot so long as the Lot is rented or leased. The Owner shall also provide the Board with a copy of the signed lease or rental agreement, and any amendments thereto, as provided at Section 4.22(e).

(b) **Owner Responsibility.** Each Owner whose Lot is leased or rented shall be strictly responsible and liable to the Association for the actions of the Residents of such Lot, as well as the actions of such Residents' guests and invitees, in or about the Development. The Owner shall be responsible for each Resident's, and his or her guests' and invitees' compliance with the provisions of all Governing Documents. The tenant(s) of any Lot which is leased or rented shall be provided by the Owner of such Lot with copies of the Governing Documents and all subsequent amendments.

(c) **Association's Enforcement Rights.** In the event a tenant's conduct involves damage or misuse of any Common Area or facilities on any Common Area or constitutes an unreasonable nuisance to Residents, the Association shall be entitled to maintain an eviction action against such tenant to the same extent as the Owner of the Lot, the Association being deemed to be a third party beneficiary of any lease or rental agreement involving any Lot within the Development. The Association's right to maintain an eviction action shall arise only in the event that (i) the Association has given notice to the Owner detailing the nature of the infraction and the Owner has had a reasonable opportunity to take corrective action or to appear before the Board to present arguments as to why eviction by the Association is not necessary, and (ii) the Owner has not taken action to prevent and/or correct the actions of the tenant giving rise to the damage or nuisance.

**(d) Indemnification of Association.** Every Owner of a Lot that is occupied by persons other than the Owner pursuant to a lease or otherwise, agrees to and shall indemnify and defend the Association, its officers, directors, managers, and agents and shall hold them harmless from any cost, loss, claim, or damages of any kind, including but not limited to attorneys' fees arising out of the conduct or presence of the occupants of the Lot upon the Development, including any such arising or alleged to have arisen out of the enforcement or nonenforcement by the Association of the Governing Documents against such occupants. Without limiting the generality of the foregoing, all costs, including attorneys' fees incurred by the Association to enforce the Governing Documents against such occupants, including eviction as provided herein, shall be reimbursed to the Association by the Owner and may be assessed by the Association as a Reimbursement Assessment.

**(e) Requirements of Written Lease or Rental Agreement.** Any lease or rental of any Lot shall be only by written lease or rental agreement, a copy of which shall be filed with the Board, which agreement shall expressly provide (i) that it is subject to all of the provisions of the Governing Documents, (ii) that the tenants and lessees of such Lot shall comply with all provisions of the Governing Documents, and (iii) that any violation of any provisions of the Governing Documents shall constitute a breach and default of the terms of such lease or rental agreement. The lease or rental agreement shall not attempt to, nor shall any such agreement be effective to, transfer membership in the Association to the lessee. (iv) that the lease or rental agreement shall include written acknowledgement that the lessee has received a copy of the Governing Documents, has read and understands the Governing Documents and agrees to abide by the provisions of the Governing Documents as well as all rules and regulations.

**(f) Requirement of inclusive Lease.** No Owner may lease, rent or hire any garage, accessory building, or similar improvement to anyone who does not have the right of possession of the entirety of the Residence on the Lot.

**(g) Minimum Rental Term No Hotel-Like Services.** Any lease or rental agreement entered into between an Owner and a lessee or renter shall be for a minimum term of six (6) months. No lease or rental of a Lot shall be permitted which contemplates or results in the provision of those services typically provided by a hotel or motel.

**(h) No Time-Share Arrangements.** No Lot or Lots or any portion thereof in the Development shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time-sharing agreement, plan, program or arrangement, including without limitation, any so called "vacation license," "travel club," "extended vacation," or other membership or time interval ownership arrangement. The term "time sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement under which the right to use, occupy, or possess any Lot or Lots or any portion thereof or Residence thereon in the Development rotates among various persons, either

corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like kind use privileges, according to a fixed or floating interval or period of time. This section shall not be construed to limit the personal use of any Lot or any portion thereof in the Development by any Owner or his or her or its social or familial guests.

#### **4.23 Garages, Carports and Driveways.**

(a) Each Owner and Resident shall keep his or her garage or carport and driveway in a neat, orderly, sanitary, and safe condition.

(b) In no event shall any garage be used as a Residence or for residential purposes, either temporarily or permanently.

(d) At no time shall storage in a garage or carport take the place of any parking area.

#### **4.24 No Drilling or Mining.**

No drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon any Lot, the Common Area, or within five hundred (500) feet of the surface of the real property comprising the Development.

**4.25 Oak Trees.** Oaks trees existing throughout the Development, whether on a Lot or in the Common Area shall at all times be protected and each Owner, by acceptance of a deed to a Lot, covenants to do so. Oak trees may not be trimmed except with the approval of: and at the direction of: the Board of Directors, and then only to the extent necessary to meet safety concerns and to preserve the aesthetic appearance of the Development Except in the event of its death or destruction, no oak trees shall be removed from the Development. Each Owner shall be liable to the Association for the demise or destruction of an oak tree directly or indirectly caused by such Owner or his or her guests or invitees. Such liability shall be determined by the Board of Directors and may be charged to such Owner in the form of a Reimbursement Assessment

**4.26 Holiday Decorations.** The Board may adopt and enforce regulations and restrictions, which shall be Rules as that term is defined in Section 1.36, to regulate the display, location, timing and removal of holiday decorations that are visible from any portion of the Common Area or any Lot other than the Lot upon which such holiday decorations are located.

#### **4.27 Swimming Pool and Spa.**

(a) No radio, stereo, tape player, compact disc player or other similar devices may be used in the Common Area swimming pool and spa area unless such devices are used in conjunction with headphones or earpieces in a manner which

prevents other users of the swimming pool and spa area from hearing the sounds from the devices.

**(b)** Notwithstanding Section 4.27(a), the Board shall have the power to authorize the use of devices which would otherwise violate Section 4.27(a) on such terms and subject to such limitations as the Board deems advisable.

**(c)** The Board shall have the power to adopt and enforce regulations and restrictions, which shall be Rules as that term is defined in Section 1.36, regarding the use of the Common Area swimming pool and spa area including without limitation, Rules designed to exercise the Board's authority pursuant to Section 4.27(b).

**4.28 Wheeled Equipment.** The use of bicycles, roller skates, roller blades, scooters or any other similar wheeled equipment within the portions of the Common Area containing the swimming pool, spa, clubhouse, mailboxes, Association office and any other management, operational or recreational facilities is prohibited. The Board shall have the authority to designate those portions of the Common Area to which this prohibition applies.

## **ARTICLE 5 THE OAKS COMMUNITY ASSOCIATION**

**5.1 Management and Operation.** The Association, through the Board of Directors, shall manage and operate the Development, the Mutual Water Facilities, and the Sewer Treatment Plant in accordance with the applicable provisions of the Governing Documents and the applicable provisions of California law. The Association shall have all of the powers set forth in the Governing Documents together with general power to do any and all things that a nonprofit mutual benefit corporation may lawfully do under the laws of the State of California, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents.

### **5.2 Membership and Voting.**

**(a)** The Association shall have three (3) classes of membership. The three (3) classes of membership, together with the voting rights of each class, are as set forth below:

**(i) Class 1.** "Class 1 Members" shall be, and shall be limited to, all Owners residing within property located within the boundaries of the Development. Class 1 Members who are Members in Good Standing shall be entitled to one vote for each Lot then owned by them. When more than one person holds an interest in a Lot, all such persons shall be Class 1 Members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

**(ii) Class 2.** "Class 2 Members" shall be, and shall be limited to, the Addendum A Owner. Addendum A Owner shall each be entitled to one vote as a Class 2 Member. Class 2 Members are only entitled to vote on Water and or Sewer Issues. When more than one person holds an interest in a separate lot (or the Addendum A Property as applicable), all such persons shall be Class 2 Members. The vote for each such parcel of real property shall be exercised as the owners, among themselves, determine, but in no event shall more than one vote be cast with respect to any of such parcels of real property.

**(iii) Class 3.** "Class 3 Members" shall be, and shall be limited to, all Owners who own property within the boundaries of the Association but do not reside within the boundaries of the Development. Class 3 Members who own Lots shall be entitled to one vote for each Lot then owned by them. Class 3 Members are eligible to serve as only one of the seven members of the Board of Directors at any time. When more than one person holds an interest in a Lot, all such persons shall be Class 3 Members. The vote for each such parcel of real property shall be exercised as the owners, among themselves, determine, but in no event shall more than one vote be cast with respect to any of such parcels of real property.

