

**COMPARISON TABLE**  
**for Vista Homeowners Association's proposed**  
**FIFTH RESTATED CC&Rs &**  
**FIFTH RESTATED BYLAWS**

This Table describes the proposed *significant* changes to the existing CC&Rs and Bylaws. Please do not rely solely on this Table - make your own independent review of the existing CC&Rs and Bylaws as compared to the proposed Restatements before you vote on the proposed changes. Copies of the existing CC&Rs and Bylaws can be requested from the Board.

**CC&RS**

<b>Article &amp; Section</b>	<b><u>Second Restated CC&amp;Rs</u></b>  <b>Proposed Concept</b>	<b>Article &amp; Section</b>	<b><u>Existing CC&amp;Rs</u></b>  <b>Current Provision</b>
	References to the Civil Code Sections have been changed to reflect the renumbering of the Davis-Stirling Act		
<b>Article 1</b>	<b>DEFINITIONS</b>	<b>Article I</b>	<b>DEFINITIONS</b>
	Adds various definitions.		
<b>Article 2</b>	<b>MEMBERSHIP RIGHTS AND PRIVILEGES</b>	<b>Article II</b>	<b>DESCRIPTION OF THE PLANNED UNIT DEVELOPMENT</b>
<b>Article 3</b>	<b>OWNERSHIP OBLIGATIONS</b>	<b>Article III</b>	<b>ASSOCIATION MEMBERSHIP AND VOTING RIGHTS</b>
Section 3.2	Adds that members are responsible for their own security.		No similar provision.
Section 3.4	Requires Members to notify the Association within 5 days of transferring ownership.	Section 3	Requires notification of transfer within 3 days.
<b>Article 4</b>	<b>DUTIES OF THE ASSOCIATION</b>	<b>Article V</b>	<b>POWERS AND DUTIES OF THE BOARD; RESTRICTIONS ON BOARD</b>

<b>Article &amp; Section</b>	<b><u>Second Restated CC&amp;Rs</u></b> <b>Proposed Concept</b>	<b>Article &amp; Section</b>	<b><u>Existing CC&amp;Rs</u></b> <b>Current Provision</b>
Section 4.19	Expands the Board's authority to enter into certain contracts for a period of (2) years without membership approval.	Section 3(d)	Limits Board's authority to enter into contracts with 1 year terms.
<b>Article 5</b>	<b>ARCHITECTURAL CONTROL</b>	<b>Article VIII</b>	<b>GENERAL PROVISIONS</b>
Section 5.5(b)	Prohibits Directors or Committee members from participating in the decision-making process for an architectural submittal made by that Director or Committee member or members of their family.	Section 13	No similar provision.
Section 5.6(b)	Deems applications approved if no response is given from the Committee within 45 days.	Section 8(e)	Deemed disapproved within 30 days if no response.
Section 5.6(g)	Unless a shorter time period is specified in the approval, improvements must be completed within six months. Short extensions of time may be granted.	Section 8	No similar provision.
<b>Article 6</b>	<b>MAINTENANCE, REPAIR AND REPLACEMENT RESPONSIBILITIES</b>	<b>Article VIII</b>	<b>GENERAL PROVISIONS</b>
Section 6.2	Lists owners' and Association's responsibilities to maintain, repair and replace that is more specific than the existing CC&Rs.	Section 5	
Section 6.2(o)(i)	Clarifies responsibility for water damage and mold.		No similar provision.
<b>Article 7</b>	<b>AGE RESTRICTIONS</b>	<b>Article VII, Section 17</b>	<b>Senior Citizen Community</b>
	Adds language from Unruh Act.		
<b>Article 8</b>	<b>GENERAL RESTRICTIONS</b>	<b>Article VII</b>	<b>USE RESTRICTIONS</b>
Section 8.5	Adds that drones may not be operated above the community so as to invade privacy rights.		No similar provision.