**(b)** All memberships in the Association are hereby specifically made appurtenant to the Lots (or the Addendum A Property or the Addendum B Property, as applicable), and memberships shall be transferred effective immediately upon the recording of the grant deed transferring ownership of the Lot (or the Addendum A Property or the Addendum B Property, as applicable).

**(c)** Membership may not be separated from the ownership of any Lot (or the Addendum A Property or the Addendum B Property, as applicable) and shall not be transferred, encumbered, pledged, alienated, or otherwise hypothecated in any way, except in connection with the sale or encumbrance of the Lot (or the Addendum A Property or the Addendum B Property, as applicable) to which it is appurtenant.

**(d)** All Class 2 memberships are coupled with a right to receive water and sewer, as more particularly provided for in this Declaration.

**(e)** Any reference in the Governing Documents to a vote of the Members, the membership or the voting power of the Association, shall be a reference to a vote of the Class 1 and / or Class 3 Members unless express reference is made to a vote of the Class 2 Members. Likewise, any reference in the Governing Documents to the requirement that the approval of a percentage or number of the Members, membership or voting power of the Association be obtained shall be a reference to the approval of such percentage or number of the Class 1 and /or Class 3 Members unless express reference is made to a vote of the Class 2.

(f) Any reference in the Governing Documents to Members or membership shall be a reference to Class 1 Members and/or Class 3 Members or Class 1 membership and/or Class 3 membership, as applicable, unless express reference is made to, or the context requires the inclusion of the Class 2 Members or the Class 2 membership.

**5.3 Board of Directors.** The affairs of the Association shall be managed by or under the direction of a Board of Directors. The number and qualifications of Directors shall be as established in the Bylaws, and the members of the Board shall be elected as provided in the Bylaws. The Board of Directors shall have all of the powers and duties set forth in any provision of the Governing Documents, including without limitation such powers and duties as may be expressly set forth in this Declaration.

**5.4 Association Rules.** The Board of Directors shall have the power and the authority to establish, promulgate, amend, repeal, and enforce such Rules as the Board deems necessary for the management and operation of the Development and the conduct of business and affairs of the Association. Such Rules may concern, without limitation, matters pertaining to use of the Common Area, pets, signs, collection and disposal of refuse; minimum standards for maintenance of property, use of recreation facilities (including swimming pools), parking and traffic regulations, rental or leasing of Lots, and any other subject matter within the jurisdiction of the Association as provided in the Governing Documents or by law.

**5.5 Manager and Other Personnel.** The Board of Directors shall have the power and authority to employ a manager and such other persons or entities as the Board shall deem appropriate to assist it in managing the Development and conducting the business and affairs of the Association, as more particularly set forth in the Bylaws

**5.6 Insurance.** The Board shall procure and maintain liability insurance and property insurance as it shall deem proper and as more particularly set forth in the Bylaws.

**5.7 Capital Improvements.** The Board of Directors shall have the power and authority to provide for the construction, reconstruction, installation, or acquisition of capital improvements upon the Common Area, provided that in any fiscal year expenditures for capital improvements shall not exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year except upon the approval of:

(a) in the event the proposed project relates to Water Issues and Sewer issues, a majority of the voting power of the Class 2 Members.

(b) in the event the proposed project relates to any other element of the Common Area, an Absolute Majority.

This limitation shall not apply to the expenditure of any funds accumulated in a reserve fund for capital improvements so long as the expenditure is for the purpose for which the fund was established nor shall it apply to reconstruction governed by Article 7 of this Declaration.

**5.8 Sale or Transfer of Association Property.** Except as provided in Section 3.4, the Board of Directors shall not in any fiscal year sell or transfer property owned by the Association having a value in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year without approval of an Absolute Majority.

**5.9 Sale, Transfer or Dedication of Common Area to Public Agency or Utility.** Except as provided in Section 3.4, the Board of Directors shall have the power to dedicate, sell or transfer all or any part of the Common Area to a public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board provided that the approval of an Absolute Majority is first obtained.

**5.10 Mortgage of Association Real Property.** The Board acting on behalf of the Association shall have the power and authority to mortgage, pledge, encumber, or otherwise hypothecate the Common Area and facilities thereon as security for money borrowed or debts incurred by the Association.

**5.11 Access.** The Board and its duly authorized agents or representatives shall have the right, after reasonable notice to the Owner thereof, to enter any Lot for the purpose of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of their responsibilities.

**5.12 Exclusive Easements.** The Board shall not have the power to grant to Owners easements, licenses to use, and/or rights of way over the Common Area for their exclusive use.

**5.13 Park Operator Fees.** The Development is a "mobile home park" as defined in California Health and Safety Code Section 18214(a). However, the Mobile Home Parks Act (Health and Safety Code Section. 18200 et seq.) does not designate the Association as the "operator" of the mobile home park. Notwithstanding the preceding, the Association shall have the power to pay any fees imposed by the State of California on mobile home park operators on behalf of the Owners collectively and shall be entitled to collect such amounts as a part of the Assessments levied against the Owners. The Association's power to pay such fees shall in no way be deemed an admission or concession that the Association is in fact a park operator and the Board may, in its discretion, contest any characterization of the Association as such.

**5.14 Water Connection Fees.** In order to offset the costs associated with connection to the Mutual Water Facilities and the installation of water meters on the Lots, the Association shall have the right to collect a connection fee from any Owner upon the connection of such Owner's Lot to the Mutual Water Facilities. Such connection fee shall be in an amount as determined by the Board, but shall in no event exceed the cost of the meter plus a reasonable fee to cover the labor of installing the meter.

## ARTICLE 6 ASSESSMENTS AND LIENS

**6.1 Covenant of Owners.** Addendum A Owner- and Addendum B Owner. Each Owner of a Lot within the Development, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, shall be deemed to have covenanted and agreed to pay to the Association: (i) Annual Assessments, (ii) Variable Utility Assessments, (iii) Special Assessments, (iv) Reimbursement Assessments, and (v) Enforcement Assessments, levied by the Association as hereinafter provided, together with all Additional Charges whether or not such Additional Charges are levied as a Reimbursement Assessment. The Addendum A Owner and the Addendum B Owner, by acceptance of a deed or other conveyance of the Addendum A Property or the Addendum B Property, whether or not it shall be so expressed in such deed or conveyance, shall be deemed to have covenanted and agreed to pay to the Association: (i) Variable Utility Assessment, (ii) Special Assessments, and (iii) Reimbursement Assessments,

levied by the Association as hereinafter provided, together with all Additional Charges whether or not such Additional Charges are levied as a Reimbursement Assessment. Such deed or conveyance shall be deemed to vest in the Association the right and power to initiate all actions and procedures as the Board shall deem necessary or appropriate for the collection of such Assessments and Additional Charges and for the enforcement of the liens hereinafter provided for each Assessment levied by the Association under this article, together with all Additional Charges, shall be a separate, distinct, and personal debt and obligation of the Owner, the Addendum A Owner, or the Addendum B Owner against whom it is assessed, and shall bind his or her heirs, devisees, personal representatives, successors, and assigns. Such obligation to pay Assessments and Additional Charges and the right and power of the Association to initiate all actions and procedures for collection shall run with the land, so that each successive owner or owners of any Lot, the Addendum A Property, or the Addendum Property, shall, in turn, become liable to pay all such Assessments and Additional Charges assessed during the time he or she is Record owner of such property. After an owner transfers of Record any Lot, the Addendum A Property, or the Addendum B Property, as applicable, he or she shall not be liable for any Assessments levied thereafter with respect to such property. Such Owner shall remain personally liable, however, for all unpaid amounts due and owing at the time of transfer, together with Additional Charges accruing until time of collection. A Contract Seller of any Lot, the Addendum A Property, or the Addendum B Property shall continue to be liable for all Assessments and Additional Charges until a conveyance by deed of such property is Recorded.

**6.2 Creation of Lien.** Each Assessment levied by the Association pursuant to this Declaration, together with all Additional Charges, shall be a charge upon the land and upon levy shall be secured by a continuing lien upon the property against which such Assessment is levied. The Association shall have a separate lien and a separate lien is hereby created upon each Lot, the Addendum A Property, and the Addendum B Property, as applicable, to secure the payment of any such Assessments and Additional Charges as may be levied under this Declaration. The lien provided for herein shall continue to secure all Assessments and Additional Charges levied upon any Lot, the Addendum A Property,



and the Addendum B Property, notwithstanding the transfer of Record title to such property, and any such transfer shall be subject to the Association's lien, provided that, prior to such transfer, a Notice of Delinquent Assessment has been Recorded as provided in this Declaration and by law. The priority of all such liens on such property shall be in inverse order so that upon the foreclosure of the lien for any particular charge on any such property, any sale of such property pursuant to foreclosure of the lien will be made subject to all liens securing the respective monthly Assessments and Additional Charges on such property for succeeding months.