<b>Article &amp; Section</b>	<b><u>Second Restated CC&amp;Rs</u></b> <b>Proposed Concept</b>	<b>Article &amp; Section</b>	<b><u>Existing CC&amp;Rs</u></b> <b>Current Provision</b>
Section 8.12	Adds that growing and distribution of recreational marijuana and medical marijuana is prohibited.		No similar provision.
Section 8.16	Adds a prohibition on the ownership of more than 2 Lots by the same person.		No similar provision.
Section 8.19	Adds that ADUs cannot be sold separate from the primary residence on a Lot.		No similar provision.
Section 8.25	Adds that solar energy systems can be installed subject to prior written approval.		No similar provision.
<b>Article 9</b>	<b>LEASING AND RENTAL LIMITATIONS</b>	<b>Article VII</b>	<b>USE RESTRICTIONS</b>
Section 9.2	Prohibits short-term and transient rentals and prohibits the Lot from being advertised on Airbnb, VRBO, Flipkey or other means as being available to rent for 30 days or less.	Section 7	No similar provision.
Section 9.3	Prohibits leasing less than the entire Lot unless owner is in residence.	Section 7	No similar provision.
Section 9.4	Changes the minimum lease term to 31 days and prohibits assignment or subleasing.	Section 7	No similar provision.
Section 9.5	Adds a rental cap of 25%. The rental cap will not apply to current Owners. It will apply to anyone acquiring title after the CC&Rs are recorded.	Section 7	No similar provision.
<b>Article 10</b>	<b>PETS</b>	<b>Article VII</b>	<b>USE RESTRICTIONS</b>
Section 10.7	Requires dogs to be on a leash held by a person when in the Common Area.	Section 20(b)	Allows dogs to be “otherwise under the supervision and restraint” of their owners in the Common Area.
<b>Article 11</b>	<b>VEHICLES AND PARKING</b>	<b>Article VII</b>	<b>USE RESTRICTIONS</b>

<b>Article &amp; Section</b>	<b><u>Second Restated CC&amp;Rs</u></b> <b>Proposed Concept</b>	<b>Article &amp; Section</b>	<b><u>Existing CC&amp;Rs</u></b> <b>Current Provision</b>
Section 11.7	Adds section permitting owners to install electric vehicle charging stations at their own expense. <i>Required by California law.</i>		
Section 11.9	Allows emergency repair to vehicles when necessary to move a vehicle.	Section 10	Similar provision.
<b>Article 12</b>	<b>ENFORCEMENT OF GOVERNING DOCUMENTS</b>	<b>Article V</b>	<b>POWERS AND DUTIES OF THE BOARD</b>
	Adds more specific language detailing the types of enforcement actions the Board can take including fines, suspension of right to use recreational facilities, and judicial enforcement.	Section 1(j)	Allows suspension of voting rights.
<b>Article 13</b>	<b>RIGHT OF ENTRY</b>	<b>Article VIII</b>	<b>GENERAL PROVISIONS</b>
	Adds more specific details about the Association's power to enter a Lot.	Section 10	Similar provision but less detail.
<b>Article 14</b>	<b>ASSESSMENTS</b>	<b>Article IV</b>	<b>ASSESSMENTS</b>
Section 14.6	Contains more details about the requirements of the reserve account.		
<b>Article 15</b>	<b>ENFORCEMENT OF ASSESSMENTS</b>	<b>Article IV</b>	<b>ASSESSMENTS</b>
	Contains more details about the Association's options to enforce delinquent assessments.	Sections 9-11	
<b>Article 16</b>	<b>INSURANCE</b>	<b>Article VIII</b>	<b>GENERAL PROVISIONS</b>
Section 16.1	Contains more details regarding insurance requirements.	Sections 7(b)-(h)	Similar provisions.
Section 16.2	Adds the obligation of Owners to carry insurance. <i>NOTE: Need to discuss whether this is changing.</i>	Section 7(a)	Similar provision.
Section 16.3	Adds a deductible responsibility section.		No similar provision.

<b>Article &amp; Section</b>	<b><u>Second Restated CC&amp;Rs</u></b> <b>Proposed Concept</b>	<b>Article &amp; Section</b>	<b><u>Existing CC&amp;Rs</u></b> <b>Current Provision</b>
<b>Article 17</b>	<b>PROTECTION OF LENDERS</b>		
<b>Article 18</b>	<b>LIMITATIONS OF LIABILITY</b>		
Section 18.1	Standard of liability for the Board is willful, intentional or bad faith misconduct.		No similar provision.
Section 18.3	Provides that the Association is not a security provider and owners are responsible for their own security.		No similar provision.
Section 18.7	Members are not permitted to file an action against a director acting within the scope of their duties unless the court first approves the claim.		No similar provision.
<b>Article 19</b>	<b>DAMAGE/DESTRUCTION TO IMPROVEMENTS</b>	<b>Article VIII</b>	<b>GENERAL PROVISIONS</b>
	Provides more details regarding partial or total destruction of the Common Area.	Section 8 and 9	Not as detailed.
<b>Article 20</b>	<b>CONDEMNATION</b>		
<b>Article 21</b>	<b>MISCELLANEOUS</b>	<b>Article VIII</b>	<b>GENERAL PROVISIONS</b>
Section 21.1	Allows amendment of the CC&Rs with approval of more than 50% of the members.	Section 4	Allows amendment by 51% approval.
Section 21.3	Adds that provisions in conflict with current law can be amended without a vote of the members. <i>In accordance with California law.</i>		No similar provision.
Section 21.6(b)(ii)	Adds the requirement that notice documents are delivered by an Owner's preferred delivery method.	Section 14	No preferred delivery method required.

## BYLAWS

Article & Section	<u>Fifth Restated Bylaws</u> Proposed Change	Article & Section	<u>Existing Bylaws</u> Current Language
<b>Article 1</b>	<b>DEFINITIONS</b>	<b>Article II</b>	<b>DEFINITIONS</b>
<b>Article 2</b>	<b>MEMBERSHIP</b>		
Section 2.3	Does not allow the suspension of members' voting rights. <i>In accordance with CA law.</i>	Art. XII, Sec. 2(a)	Allows suspension of voting rights.
<b>Article 3</b>	<b>MEMBERSHIP MEETINGS</b>	<b>Article III</b>	<b>MEETING OF MEMBERS</b>
Section 3.1 (c)(iv)	Updated to allow membership meetings entirely by electronic means under certain circumstances in accordance with the law.		No similar provision.
Section 3.2(e)(i)	Updated to conform to Corp. Code 7511(b) to allow electronic communication or other means of remote communication if the Board determines it is necessary or appropriate because of an emergency.		No similar provision.
<b>Article 4</b>	<b>VOTING RIGHTS</b>	<b>Article III</b>	<b>MEETING OF MEMBERS</b>
Section 4.8	Proxy voting is not permitted.	Section 5	Proxy voting is allowed.
Section 4.9	Cumulative voting is no longer allowed.	Art. V, Section 2	Cumulative voting is allowed.
Section 4.10	Quorum is not required for Director elections.	Section 4	Quorum is required.
Section 4.11	Quorum is a majority (over 50%) of the voting power for all other elections.	Section 4	Quorum is a majority.
<b>Article 5</b>	<b>NOMINATIONS</b>	<b>Article V</b>	<b>NOMINATION AND ELECTION OF DIRECTORS</b>
Section 5.2	Nomination committee not required.	Section 1	Requires a nominating committee.
Section 5.3	Nominations from the floor and write-ins are not allowed.	Section 1	Allows floor nominations.

<b>Article &amp; Section</b>	<b><u>Fifth Restated Bylaws</u> Proposed Change</b>	<b>Article &amp; Section</b>	<b><u>Existing Bylaws</u> Current Language</b>
Section 5.4	Election by acclamation can occur as allowed by law.		No similar provision.
<b>Article 6</b>	<b>DIRECTOR ELECTIONS</b>	<b>Article IV</b>	<b>BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE</b>
Section 6.2	Adds new Director qualifications and removed non-enforceable qualifications. Must be a member in good standing, only one owner per lot and no criminal conviction that would prevent the Association from purchasing insurance.	Section 1	Qualifications are must be a member, live in the Community, be in good standing, membership rights not suspended and only one owner per lot.
<b>Article 7</b>	<b>REMOVAL OF DIRECTORS</b>	<b>Article IV</b>	<b>BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE</b>
Section 7.1	A Director can be removed by a majority of the Board if they cease to meet director qualifications, has been declared of unsound mind by a final court order, fails to disclose a conflict of interest, or has excessive absences from Board meetings. A director who misses 3 consecutive Board meetings or misses 4 Board meetings in a year can be removed by the Board.	Art. III, Section 7	No similar provision.
Section 7.1(e)	Adds that Directors are required to cooperate with the Corporate Transparency Act and can be removed from the Board for failing to cooperate.		No similar provision.
Section 7.5	Adds limitations on the removal of Directors by the membership.	Section 3	Similar language.
<b>Article 8</b>	<b>ROLE OF BOARD OF DIRECTORS</b>		