**6.3 Purpose of Assessments.** The Assessments levied by the Board shall be used exclusively for (i) managing and operating the Development, the Mutual Water Facilities, and the Sewer Treatment Plant, (ii) conducting the business and affairs of the Association, (iii) Promoting the recreation, health, safety, welfare, benefit, and interests of the Owners and Residents of the Development, (iv) improving and maintaining the Common Area and, to the extent provided for in the Governing Documents or by law, the Lots situated within the Development, (v) enforcing the Governing Documents, and/or (vi) otherwise benefitting the Owners.

**6.4 Authority of the Board.** The Board shall have the power and the duty to levy Annual and Special Assessments sufficient to meet the Association's obligations under the Governing Documents and applicable law.

**6.5 Preparation of Budget.** Not less than thirty days nor more than ninety days prior to the beginning of each fiscal year, the Board shall distribute to all Owners an estimate of the funds required by the Association for such fiscal year to (i) manage, administer, (ii) operate, and maintain the Development, (iii) to conduct the affairs of the Association, and (iv) to perform all of the Association's duties in accordance with this Declaration (the "Budget"). The Budget shall include a reasonable amount allocated to contingencies and to a reserve fund for the maintenance, repair and replacement of those components for which the Association is responsible and which must be repaired or replaced on a periodic basis. The Budget shall indicate as separate line items the amount which the Board anticipates collecting as Variable Utility Assessments during the fiscal year pursuant to Section 6.7.

**6.6 Annual Assessments.**

**(a) Allocation of Annual Assessments.** The Board shall allocate and assess the amount of estimated required funds as determined pursuant to Section 6.5, less the amount of estimated funds anticipated in the Budget to be collected as Variable Utility Assessments in accordance with Section 6.7, equally among the Lots. The amount allocated to each Lot pursuant to this Section 6.6(a) shall constitute the Annual Assessment for such Lot

**(b) Payment of Annual Assessments.** Unless the Board shall designate otherwise, Annual Assessments shall be levied on an annual basis and shall be paid

in twelve equal monthly installments during the fiscal year, and each installment shall be due and payable on the first day of each month.

**(c) Surplus Funds.** If as of the end of any fiscal year, there is a surplus of cash in the Association's current maintenance and operating account; as reflected in the Associations financial statement for such fiscal year, such surplus shall be applied to reserves unless some other disposition of such surplus funds is determined by the vote of the Members.

**(d) Increases in Annual Assessment.** Pursuant to California Civil Code Section 5610(a-c), except as otherwise provided bylaw, the Board shall not increase the Annual Assessment for any fiscal year above the amount of the Annual Assessment for the preceding fiscal year by more than the maximum amount permitted by law, except upon the affirmative vote or written consent of a majority of Members voting on any such increase in the Annual Assessment, provided that a quorum is established. For purposes of the preceding sentence, a quorum shall mean more than fifty percent (5001a) of the Members of the Association, notwithstanding any lower quorum requirement which may be set forth in the Bylaws.

**6.7 Variable Utility Assessments.** The Board shall assess Variable Utility Assessments among the Lots, the Addendum A Property and the Addendum B Property as follows:

**(a) Sewage Service.** The Addendum A Property shall be assessed an amount for sewage services provided to the Addendum A Property by the Association through the Sewer Treatment Plant and its related facilities pursuant to an agreement between the Association and the Addendum A Owner.

**(b) Water Service.**

**i.** The Addendum A Property shall be assessed an amount for the provision of water services provided to the Addendum A Property by the Association through the Mutual Water Facilities pursuant to an agreement between the Association and the Addendum A Owner.

**ii.** The Addendum B Property shall be assessed an amount for the provision of water services provided to the Addendum B Property by the Association through the Mutual Water Facilities pursuant to an agreement between the Association and the Addendum B Owner.

**iii.** Lots shall be assessed amounts related to the Mutual Water Facilities in accordance with the following provisions:

- 1.** Each Lot containing a water meter on the first day of any month shall be assessed a fixed amount for that month for access to the Mutual Water Facilities in an amount determined

by the Board as necessary for the basic operation of the Mutual Water Facilities; and

2. Each Lot containing a water meter shall be assessed a monthly amount based upon water usage in accordance with the most recent water meter reading for such Lot and the applicable tariff schedule adopted by the Board of Directors.
3. Electrical Service. Each Lot shall be assessed a monthly amount based upon electricity usage in accordance with the most recent electric meter reading for such Lot and the applicable tariff schedule provided by Pacific Gas & Electric or its successors.
4. Natural Gas Service. Each Lot shall be assessed a monthly amount based upon natural gas usage in accordance with the most recent natural gas meter reading for such Lot and the applicable tariff schedule provided by Pacific Gas & Electric or its successors.
5. Total Amount Due. The amounts assessed to the Lots, the Addendum A Property and the Addendum B Property, pursuant to Section 6.7(a) through Section 6.7(d), shall constitute the Variable Utility Assessments for such property.
6. Payment of Variable Utility Assessments. Subject to the Board's authority to enter into agreements specifying different payment periods for the Addendum A Property and the Addendum B Property, Variable Utility Assessments shall be levied and due and payable on the first day of each month.

## **6.8 Special Assessments.**

**(a) Purpose of Special Assessments.** If at any time during any fiscal year the Annual Assessment or the Variable Utility Assessments prove inadequate for any reason, including nonpayment of any share thereof or the unexpected repair, replacement, or reconstruction of improvements located in the Development, or if funds are otherwise required for any authorized activity of the Association including the operation of the Sewer Treatment Plant or the Mutual Water Facilities, the Board may levy a Special Assessment in the amount of such actual or estimated inadequacy or cost.

### **(b) Allocation of Special Assessments.**

- (i)** Except for Special Assessments related to those services referred to in Section 6.7(a) through Section 6.7(d), Special Assessments shall be allocated and assessed equally among the Lots.

- (ii) Special Assessments related to the provision of the sewage services referred to in Section 6.7(a) shall be allocated and assessed equally among the Lots and the Addendum A Property, unless an agreement between the Association and the Addendum A Owner prevents such allocation, in which case such Special Assessments shall be allocated equally among the Lots.
- (c) Special Assessments related to the provision of the water services referred to in Section 6.7(b) shall be allocated and assessed equally among the Lots containing water meters on the day the Special Assessment is levied, the Addendum A Property and the Addendum B Property, unless an agreement between the Association and the Addendum A Owner or the Association and the Addendum B Owner prevents such allocation, in which case such Special Assessments shall be allocated equally among such Lots and the Addendum A Property and the Addendum B Property, as applicable. Notwithstanding the preceding the Board shall have the discretion to allocate such Special Assessments on such other basis as the Board determines to be equitable under the circumstances.
- (d) Special Assessments related to the provisions of the electrical services referred to in Section 6.7(c) shall be allocated and assessed equally among the Lots receiving electrical service or on such other basis as the Board determines to be equitable under the circumstances.
- (e) Special Assessments related to the provisions of the natural gas services referred to in Section 6.7(d) shall be allocated and assessed equally among the Lots receiving natural gas service or on such other basis as the Board determines to be equitable under the circumstances.
- (f) Approval of Special Assessments. Except in the case of an emergency situation as defined in California Civil Code Section 5600 (a), 5605(a), and 5605 (c), in any fiscal year the Board may not levy Special Assessments which, in the aggregate, exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, except upon the affirmative vote or written consent of a majority of the Members voting on any such Special Assessment, provided that a quorum is established. For purposes of the preceding sentence, a quorum shall mean more than fifty percent (50%) of the Members of the Association, notwithstanding any lower quorum requirement which may be set forth in the Bylaws.

**6.9 Reimbursement Assessments.** The Association shall levy a Reimbursement Assessment against any Owner, the Addendum A Owner, or the Addendum B Owner and his or her Lot, or the Addendum A Property or the Addendum B Property, as applicable, if a failure by him or her, or any person or pet for whom he or she is responsible, to comply with any provision of the Governing Documents has necessitated or resulted in an expenditure of funds by the Association to deal with such Lack of compliance or to bring

him or her or his Lot, or the Addendum A Property or the Addendum B Property, as applicable, into compliance. The Association shall also levy a Reimbursement Assessment in the event that the Association has expended funds performing emergency repairs as authorized by this Declaration. A Reimbursement Assessment shall include any costs, including attorneys' fees, incurred by the Association, including costs of collecting from an Owner, the Addendum A Owner, or the Addendum B Owner any amount which such person is obligated to pay to the Association. A Reimbursement Assessment shall be due and payable to the Association when Levied.