<b>Article &amp; Section</b>	<b><u>Fifth Restated Bylaws</u> Proposed Change</b>	<b>Article &amp; Section</b>	<b><u>Existing Bylaws</u> Current Language</b>
Section 8.2	Adds the statutory procedural requirements for adoption of rules and regulations including 28 days' notice of rule amendments.		
<b>Article 9</b>	<b>MEETINGS OF THE BOARD</b>	<b>Article VI</b>	<b>MEETINGS OF BOARD OF DIRECTORS</b>
Section 9.5	Adds that Board meetings can be held entirely by teleconference without any physical location under certain circumstances. <i>This is in accordance with current California law.</i>		No similar provision.
Section 9.10	Adds that the Board is not permitted to take action on any "item of business" outside of a Board meeting. <i>In accordance with California law.</i>	Section 6	Allows action without a meeting.
<b>Article 10</b>	<b>OFFICERS</b>	<b>Article VII</b>	<b>OFFICERS AND THEIR DUTIES</b>
Section 10.1	Allows a Director, except President, to hold more than one office.	Section 7	Prohibits Directors from holding more than one office.
Section 10.3	Provides that officers hold their office until the annual election of Directors.	Section 3	Provides that officers' terms are 1 year.
<b>Article 11</b>	<b>COMMITTEES</b>	<b>Article VIII</b>	<b>COMMITTEES</b>
Article 11.1	Allows members, non-Directors and non-members of the Association to be appointed to a committee.		Requires a nominating committee.
<b>Article 12</b>	<b>BUDGETS, RESERVES, AND FINANCIAL STATEMENTS</b>		
Section 12.1 and 12.3	Adds that the Board is obligated to review Association accounts and other financial statements on a monthly basis and must prepare a proforma budget annually. <i>This is in accordance with current California law.</i>		



<b>Article &amp; Section</b>	<b><u>Fifth Restated Bylaws</u> Proposed Change</b>	<b>Article &amp; Section</b>	<b><u>Existing Bylaws</u> Current Language</b>
Section 12.4	Adds statutory requirements for reserve accounts. <i>This is in accordance with CA law.</i>	CC&Rs, Art. VIII, Sec. 6	Similar provision but less detail.
<b>Article 13</b>	<b>INSPECTION OF RECORDS</b>	<b>Article IX</b>	<b>BOOKS AND RECORDS</b>
Section 13.1	Adds the statutory procedural requirements for maintenance and inspection of Association records. <i>This is in accordance with current California law.</i>	CC&Rs, Art. V, Sec. 1(h)	Similar but less detail.
Section 13.2(l)	Email address is now information that is included on the membership list. Members may opt out of having certain information included on the list. <i>This is in accordance with current California law.</i>		No similar provision.
Section 13.2(m)	Adds the tally sheet of votes cast by Electronic Secret Ballot to the list of “Association Election Materials”		No similar provision.
<b>Article 14</b>	<b>DISCLOSURES</b>		
	Adds and clarifies the annual disclosures that must be provided to owners. <i>This is in accordance with current California law.</i>		
Section 14.4(l)	Adds the requirement to disclose information on the procedures related to Electronic Secret Ballots if the Association has adopted Rule authorizing ESB.		No similar provision.
<b>Article 15</b>	<b>ENFORCEMENT AND DISPUTE RESOLUTION</b>	<b>Article XII</b>	<b>DISCIPLINARY ACTION</b>
Section 15.1	Voting rights cannot be suspended. <i>This is in accordance with current California law</i>	Section 2(a)	Allows the suspension of voting rights.
Section 15.1(a)	Requires 10 days prior notice of a disciplinary hearing. <i>This is in accordance with current California law.</i>	Section 2(a)(i)	Requires 15 days prior notice of a disciplinary hearing.
<b>Article 16</b>	<b>MISCELLANEOUS</b>	<b>Article X</b>	<b>AMENDMENTS</b>

<b>Article &amp; Section</b>	<b><u>Fifth Restated Bylaws</u> Proposed Change</b>	<b>Article &amp; Section</b>	<b><u>Existing Bylaws</u> Current Language</b>
Section 16.4(a)	Amendment will require approval of a majority of a Quorum of the voting power of the members.	Section 1	Majority vote required to amend the Bylaws.
Section 16.4(b)	Allows the Board to amend a provision without membership approval, when it contradicts current law.		No similar provision.

**Recording Requested By:**

Vista Homeowners Association

**When Recorded, Mail To:**

Vista Homeowners Association  
c/o Adams Stirling PLC  
2566 Overland Avenue, Suite 730  
Los Angeles, CA 90064

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*Space above this line for recorder's use*

**FIFTH RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS**

**OF VISTA HOMEOWNERS ASSOCIATION**  
a California nonprofit mutual benefit corporation

**If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**

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**FIFTH RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**VISTA HOMEOWNERS ASSOCIATION**  
a California nonprofit mutual benefit corporation

THIS FIFTH RESTATED Declaration of Covenants, Conditions and Restrictions (“CC&Rs”) is made by all persons who own Lots in that certain real property planned residential development known as Vista Homeowners Association located in San Diego County, California. These CC&Rs apply to and bind all properties previously covered by covenants, conditions and restrictions. Without reducing the number of properties covered by these CC&Rs, these CC&Rs apply to the following properties:

Lots 1 through 259, inclusive of Vista Tract 80-23 according to Map thereof No. 10515 filed in the Office of the County Recorder of San Diego County, California on November 16, 1982 as File No. 82-353622.

By this instrument, (1) except for any recorded covenants affecting only a single Lot in the properties covered by these CC&Rs and/or (2) unless expressly otherwise provided herein, the Owners of the Association hereby fully amend and restate, in their entirety, the Fourth Amendment to Declaration of Covenants, Conditions and Restrictions recorded on September 29, 2006 as Recorder’s Document No. 2006-0697477 in the Office of the County Recorder of San Diego County, as well as all amendments thereto and substitute in their place these CC&Rs, which:

1. *Benefit Owners.* Are for the benefit of Owners of the Association;
2. *Benefit the Development.* Are for the benefit, enhancement and protection of the desirability, value and attractiveness of the Development and each Lot therein;
3. *Bind Successors in Interest.* Inure to the benefit of and be binding upon each successor in interest of the Association, each Owner, Tenant, Resident, and occupant of any portion of the Development, as well as their respective heirs, personal representatives, grantees, Tenants, licensees, successors and assigns; and
4. *Run with the Land.* Run with the land and are binding upon all parties having or acquiring any right, title or interest in the Development or any portion of the Development, whether as sole owners, joint owners, Tenants, Residents, occupants or otherwise.

NOW THEREFORE, all Lots in the Development, as well as any conveyance, transfer, sale, assignment, rental, lease or sublease of a Lot, are deemed to incorporate the provisions of these CC&Rs. Each successor in interest is subject to all of the covenants, conditions and restrictions contained in these CC&Rs.

## **ARTICLE 1: DEFINITIONS**

- 1.1 “Annual Meeting” means the annual meeting of the Members of the Association.
- 1.2 “Architectural Standards” means those rules and guidelines which govern the making of physical changes, alterations, repairs or Improvements to Lots and Common Areas.
- 1.3 “Articles” means the Association’s Articles of Incorporation.
- 1.4 “Assessment” means any Regular Assessment, Special Assessment, Reimbursement Special Assessment, or any other assessment levied, imposed, or assessed against an Owner’s Lot in accordance with the provisions of the Governing Documents or applicable law.
- 1.5 “Association” means the Vista Homeowners Association, a California nonprofit mutual benefit corporation. The Association includes, when the context requires, its Officers, Directors, employees and agents.
- 1.6 “Board” or “Board of Directors” means the Board of Directors of the Association.
- 1.7 “Budget” means a pro forma operating budget, showing the Association’s estimated revenue and expenses on an accrual basis, for a twelve (12) month period.
- 1.8 “Building” means any building or structure which is part of the Improvements of the Development.
- 1.9 “Bylaws” means the duly adopted Bylaws of the Association, including any amendments.
- 1.10 “CC&Rs” means this Fifth Restated Declaration of Covenants, Conditions and Restrictions and any amendments to these CC&Rs.
- 1.11 “Committee” means any committee appointed by the Board to assist in the management and administration of the affairs of the Association.
- 1.12 “Common Area” means the entire Development, except the Separate Interests owned by Owners. Lots 257, 258 and 259 of Vista Tract 80-23 are Common Area. If no Common Area Improvements exist, the Common Area means the mutual and reciprocal easement rights appurtenant to Owners’ Separate Interests.
- 1.13 “Common Expenses” means the costs, expenses and charges in connection with maintaining, managing, insuring, operating, repairing, improving or replacing the Common Areas or managing the affairs of the Association. Common Expenses include, but are not limited to, those amounts reasonably necessary for Reserves.



1.14 “Davis-Stirling Act” means and refers to the Davis-Stirling Common Interest Development Act which is the portion of the California Civil Code beginning with Section 4000 that governs common interest developments.

1.15 “Development” means that certain residential development known as “Vista Del Mar” and located in San Diego County.

1.16 “Director” means any member of the Association’s Board of Directors.

1.17 “Exclusive Use Common Areas” means those portions of the Common Area which serve a single Lot, including but not limited to heating, ventilation and/or air conditioning, and Utility Lines, whether located inside or outside the boundaries of the Lot. Any Utility Line or portion thereof is deemed to “serve a single Lot” when its removal would interrupt service of only a single Lot.

1.18 “Governing Documents” means these CC&Rs and any other documents which govern the operation of the Association, including, but not limited to, the Articles of Incorporation, Bylaws, Architectural Standards, Rules and Regulations, and Election Rules, as may be amended from time to time.

1.19 “Improvements” means all buildings and other structures located within the Development, including, but not limited to, streets, sidewalks, and utilities.