**6.10 Enforcement Assessments.** The Board may levy an Enforcement Assessment against any Owner, and any fine imposed by the Board in accordance with the provisions of the Governing Documents shall be deemed to be such an Enforcement Assessment, for violation of any of the provisions of the Governing Documents. Any Enforcement Assessment shall be due and payable to the Association when levied.

**6.11 Failure to Fix Assessments.** The failure or omission by the Board to fix or levy any Annual Assessment provided for by the terms of this Declaration before the expiration of any fiscal year, for that fiscal year or the next fiscal year, shall not be deemed either a waiver or a modification in any respect of the provisions of this Declaration, or a release of any Owner, the Addendum A Owner, or the Addendum B Owner from the obligation to pay Assessments or any installment thereof for that or any subsequent ; but the amount of the Annual Assessment fixed for the preceding fiscal year shall be the amount of the Annual Assessment for the ensuing fiscal year until a new Annual Assessment is levied.

**6.12 Offsets.** All Assessments levied by the Board shall be payable in the full amount specified, including any Additional Charges imposed as provided by the terms of this Declaration, and no offsets against any such amounts shall be permitted for any reason whatsoever, including without limitation a claim that the Association has failed to properly exercise its duties of maintenance or enforcement.

**6.13 Delinquent Assessments.** Any installment or other portion of an Assessment not paid within fifteen (15) days after its due date shall be delinquent and shall be subject to interest and late charges not to exceed the maximum rate permitted by law, as well as all other Additional Charges. The Board, on behalf of the Association, may enforce the payment of any delinquent Assessment plus Additional Charges by bringing an action at law against the Owner, the Addendum A Owner, or the Addendum B Owner personally obligated to pay the same, or by foreclosing the lien against the Owner's Lot, or the Addendum A Property or the Addendum B Property, as applicable, by judicial or non-judicial foreclosure, except as prohibited by law. Prior to Recording a Notice of Delinquent Assessment, the Association shall provide notice to the Owner, the Addendum A Owner, or the Addendum B Owner as required by California Civil Code Section 5740 or other applicable statute. The Notice of Delinquent Assessment shall be mailed in the manner set forth in California Civil Code Section 2924B, to all record owners of the Lot no later than ten (10) days after recordation as required by California Civil Code Section 5740. No procedures shall be initiated to foreclose the lien securing any Assessment levied under

this article until after the expiration of thirty (30) days following the Recording of a lien created pursuant to California Civil Code Section 5655 or other applicable statute. Except as prohibited by law, upon the Recording of the Notice of Delinquent Assessment referred to above, the Association may, at its option, declare the entire balance of all sums then due or to become due from the Owner, immediately due and payable, which total sum may then be included in any suit, action, or other procedure initiated to collect such sums, including all Additional Charges.

**6.14 Power of Sale.** Each Owner, the Addendum A Owner, and the Addendum B Owner do hereby appoint the Association as trustee to enforce and to foreclose any lien which is established pursuant to the terms of this Declaration, by private power of sale, as provided in Division III, Part 4, Title 14, Chapter 2, Article 1, of the California Civil Code, and does further grant to the Board of Directors, on behalf of the Association, the authority and power to sell the Lot, or the Addendum A Property or the Addendum B Property, as applicable, in the event of any default in payment of any Assessments or Additional Charges levied against such property, for lawful money of the United States, to the highest bidder, to satisfy such lien, except as prohibited by law. The Association or any Owner may purchase the Lot, or the Addendum A Property or the Addendum B Property, as applicable, at the sale. The Board may commence any procedure for the collection of delinquent Assessments upon its own decision. The remedies provided in this Declaration for collection of delinquent Assessments shall be cumulative and not exclusive.

**6.15 Certificate of Satisfaction and Release of Lien.** Upon payment in full of a delinquent Assessment, including any Additional Charges, or the satisfaction thereof the Board shall Record, in the same manner as the Notice of Delinquent Assessment, a further certificate stating the satisfaction thereof and the release of the lien.

**6.16 Priority.** Except as otherwise expressly provided by law, the lien securing each of the Assessments provided for under this article shall have priority as of the date of Recording of the Original Declaration applicable to the Development over all other liens and encumbrances applicable to the Lots, the Addendum A Property, and the Addendum B Property. However, such Assessment lien shall be subordinate to the lien of any First Mortgage Recorded against the Lot, or the Addendum A Property or the Addendum B Property, as applicable, and provided, further, that such subordination shall apply only to the Assessments which have become due and payable prior to the sale of such property pursuant to a decree of foreclosure of any such First Mortgage, or pursuant to a power of sale contained in any such First Mortgage. Such foreclosure sale shall not relieve such property from liability for any Assessments and Additional Charges thereafter becoming due, nor from the lien of any subsequent Assessment.

**6.17 Association Funds.** Unless otherwise determined by the Board, the Association shall maintain at least two separate accounts in one or more banks or other depositories selected by the Board, which accounts shall be clearly designated as THE OAKS COMMUNITY ASSOCIATION OPERATING ACCOUNT and THE OAKS COMMUNITY ASSOCIATION RESERVE ACCOUNT or such other similarities as the Board shall select. The Assessments collected by the Association shall be properly deposited into

such accounts. The Assessments collected by the Association shall be used for the purposes set forth in Section 6.3.

**6.18 Waiver of Exemptions.** Each Owner, the Addendum A Owner, and the Addendum B Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this article, the benefit of any homestead or exemption laws of the State of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed pursuant to the terms of this article.

**6.19 Property Exempt From Assessments.** The following property subject to this Declaration shall be exempt from the Assessments, Additional Charges, and liens created herein:

(a) All property dedicated to and accepted by the County or other local public authority and devoted to public use;

(b) Any Lot, the Addendum A Property, or the Addendum B Property if such property is owned by the Association. Such exemption shall be applicable only during the period in which the Association is record owner of such property.

(c) All Common Area.

## **ARTICLE 7 DAMAGE OR DESTRUCTION OF BUILDINGS; CONDEMNATION**

### **7.1.1 Distribution in the Case of Condemnation or Destruction.**

(a) A condemnation award affecting all or part of the structural Common Area of the Development which is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners in the subdivision shall be distributed among the affected Owners and their respective Mortgagees according to the relative values of the separate Lots affected by the condemnation as determined by an independent appraisal.

(b) In the event of partial or total destruction of the structural Common Area of The Development, and an election by sixty-six and two-thirds percent (66 2/3 %) or more of the Owners deciding not to rebuild, insurance proceeds received by the Association on account of the destruction of the Common Area shall be distributed by the Association among Owners of separate Lots and their respective Mortgagees in proportion to the fair market value of one separate Lot as compared to the total fair market value of all separate Lots as determined by an independent appraisal of the Development immediately prior to the destruction.

(c) The value of the Development for condemnation, partial destruction and total destruction shall be determined in the following manner:

(i) Within ninety (90) days after the property condemnation or destruction, the Board shall engage an appraiser and instruct such appraiser

promptly to determine the fair market value of the property and to report to the Board in writing as to the amount, method and basis of such appraisal.

**(ii)** Should the Board fail timely to select such appraiser or should such appraiser fail to complete such report within thirty (30) days after being so engaged or should affected separate Lot Owners not agree with the amount of such appraisal, then dissatisfied separate Lot Owners shall engage an appraiser to make such determination of fair market value and to report to the dissatisfied separate Lot Owners and the Board as above provided.

**(iii)** Should the appraisers engaged by the dissatisfied separate Lot Owners and the Board make differing determinations as to the fair market value, then said two (2) appraisers shall confer and endeavor to agree upon the fair market value and if they are able to so agree, such agreed upon value shall be the fair market value of the property. Should said appraisers fail to so agree within ten (10) days following the Boards receipt of the written report of the appraisers engaged by the dissatisfied separate Lot Owners, then said appraisers shall, within ten (10) additional days, select a third appraiser to determine said fair market value, and if they cannot agree upon such selection within said time then either the dissatisfied separate Lot Owners or the Board or both may petition the Amador County Superior Court for the presiding judge (or other appropriate person) to select such third appraiser.

**(iv)** The parties shall engage said third appraiser to determine the fair market value and to report to them in writing as to the amount, method and basis for such appraisal. If the fair market value as determined by said third appraiser is the same as the fair market value as determined by either of said other two (2) appraisers then such determination shall become the fair market value.