1.20 “Lease” or “Rent” and all related forms of such words, whether such terms are capitalized or not, mean and include leases, rental agreements, licensing agreements, leasing, renting, licensing, to lease, to rent, to license and all related word forms as the context dictates.

1.21 “Lender” means the holder of a first mortgage or deed of trust given by an Owner (or their predecessor in interest), the lien of which mortgage or deed of trust is superior to all other monetary encumbrances, except real property taxes and assessments.

1.22 “Lot” means any real property which is a Separate Interest such as lots, sublots, or parcels in the Development subject to these CC&Rs. Real property includes the improvements affixed to the Separate Interest.

1.23 “Manager” means any Person or company employed or retained by the Association to oversee the operation, maintenance and management of the Association.

1.24 “Manufactured Home” means the pre-manufactured residential structure which an Owner causes to be installed upon their Lot in accordance with the guidelines established from time to time by the Board and/or the Architectural and Residential Landscaping Committee.

1.25 “Member” means the Owner, whether one or more Persons, of a Lot within the Development as evidenced by a publicly-recorded deed to the Lot, but excluding any Person or Persons having such an interest in the Lot merely as security for the performance of an obligation. Membership is appurtenant to and may not be separated from the record fee

ownership of a Lot and may not be transferred, encumbered, pledged, alienated, or otherwise separated in any way, except in connection with the record sale of a fee interest of the Lot to which it is appurtenant.

1.26 “Membership Approval” or “Approval of the Membership” means approved or ratified by an affirmative vote of a majority of the votes represented and voting in a duly held election in which a Quorum is represented, which affirmative votes also constitute a majority of the required Quorum, unless otherwise provided in the Governing Documents.

1.27 “Mortgage” means a charge against real property given as security for a debt, such as a deed of trust or other mortgage document.

1.28 “Mortgagee” means a beneficiary (or its assignee) under a deed of trust to a Lot and the term “First Mortgage” refers to a beneficiary (or its assignee) under a deed of trust to a Lot with priority over all other Mortgagees and deeds of trust.

1.29 “Officer” means the president, vice-president, secretary, treasurer, and any other officer of the Association, as defined in the Bylaws.

1.30 “Operating Accounts” means any account into which the Association’s Assessments are deposited and out of which the Association’s operational expenses are paid.

1.31 “Owner” means the owner, whether one or more Persons, of the publicly-recorded fee title to any Lot within the Development, but excluding any Person or Persons having such an interest in the Lot merely as security for the performance of an obligation. Where the CC&Rs impose restrictions on Owners, the restriction also applies to Owner’s Tenants, and Owner’s and Tenant’s family, guests and invitees.

1.32 “Parking Areas” includes those portions of the Development used for the parking of vehicles.

1.33 “Patio” refers to a patio which is attached or adjacent to a Residence and accessible through the Residence and/or Lot of which it is a part.

1.34 “Percentage Interest” means that undivided percentage ownership of the Common Area assigned to each Lot.

1.35 “Person” means a natural person, corporation, partnership, trust, association, or other entity, as recognized by law.

1.36 “Quorum” means a quorum of the membership and is defined in the Association’s Bylaws.

1.37 “Regular Assessments” means Assessments other than Special Assessments and Reimbursement Assessments, levied or imposed against Owners in order to perform the Association’s obligations under the Governing Documents or the law.

1.38 “Reimbursement Special Assessments” or “Reimbursement Assessments” means those Special Assessments levied against Owners for expenses incurred by the Association arising out of: (i) actions or omissions of Owners, Tenants or their respective family, guests, invitees, vendors, or pets; (ii) materials or services provided to Owners, Tenants or their respective family, guests, invitees, or pets; or (iii) conditions originating on a Lot.

1.39 “Renovation” means any improvements, additions, alterations, or modifications made by an Owner in or to any Lot, Residence, or Common Area.

1.40 “Reserves” or “Reserve Accounts” means those monies set aside in a separate account for anticipated long-term maintenance, repair, replacement and restoration of major Common Area components of the Development or Improvements upon the Common Areas, and any other obligations of the Association that are authorized by either the Governing Documents or law.

1.41 “Residence” means the 230 Manufactured Homes and the 26 residential dwellings constructed or to be constructed on a Lot.

1.42 “Resident” means any Person in actual possession of all or any portion of a Lot.

1.43 “Rules and Regulations” or “Rules” means the rules and regulations adopted by the Board to interpret and implement the Governing Documents and for the orderly conduct of the business of the Association.

1.44 “Separate Interest” means a lot, parcel, area, or space separately owned by an Owner.

1.45 “Special Assessments” means Assessments levied from time to time against Members if at any time during the fiscal year the Regular Assessments are inadequate to perform the Association’s obligations under the Governing Documents or the law, including, but not limited to, Common Area maintenance and repairs, replacements, unexpected expenses, capital improvements, and emergency repairs.