## **ARTICLE 8 MAINTENANCE OF PROPERTY**

**8.1 Association Responsibility for Maintenance of the Common Area.** The Association shall provide maintenance, repair, and replacement of the Common Area and all facilities, improvements, and landscaping thereon, including, without limitation, any swimming pool, clubhouse, playground, parking area, private street, walk and utility facility (except for those utility facilities which are maintained by entities other than the Association), and all other real property and personal property that may be acquired by the Association, keeping such property in good condition and repair. The Association shall further be responsible for providing lighting, landscaping, gardening (including periodic replacement, as the Board deems necessary; of trees, shrubs, and other plants upon the Common Area), and janitorial services for the Common Area, as needed, and shall cause any and all other acts to be done which may be necessary to assure the maintenance of the Common Area in good condition and repair, including painting of the exterior surfaces of any building(s) and such other portions of the Common Area as the Board, in its discretion, determines to be necessary.



**8.2 Authority for Entry of Lot.** The Association or its agents may enter any Lot, whenever such entry is necessary, in the Board's sole discretion, in connection with the performance of any maintenance, repair, construction, or replacement for which the Association is responsible or which it is authorized to perform, including without limitation the authorization provided in Section 8.5. Although under no obligation to do so, the Board, in its complete and sole discretion, may enter or may authorize the Association's agents to enter any Lot to effect emergency repairs where such repairs are necessary for safety reasons or to prevent or discontinue damage to the entered Lot, any other Lot or the Common Area. The cost of performing any such emergency repairs shall be charged to the Owner as a Reimbursement Assessment. Such entry shall be made with as little inconvenience to the Residents as practicable and only upon reasonable advance written notice of not less than twenty-four (24) hours, except in emergency situations.

**8.3 Association Liability.** The Association shall not be responsible or liable for any maintenance, repair, or replacement of a Lot or any improvement thereon, except to the extent that the need for such maintenance, repair, or replacement results from the negligence or fault of the Association, its employees, Contractors, or agents.

**8.4 Owner Responsibility for Lots**

**(a) Generally.** Each Owner shall be responsible for the maintenance, repair and replacement of his or her Lot and all improvements thereon including, without limitation

**(i)** the Residence,

**(ii)** all landscaping, and

**(iii)** subject to the provisions of Section 8.4(b), all fences.

**(b) Shared Fences and Shared Walls.** The following provisions shall govern Shared Fences and Shared Walls:

**(i) General Rules of Law to Apply.** Each fence or wall which is built as a part of the original construction of the Residences within the Development and serves as the boundary between the Lots shall constitute a Shared Fence or Shared Wall. To the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the Shared Fences and Shared walls.

**(ii) Sharing of Repair and Maintenance.** The cost of reasonable maintenance and repair of a Shared Fence or Shared Wall shall be shared by the Owners who make use of the fence or wall in proportion to such use.

**(iii) Destruction by Fire or Other Casualty.** If a Shared Fence or Shared Wall is destroyed or damaged by fire or other casualty, any Owner who

has used the fence or wall may restore it, and if the other Owners thereafter make use of the fence or wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any - rule of law regarding liability for negligent or willful acts or omissions.

**(iv) Right to Contribution Runs With Land.** The right of any Owner to contribution from any other Owner under this section shall be appurtenant to and run with the land and shall pass to such Owner's successors in title.

**(c) Landscaping.** Each Owner shall maintain the landscaping on his or her Lot in a neat and attractive condition including without limitation, the fertilization, regular mowing and edging of grass and trimming of bushes and trees.

**(d) Fences.** Each Owner shall maintain, in good condition and repair, the fences located on or serving his or her Lot in accordance with Section 8.4(b).

**(e) Weeds and Trash.** Each Owner shall keep his or her Lot free of trash, weeds and other debris.

**(f) Drainage and Erosion Control.** Each Owner shall maintain and keep in good working order all drainage and erosion control systems on his or her Lot.

**(g) Utility Connections.** Utility lines and connections, including without limitation, water, sewer, electrical, cable television, telephone and gas lines, which are located on, under, or over any Lot and which provide service to the Lot including, without limitation, the Residence and other improvements thereon, shall be maintained, repaired and replaced by the Owner of such Lot or by the utility company providing such service. The Association shall not be responsible for any such maintenance, repair or replacement.

**(h) Compliance with Architectural Provisions.** An Owner's right and responsibility for maintaining, repairing or replacing any portions of his or her Lot, including landscaping, shall be subject to any applicable provisions of the Governing Documents relating to landscaping and architectural control, including Article 10.

**8.5 Owner Failure to Maintain.** The Board shall have the absolute discretion to determine whether any maintenance, repair, or replacement which is the responsibility of an Owner, including, without limitation, those specific responsibilities listed in Sections 8.4(b) through 8.4(g), is necessary to preserve the appearance and value of the property comprising the Development, or any portion thereof, and may notify an Owner of the work the Board deems necessary. In the event an Owner fails to perform such work within thirty (30) days after notification by the Board to the Owner, the Board may, after written notice to the Owner and the right of a hearing before the Board, cause such work to be done and charge the cost thereof to the Owner as a Reimbursement Assessment.

**8.6 Owner Liability.** In the event the need for any maintenance, repair, or replacement by the Association is caused by the willful or negligent act or omission of an Owner or the members of an Owner's household or an Owner's, tenants, Contract Purchaser, guests, invitees, or pets, the cost of such maintenance, repair, or replacement, including the cost of materials, labor, supplies, and services shall be charged to, and paid by, such Owner in the form of a Reimbursement Assessment.

## **ARTICLE 9 MORTGAGEE PROTECTION**

### **9.1 Protection of Lenders.**

**(a)** Unless at least seventy-five percent (75%) of the holders of first Mortgage liens on individual Lots have given their prior written approval, the Association shall not:

**(i)** By act or omission, seek to abandon or terminate the separate Lot regime;

**(ii)** Change the prorata interest or obligation of any separate Lot for (A) purposes of levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; and (B) for determining the prorata share of ownership of each separate Lot in appurtenant real estate and any improvements thereon which are owned by separate Lot Owners in the Development in undivided prorata interests;

**(iii)** Partition or subdivide any separate Lot

**(iv)** By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Development shall not be deemed a transfer within the meaning of this clause;

**(v)** Use hazard insurance proceeds for losses to any property included in the Development (whether to separate Lots or to the Common Area) for other than the repair, replacement, or reconstruction of such improvements, except as provided by statute in case of substantial loss to the separate Lots and/or the Common Area of the Development.

**(b)** Any Mortgagee of any Lot, who receives a written request to consent to an amendment or other action affecting the Development or the subject Lot, and who does not respond negatively within thirty (30) days after having received notice of the request, shall be deemed to have consented to the amendment or other action and shall be governed by it.

## **ARTICLE 10      ARCHITECTURAL AND LANDSCAPE CONTROL**

**10.1 Submission of Plans and Specifications.** Except for improvements made or constructed by or on behalf of the Association, no building, Residence, Manufactured Home, shed, fence, wall, obstruction, balcony, screen, patio cover, tent, awning, improvement or other structure of any kind or any landscaping shall be commenced, erected, painted, or maintained within the Development, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, color, height, size, materials, and location of the same shall have been submitted to and approved in writing by the Board of Directors as to quality of workmanship and design, harmony of external design and location in relation to surrounding structures, topography, and finished grade elevation and is in compliance with Section 10.2.

**10.2 General Design Standards.** The following design standards shall apply:

**(a) Type and Character of Design.** Exterior design of all the improvements on any Lot shall be compatible with the overall atmosphere of the Development. Approval of such exterior design shall be in the sole discretion of the Board.

**(b) Residences shall be Manufactured Homes.** In accordance with Section 4.2, no Residence may be installed, erected, or maintained upon any Lot except for a single-family Manufactured Home.

**(c) New Manufactured Home.** Except as specifically permitted in writing by the Board of Directors, no used Manufactured Home may be installed, erected, or maintained upon any Lot. The Board may, in its sole and complete discretion, approve the installation of a used Manufactured Home based on the Board's determination that the Manufactured Home in question is in keeping with the overall atmosphere of; and will not adversely affect the appearance, property values and aesthetic quality of; the Development and that such Manufactured Home otherwise complies with the provisions of this Declaration. No such approval in one instance shall be deemed a waiver of the Board's right to refuse to approve the installation of a used Manufactured Home at any other time.

**(d) Outbuildings.** The paint and roof coverings of all storage sheds or storage buildings on a Lot must be identical in style, color and composition with those of the Residence on the same Lot.

**(e) Restrictions.** All improvements must comply with the provisions of this Declaration including, without limitation, those specified in Article 4.

### **10.3 Required Installations.**

**(a) Garage or Carport.** Within a reasonable time following the installation or erection of a Residence, which shall be a Manufactured Home, on a Lot, the Owner

of such Lot shall install a garage or carport designed to accommodate a total of at least (2) automobiles and/or standard-sized pickup trucks or vans.

**(b)** Landscaping. The initial landscaping of a Lot, which shall be to the reasonable satisfaction of the Board, shall be completed within thirty (30) days of the installation or erection upon such Lot of a Manufactured Home.

**10.4 Rules.** The Board may, from time to time, adopt, amend, and repeal rules and regulations to be known as "Architectural Rules", which shall be Rules as that term is defined in Section 1.36. The Architectural Rules shall interpret and implement the provisions of this article by setting forth the standards and procedures for Board review and guidelines for architectural design, placement of buildings and other structures, and landscaping, color schemes, exterior finishes and materials, and similar features which are recommended for use in the Development, provided, however, that the Architectural Rules shall not be in derogation of the minimum standards required by this Declaration.

**10.5 Application.** Any Owner proposing to perform any work of any kind whatever, which requires prior approval pursuant to this article, shall apply for approval by notifying the Association, in writing, of the nature of the proposed work and furnishing such information and documentation as the Board may require.

**10.6 Fees.** The Board of Directors may, in its sole discretion, consult with professionals, including without limitation architects, engineers, soils experts, or contractors, in reviewing architectural or landscaping applications, drawings, plans, and specifications.' The Board of Directors may, in its discretion, charge a reasonable fee for its review except that it may charge a reasonable fee or fees equal to the cost of consultations obtained pursuant to this section.

**10.7 Grant of Approval.** The Board shall grant the requested approval only if:

**(a)** The Owner shall have complied with the provisions of Section 10.1 above;

**(b)** The Board shall find that the plans and specifications conform to this Declaration, including without limitation Section 10.2, and to the Architectural Rules in effect at the time such plans were submitted to the Board; and

**(c)** The Board shall determine that the proposed improvements would be consistent with the standards of the Development and the purposes of this Declaration as to quality of workmanship, design and materials, as to harmony of exterior design with the existing structures, and as to location with respect to topography and finished grade elevations.

**10.8 Form of Approval.** All approvals and denials of requests for approval shall be in writing except as provided in Section 10.9. The Board may approve a request for approval subject to the Owner's consent to any modifications made by the Board. If the Owner does not consent to the modifications, the request for approval shall be deemed

denied in its entirety. Any approval or approval with modifications shall become effective upon the date of such approval.

**10.9 Time for Board Action.** Any request for approval which has not been acted upon within forty- five (45) days from the date of receipt thereof by the Board shall be deemed approved. The Owner requesting approval shall have the burden of establishing the date of receipt of the request for approval by the Board.

**10.10 Commencement.** Upon receipt of approval pursuant to Sections 10.7 and 10.8, the Owner shall, as soon as practicable following the effective date of such approval as specified in Section 10.8, satisfy all conditions thereof and diligently proceed with the commencement and completion of all installation, construction, reconstruction, refinishing, alterations, and excavations pursuant to such approval, commencement to occur, in all cases, within ninety (90) days from the effective date of such approval. If the Owner shall fail to comply with this paragraph, any approval previously given shall be deemed revoked unless the Board, upon written request of the Owner made prior to the expiration of the time for commencement, extends the time for such commencement. No such extension shall be granted except upon a finding by the Board that there has been no change in the circumstances upon which the original approval was granted.

**10.11 Completion.** The Owner shall, in any event, complete the installation, construction, reconstruction, refinishing, or alteration of any improvement within one (1) year after commencing construction thereof (or in the case of projects under construction when this Declaration is Recorded, within one (1) year after the date of Recordation), except and for as long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities, or other supervening forces beyond the control of the Owner or his agents. If an Owner fails to comply with this section, the Board shall proceed in accordance with the provisions of Section 10. 12, below, as though the failure to complete the improvements was a non-compliance with approved plans.

**10.12 Inspection.** Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any construction, reconstruction, alteration, or refinishing of the exterior of any improvements, or upon the completion of any other work for which approved plans are required under this article, the Owner shall give written notice thereof to the Board.

(b) Within sixty (60) days after the receipt of such written notice, the Board, or its duly authorized representative, may inspect such improvement to determine whether it was constructed, reconstructed, altered, or refinished to substantial compliance with the approved plans. If the Board finds that such construction, reconstruction, alteration, or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such

non-compliance within such sixty (60) day period, specifying particulars of non-compliance and shall require the Owner to remedy such non-compliance.

**(c)** If the Owner shall have failed to remedy such non-compliance upon the expiration of Thirty (30) days from the date of such notification, the Board shall then set a date on which a hearing before the Board shall be held regarding the alleged non-compliance. The hearing date shall be not more than forty-five (45) nor less than fifteen (15) days after the expiration of the 30-day remediation period. Notice of the hearing date shall be given at least ten (10) days in advance thereof by the Board to The Owner and, in the discretion of the Board, to any other interested party.

**(d)** At the hearing the Owner and, in the Board's discretion, any other interested person, may present information relevant to the question of the alleged non-compliance. After considering all such information, the Board shall determine whether there is a non-compliance, and, if so, the nature thereof and the estimated cost of correcting or removing the same. If non-compliance exists, the Board shall require the Owner to remedy-or remove the same within a period of not more than forty- five (45) days from the date of the Board's ruling. If the Owner does not comply with the Board's ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board, at its option, may either remove the non-complying improvement or remedy the noncompliance and all expenses incurred in connection therewith shall be assessed against the Owner as a Reimbursement Assessment.

**(e)** If the Board fails to notify the Owner of any non-compliance within sixty (60) days after receipt of a notice of completion from the Owner, the improvement shall be deemed to be in accordance with the approved plans. The Owner shall have the burden of establishing the date of receipt on the notice of completion by the Board.

**10.13 Preliminary Approval.** Any Owner proposing to construct improvements requiring the prior approval of The Board may apply to the Board for preliminary approval by submission of preliminary drawings of the proposed improvements in accordance with the Architectural Rules. The purpose of the preliminary approval procedure is to allow an Owner proposing to make substantial improvements an opportunity to obtain guidance concerning design considerations before expending substantial sums for plans and other exhibits required to apply for final approval. Application for preliminary approval shall be considered and disposed of as follows:

**(a)** Within forty-five (45) days after proper application for preliminary approval, the Board shall consider and act upon such request. However, notwithstanding any other provision of this Declaration, no failure to act upon an application for preliminary approval shall be deemed to be an approval of such application. The Board shall grant the approval only if the proposed improvement, to the extent its nature and characteristics are shown by the preliminary

application, would be entitled to a final approval on the basis of a full and complete application. In granting or denying approval, the Board may give the applicant such directions concerning the form and substance of the final application for approval as it may deem proper or desirable for the guidance of the applicant.

(b) Any preliminary approval granted by the Board shall be effective for a period of ninety (90) days from the date of the issuance thereof. During such period, any application for final approval which consists of proposed improvements in accordance with the provisions of the preliminary approval, and is otherwise acceptable under the terms of this Declaration, shall be approved by the Board.

(c) In no event shall any preliminary approval be deemed to be an approval authorizing construction of the subject improvements.

**10.14 Non-Waiver.** The approval by the Board of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring the approval of the Board under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval.

**10.15 Estoppel Certificate.** Within thirty (30) days after written demand is delivered to the Association by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Board), the Board shall Record an estoppel certificate, if permitted by the County, certifying (with respect to any Lot of such Owner) that as of the date thereof either (i) all improvements made and other work completed by such Owner comply with this Declaration, or (ii) such improvements or work do not so comply, in which event the certificate shall also identify the non-complying improvements or work and set forth with particularity the basis of such non-compliance. Any purchaser from the Owner, or from anyone deriving any interest in a Lot through him, shall be entitled to rely on such certificate with respect to the matters therein set forth, such matters being conclusive as between the Association and all Owners and such persons deriving any interest through them.

**10.16 Notice of Noncompliance.** If any improvements are installed within the Development that are not in conformance with this Declaration, the Association is authorized to Record a Notice of Noncompliance, if permitted by the County. The Notice of Noncompliance shall provide: (i) a legal description of the Lot affected, (ii) the name of the record Owner as most recently reported to the Association, and (iii) a description of the general nature of the noncompliance. If and when such Lot is brought into compliance with this Declaration, as determined by the Board, the Association shall issue and, if permitted by the County, Record an estoppel certificate in accordance with Section 10.15.