1.46 “Tenant” or “Lessee” means a Person who has been given the right to temporary use and occupancy of a Lot, Residence, junior accessory dwelling unit or accessory dwelling unit owned by an Owner, whether such right to occupy and use is granted by a lease, rental agreement, license, or any other writing and whether consideration is paid in the form of money or any other tangible or intangible thing of value.

1.47 “Utility Lines” means sewer lines, storm drains, water pipes, electricity lines, gas lines, telephone lines or cables, television cables, satellite dish cables, heating and air conditioning conduits, heating and air conditioning ducts, heating and air conditioning flues, fiber optic cables, data lines, community security systems, and other similar lines, pipes, cables, ducts, flues, and conduit pipes.

1.48 “Voting Power” means the total number of Lots entitled to vote.

1.49 Definitions of Other Terms. Unless the context clearly requires otherwise, all other terms are defined in the Davis-Stirling Act.

## **ARTICLE 2: MEMBERSHIP RIGHTS AND PRIVILEGES**

2.1 Membership. Each Person is automatically a Member of the Association upon obtaining a publicly-recorded fee title ownership interest in a Lot and remains a Member until they cease to have such recorded fee ownership interest in a Lot.

- a. *Membership Appurtenant to Lots*. Membership in the Association is for the benefit of and appurtenant to the Lot to which it relates and may not be separated from the ownership of the Lot.
- b. *No Membership for Security Interests*. Membership does not include Persons who hold an interest in a Lot merely as security for the performance of an obligation.
- c. *No Membership for Tenants*. Tenants have the same rights to use the Common Areas as Members and have the same duties to follow the Association's Governing Documents but are not Members and have no right to vote.
- d. *No Separate Transfer of Membership*. No Member may transfer, pledge, or alienate in any way their membership in the Association, except upon the recorded transfer of the fee interest in the Lot to which it is appurtenant and then only to the transferee of such fee interest.
- e. *Trusts*. If title to a Lot is held in the name of one or more trustees, subject to a trust, a sole trustee or one of several trustees is authorized to exercise the rights and privileges of Association membership. The designation of one of several trustees must be in writing with documentation confirming both the designation and the authority of the designator to do so.
- f. *Impersonal Entities*. If title to a Lot is held by a legal entity that is not a natural Person, the governing authority of that legal entity is empowered to appoint a natural Person who is an officer (if a corporation), partner (if a partnership), or manager (if a limited liability company) which person will be solely authorized to exercise the rights and privileges of Association membership. The designation by the impersonal legal entity must be in writing with documentation confirming both the designation and its authority to do so.

2.2 Proof of Ownership. Proof of membership must be in the form of a recorded deed showing fee ownership of a Lot.

2.3 Voting Rights. In all matters submitted for a membership vote, Members are entitled to one (1) vote per Lot (regardless of the number of Owners having an interest in the Lot).

2.4 Inspection of Records. Members have the right to inspect records of the Association as provided for in the Bylaws and by law.

2.5 Ingress, Egress and Support. Members have a nonexclusive easement appurtenant to and for the benefit of their Lots for ingress, egress, and support over, across and through the Common Area.

2.6 Easement for Use and Enjoyment. Members have a nonexclusive easement of use and enjoyment of the Common Areas, subject to the rights of the Association to establish reasonable Rules regulating the use of the Common Areas and any other rights described in the Governing Documents.

2.7 Encroachment Easement. Members agree that minor encroachments of the Common Area on Lots or of Lots on the Common Area or on other Lots are permitted and that valid easements for the encroachments exist. Such minor encroachments are not encumbrances either on the Lots or the Common Area.

### **ARTICLE 3: OWNERSHIP OBLIGATIONS**

3.1 Obligation to Follow Governing Documents. Owners, Tenants and Residents must follow the Association's Governing Documents and ensure that their respective family, guests, and invitees abide by the Governing Documents.

3.2 Security. Neither the Association nor any Officer, Director, Committee member, employee or agent of the Association are insurers or guarantors of any level of security within the Development. Owners are responsible for their own security and must take appropriate measures to ensure their own security and that of their family, guests, invitees and Tenants. Owners agree not to rely on any security measures provided by the Association. The Association, its Officers, Directors, Committee members, employees and agents are not liable for any loss or damage from failure to provide adequate or effective security measures.