**10.17 Liability.** Neither the Board, nor any member thereof shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of (i) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (ii) the construction or performance of any work, whether or not



pursuant to approved plans, drawings, and specifications; the development of any property within the Development; (iv) the execution and filing of an estoppel certificate pursuant to Section 10.15, whether or not the facts therein are correct; provided, however, that the Board or any member thereof has acted in good faith on the basis of such information as may be possessed by it or him; or (v) the execution and filing of a notice of noncompliance pursuant to Section 10.16, whether or not the facts therein are correct; provided, however, that the Board or any member thereof has acted in good faith on the basis of such information as may be possessed by it or him. Without in any way limiting the generality of the foregoing, the Board or any member thereof may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Board. Every purchaser, by acquiring title to a Lot or portion thereof agrees not to bring any action or suit against The Board, or its members, seeking to recover any such damages.

**10.18 Compliance With Governmental Requirements.** The application to the Association, and the review and approval of any proposals, plans, or other submittals, shall in no way be deemed to be satisfaction of or compliance with any building permit process or any other governmental requirements, the responsibility for which lies solely with the respective Owner, nor shall it constitute the assumption of any responsibility by or impose any liability on the Association, the Board, or its members as to the accuracy, efficacy, or sufficiency of such proposals, plans or other submittals.

## **ARTICLE 11      UTILITY SERVICES**

**11.1 Water.** The Association shall, for the benefit of the Water Service Area, acquire and pay for water and, at its sole cost and expense, maintain, repair and replace, as necessary, the Mutual Water Facilities so as to provide water service within the Water Service Area. The Mutual Water Facilities shall be maintained properly and in accordance with any standards established by any applicable regulatory agencies.

**11.2 Sewer.** The Association shall, for the benefit of the Lots and the Addendum A Property, at its sole cost and expense, maintain, repair and replace, as necessary, the Sewer Treatment Plant. The Sewer Treatment Plant shall be maintained properly and in accordance with any standards established by any applicable regulatory agencies.

**11.3 Electricity.** The Association shall, for the benefit of the separate Lots, at its sole cost and expense, obtain and pay for electric service and maintain, repair and replace, as necessary, the sub meters and all electric lines, wires, conduits and other improvements from the master electric meter to and including the individual sub meters. The common electric system shall be maintained properly and in accordance with any standards established by any applicable regulatory agencies.

**11.4 Natural Gas.** The Association shall, for the benefit of the separate Lots, at its sole cost and expense, obtain and pay for natural gas service and maintain, repair and replace, as necessary, the sub meters and all natural gas lines, conduits and other improvements from the master natural gas meter to and including the individual

submeters. The common natural gas system shall be maintained properly and in accordance with any standards established by any applicable regulatory agencies.

**11.5 Other Utilities.** The Association shall have the authority to and may in the sole discretion of the Board, acquire, maintain and pay for any other required services such as: refuse collection, telephone and other necessary utility services for the Common Area and for the Lots, as well as maintenance and gardening service for the Common Areas and the Lots.

**11.6 Refuse Collection Service.** The Association shall have the authority to designate one refuse collection service to service the entire Development. Each Owner shall be responsible (i) to pay for the refuse collection service to his or her Lot, or (ii) to remove all trash, garbage, accumulated waste plant material, and all other waste and refuse from the Development on a weekly basis, (iii) For proper storage of all refuse in plastic containers with proper fitting lids and designed for household refuse. Class 3 members are required to provide or otherwise require mandatory commercial refuse collection service at each occupied property.

**11.7 Termination of Water or Sewer Connection to Addendum Property.**

**(a)** Notwithstanding any language to the contrary, should the Addendum A Owner take any action to invalidate the lien against the Addendum A Property created by this Declaration, the Association shall no longer have any obligation to provide water service to the Addendum A Property and the Association shall be permitted to terminate any water connection serving the Addendum A Property. Notwithstanding any language to the contrary, should the Addendum B Owner take any action to invalidate the lien against the Addendum B Property created by this Declaration, the Association shall no longer have any obligation to provide water service to the Addendum B Property and the Association shall be permitted to terminate any water connection serving the Addendum B Property.

**(b)** Notwithstanding any language to the contrary, should the Addendum A Owner take any action to invalidate the lien against the Addendum A Property created by this Declaration, the Association shall no longer have any obligation to provide sewer service to the Addendum A Property and the Association shall be permitted to terminate any sewer connection serving the Addendum A Property.

**ARTICLE 12      ENFORCEMENT**

**12.1 Violations as Nuisance.** Every act or omission constituting or resulting in a violation of any of the provisions of the Governing Documents shall be deemed to constitute a nuisance. In addition to any other remedies which may be available, such nuisance may be abated or enjoined by the Association, its officers, the Board or by any Owner. The Board shall not be obligated to take action to abate or enjoin a particular violation if, in the exercise of its discretion, the Board determines that acting to abate or

enjoin such violation is not likely to foster or protect the interests of the Association and its Members as a whole.

**12.2 Violation of Law.** Any violation of a state, municipal or local law, ordinance or regulation pertaining to the ownership, occupancy, or use of any property within the Development is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.

**12.3 Owners' Responsibility for Conduct and Damages.** Each Owner shall be fully responsible for informing members of his or her household and his or her tenants, Contract Purchasers, and guests of the provisions of the Governing Documents, and shall be fully responsible for the conduct, activities, any Governing Document violation of any of them, and for any damage to the Development or the Association resulting from the negligent or intentional conduct of any of them or any household pets. If a Lot is owned jointly by two or more persons, the liability of each Owner in connection with the obligations imposed by the Governing Documents shall be joint and several.

**12.4 No Avoidance.** No Owner may avoid the burdens or obligations imposed by the Governing Documents through non-use of any Common Area facilities or by abandonment of his or her Lot.

**12.5 Rights and Remedies of the Association.**

**(a) Rights Cumulative.** The Association, its Directors, officers, or agents, and any Owner shall have the right to enforce any and all provisions of the Governing Documents by any proceeding at law or inequity, or through the use of such other remedies as are available and deemed appropriate by the Board. Each remedy provided is cumulative and not exclusive. The Board shall not be obligated to take action to enforce a provision of the Governing Documents if, in the exercise of its discretion, the Board determines that acting to enforce the provision is not likely to foster or protect the interests of the Association and its Members as a whole.

**(b) Member Not In Good Standing.** Upon a determination by the Board of Directors, after prior notice to the affected Member and an opportunity for a hearing as provided in the Bylaw's that such Member has violated any provision of the Governing Documents including a failure to pay any Assessment when due, the Board may, but shall not be required to, give notice in writing to such Member that he or she is deemed not to be a Member in Good Standing. Such Member shall be deemed to remain in that status until such time as the Board shall determine in writing that the violation which resulted in the Board's determination has been cured or remedied or, on some other basis as in the judgment of the Board is just and proper, that such Member shall again be deemed to be a Member in Good Standing of the Association.

**(c) Imposition of Sanctions – Owners.** In the event of a breach or infraction of any provision of the Governing Documents by an Owner, members of

an Owner's household, or his or her tenants, Contract Purchasers, contractors, guests, pets or invitees, the Board shall have the power to impose sanctions against the Owner. Such sanctions may include, without limitation, the imposition of fines and/or the suspension of an Owner's rights as a Member, including an Owner's voting rights or an Owner's right to use the recreational or community facilities on the Common Area. Except as provided in Section 10.7 below, imposition of sanctions shall be effective only after the Board has held a hearing as provided in Section 8.1.4 of the Bylaws. The payment of any such fine may be enforced as an Enforcement Assessment as provided in Section 6.8 of this Declaration as well as in any manner permitted by law. Further, each Owner shall be obligated to pay Reimbursement Assessments levied by the Board for reimbursement of any costs incurred by the Association relating to violation of any provisions of the Governing Documents by such Owner, members of such Owner's household, or his or her tenants, Contract Purchasers, contractors, guests, pets or invitees.

**(d) Suspension of Voting Rights - Addendum A Owner and Addendum B Owner.** The Board shall have the power to suspend the voting rights of the Addendum A Owner and/or the Addendum B Owner (as applicable) for any period during which any Assessment against such owner remains unpaid and delinquent provided that such suspension shall be effective only after notice and an opportunity for hearing as provided in the Bylaws. Notwithstanding California Corporations Code Section 14303, the Association shall not be entitled to terminate an Owner's water service based on such Owner's failure to pay Assessments to the Association.

**(e) Inadequacy of Legal Remedy.** Except for the non-payment of any Assessment levied pursuant to the provisions of Article 6 of this Declaration, it is hereby declared that a remedy at law to recover damages for a default in the performance of any of the terms and provisions of any of the Governing Documents or for the breach or violation of any such provisions is inadequate and that the failure of any Owner or a member of the household of any Owner or an Owner's tenants, guests, or household pets or any other occupant or user of any of the property within the Development to comply with any provision of the Governing Documents may be enjoined in any judicial proceedings initiated by the Association, its Officers or Board of Directors, or by any Owner or by their respective successors in interest.

**(f) Limitation on Disciplinary Rights.** The Association shall not have the power and authority to cause a forfeiture or abridgment of a Member's right to the full use and occupancy of his or her Lot as the result of the failure by such Owner, members of such Owner's household, or his or her tenants, guests, invitees or household pets to comply with any provision of the Governing Documents, except where such forfeiture or abridgment is the result of the judgment of a court of competent jurisdiction, a decision arising out of an arbitration proceeding, or a foreclosure or sale under private power of sale for failure of such Owner to pay Assessments levied by the Association pursuant to Article 6 of this Declaration. The

provisions of this subsection shall not affect the Associations right to impose fines or monetary penalties or to suspend an Owners membership right, as provided in the Governing Documents.

**(g) Mobile Home Residency Law.** It is the intent that the provisions of Article IV shall be subordinate to the Mobile home Residency Law, to the extent that such law is applicable to any Lot rented by a Multiple Lot Owner in a manner which is subject to the Mobile home Residency Law. Any Multiple Lot Owner who rents one or more Lots in a manner which is subject to the Mobile home Residency Law shall not be subject to the provisions of Article IV except to the extent that such provisions are enforceable by the Multiple Lot Owner or the Association against that tenant. In the event of any dispute between the Association and the Multiple Lot Owner concerning whether any specific provision is enforceable, the matter shall be submitted by the Association and the Multiple Lot Owner to binding arbitration and, if it is determined that such provision is enforceable, then the Multiple Lot Owner shall forthwith proceed to use diligent and reasonable efforts to enforce the restriction against the tenant.

**12.6 Disciplinary Rules.** The Board, or a committee appointed by the Board for that purpose, may adopt rules and regulations that further elaborate upon and refine procedures for conducting disciplinary proceedings and otherwise imposing sanctions upon Members of the Association for violation of provisions of the Governing Documents. Such rules, when approved and adopted by the Board, shall be deemed to be a part of the Rules as defined in Section 1.36.

**12.7 Emergency Situations.** The following shall constitute emergency situations: (i) an immediate and unreasonable infringement of or threat to the safety or peaceful enjoyment of Residents of the Development, (ii) a traffic or fire hazard, or (iii) a threat of material damage to or destruction of the Development or any portion thereof. Notwithstanding any other provisions of the Governing Documents, under circumstances involving conduct that constitutes an emergency situation, the Association may undertake immediate corrective action. Hearings with respect to such corrective action shall be held following the corrective action in accordance with Section 8.1.4(e) of the Bylaws

**12.8 Alternative Dispute Resolution.** California Civil Code Section 5975 shall be complied with respect to any dispute subject to such section.

**12.9 Non-Waiver.** Failure to enforce any provision of the Governing Documents at any time shall not be deemed a waiver of the right to do so thereafter with respect to the same or any other violation of any provision of the Governing Documents.

**12.10 Notices.** Any notices required or given under this article shall, at a minimum, set forth the date, time, and location of any hearing, a brief description of the act or omission constituting the alleged violation of the Governing Documents, a reference to the specific Governing Document provision or provisions alleged to have been violated, and the sanction, disciplinary action, or other enforcement action being contemplated by the Board,

if any. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice to the affected Member, provided, however, that if notice is given by mail, it shall be sent by first-class mail, postage prepaid, sent to the most recent address for the affected Member as shown on the records of the Association.

**12.11 Costs and Attorneys' Fees.** In the event the Association shall take any action to enforce any of the provisions of the Governing Documents or shall determine that any Member or members of his or her household or his or her tenants, Contract Purchasers, guests, invitees or household pets have violated any provision of the Governing Documents, and whether or not legal or judicial proceedings are initiated, the Association shall be entitled to recover the full amount of all costs including attorney's fees incurred by the Association in responding to such a violation and/or in enforcing any Governing Document provision. The remedies of the Association to recover the amount of such costs and attorney's fees shall include, but shall not necessarily be limited to, the imposition of a Reimbursement Assessment as provided in Article 6 of this Declaration.

## **ARTICLE 13        AMENDMENT**

**13.1 General.** This Declaration may be amended by the affirmative vote or written consent of (i) Members representing at least an Absolute Majority, and (ii) Members representing at least a majority of the voting power held by Members other than the subdivider. Any amendment of the Declaration shall be signed and acknowledged by the duly authorized officer(s) of the Association and shall be Recorded.

## **ARTICLE 14        GENERAL PROVISIONS**

**14.1 Headings.** The headings used in this Declaration are for convenience only and are not to be used in interpreting the meaning of any of the provisions of this Declaration, or otherwise.

**14.2 Severability.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision hereof shall not invalidate any other provisions hereof.

**14.3 Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of fostering a plan of community ownership and occupancy and of management of the Development for the benefit of the community.

**14.4 Number: Gender.** The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine, and neuter shall each include the masculine, feminine, or neuter, as the context requires.

**14.5 Easements Reserved and Granted.** Any and all easements referred to herein shall be deemed reserved or granted, or both reserved and granted, as appropriate, by reference to this Declaration in a deed to any Lot.

**14.6 Power of Attorney.** To the extent necessary to carry out and enforce the provisions of this Declaration, an irrevocable power of attorney coupled with an interest is granted to the Association by the Owners and each of them.

**14.8 Term.** The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges, and equitable servitudes contained in this Declaration shall run with and shall benefit and burden all of the real property subject to this Declaration, including without limitation the Lots and Common Areas, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors and officers, and their respective agents and successors in interest, for a term of thirty (30) years from the date of Recordation of this Declaration. Thereafter the term shall be automatically extended for successive periods often (10) years each, unless within the six months prior to the expiration of the initial thirty (30) year term or any ten (10) year extension period a written instrument, approved by Owners entitled to vote and holding at least a majority of the voting power of the Association, terminating the effectiveness of this Declaration shall be Recorded.

IN WITNESS WHEREOF, the members of The Oaks Community Association, constituting (i) at least a bare majority of the Class 1 members, and a bare majority of the votes of Class 1 members not counting the votes held by the subdivider, (ii) at least a bare majority of the Class 2 members, and a bare majority of the votes of Class 2 members not counting the votes held by the subdivider, and (iii) at least a bare majority of the Class 3 members, and a bare majority of the votes of Class 3 members not counting the votes held by the subdivider, hereby affirm, approve, and adopt the foregoing First Restated Declaration of Covenants, Conditions and Restrictions for The Oaks, pursuant to Paragraph 51 of the Original Declaration, by means of the signatures of the President and Secretary of the Association, which Declaration shall be Recorded.

The President of the Association hereby certify that the required percentage of members has approved this First Restated Declaration of Covenants, Conditions and Restrictions for The Oaks.

Dated: \_\_\_\_\_

The Oaks Community Association  
A California non-profit Mutual Benefit Corporation

\_\_\_\_\_  
Rickie Brown, President





**ADDENDUM "A"**

**Legal Description of the Addendum A Property**

All that real property situated in the County of Amador, State of California, described as follows:

That certain parcel shown as "0.67 Ac" on the Record of Survey for Anthony Meath, filed for record on July 30, 1976 in Book "26" of Maps and Pints, Page 100, Records of Amador County.

A.P.N. 12-070-046-00; Commonly known as 5864 Buena Vista Road, Lone, CA 95640-9694.

**ADDENDUM "B"**  
**Legal Description of the Addendum B Property**

All that real property situated in the County of Amador, State of California, described as follows:

Parcel C as the same is shown and delineated on the Record of Survey Map Bed for record December 6, 1972 in Book 21 of Maps and Plats, Page 94, Records of Amador County.

A.P.N. 12-070-004-00; Commonly known as 5610 Jackson Valley Road, Lone, CA 95640.

**ADDENDUM "C"**

**Legal Description of the Sewer Treatment Plant Property**

All that real property situated in the County of Amador, State of California, described as follows:

Parcel D-1 as shown upon that certain map entitled "Parcel Map No. 1269 for Santos Aparicio", which map was filed for record in the Office of the Amador County Recorder on June 19, 1986, in Book 40 of Maps and Plats, Page 65.

A.P.N. 12-010-066-01.