3.3 Purchase Subject to Violations. Buyers take ownership of Lots subject to any violations by prior Owners, Tenants or their respective family, guests, invitees, or pets, of the Governing Documents concerning the Lot, whether such violations were disclosed by the seller of the Lot and whether the Association knew of the violations at the time of sale. Such buyers are liable for correcting such violations upon demand by the Association. Assessments, fines, and other charges not secured by a lien on the Lot prior to transfer of title are exempt from this provision.

3.4 Notice of Transfer of Ownership. No later than five (5) days after the assignment, sale, quitclaim or other transfer of their Lots, Members must notify the Association of the name, address, phone number, and email address of the transferee and the nature of the transfer.

3.5 Duty to Maintain, Repair and Replace. The Owners' maintenance, repair and replacement obligations are more fully described in the Article in these CC&Rs entitled "Maintenance, Repair, and Replacement Responsibilities."

3.6 Obligation to Carry Insurance. Owners must purchase insurance for their Separate Interests, at their sole expense, as more fully described in the Article in these CC&Rs entitled "Insurance." The Association may confirm compliance with this Section by any Owner but is not required to and is specifically relieved of any responsibility or liability for not confirming compliance with this Section by any Owner.

3.7 Liability for Damage.

- a. Owners are liable for any and all damage to the Lots, Common Areas, and any personal property negligently caused by the Owner, Owner's Tenant, Occupants, or their respective family, guests, invitees, vendors, or pets.
- b. The Association and all Owners must repair, restore, remediate or replace any damaged portion of the Development as required by these CC&Rs. However, the Association may impose a Reimbursement Special Assessment against any liable Owner for all costs, incurred by the Association in connection with any such repairs, restoration or replacement. The Reimbursement Special Assessment may become a lien against the liable Owner's Separate Interest enforceable by the sale of the Owner's Lot under Civil Code sections 2924, 2924b, and 2924c.

3.8 Correction of Violations. Following notice and a hearing and a finding by the Association of a violation of the Governing Documents, the Association will have the right, but not the duty, to correct or cause to be corrected the violation, including entering a Lot with the permission of an Owner owning the Lot, which permission will not be unreasonably withheld. All expenses incurred by the Association to correct the violation will be recovered from the Owners owning the Lot as a Reimbursement Assessment following notice and a hearing. If permission for entry into the Lot is not granted, the Association may enforce the violation by any other means allowed by the Governing Documents or the law.

3.9 Reimbursement to Association. If the Association provides materials or services that benefit a particular Owner, such Owner must reimburse the Association for the costs the Association incurred. If not, the Association may impose a Reimbursement Special Assessment against the Owner in the amount of such costs.

3.10 Liability for Mitigation. Owners are liable for expenses incurred by the Association in mitigating or repairing damage to Lots, Common Areas, and Improvements due to damage: (i) originating from Owner's Lot, including, but not limited to, flood, fire, mold, insect, or rodent infestation; or (ii) from the negligence or willful misconduct of such Owner, Owner's Tenant, or their respective family, guests, invitees, vendors, or pets. If not repaid, the Association may impose Reimbursement Special Assessments against liable Owners.

3.11 Guests. Each Owner is liable to all other Owners and the Association for the conduct, behavior, and violations of Persons visiting the Owner or Owner's Tenant in the Development.

#### **ARTICLE 4: DUTIES OF THE ASSOCIATION**

4.1 Board of Directors. The management, maintenance and care of the Common Areas, management of the Association, enforcement of the Governing Documents, and all other acts of the Association are performed by its Board of Directors, unless provided otherwise in the Governing Documents.

- a. *Membership Meetings*. The Association must have at least one (1) meeting of its Members each year, as provided for in the Bylaws. Annual Meeting and special meetings of the membership must be held at the dates, times, and locations provided for in the Bylaws.
- b. *Director Qualifications and Meetings*. The qualifications of Directors and candidates to be elected to the Board are provided for in the Bylaws. Meetings of the Board must be held as provided for in the Bylaws and as required by law.

4.2 Powers of a Nonprofit Corporation. The Association has all of the powers of a nonprofit mutual-benefit corporation organized under the laws of the State of California, operating for the benefit of its Members as provided for in Corporations Code § 7140.

4.3 Maintain Common Areas. The Association's maintenance, repair and replacement obligations are more fully described in the Article in these CC&Rs entitled "Maintenance, Repair, and Replacement Responsibilities."

4.4 Incur and Pay Expenses. The Association is empowered to incur and pay the operational expenses of the Association, which include, but are not limited to, legal and accounting services; utilities; insurance; management services; vendor services, such as security, landscaping, garbage collection, pest control, private streets/fire lanes, street sweeping, swimming pool and spa, sauna, gym, sport court, RV Lot; maintenance, repair, reconstruction, and replacement of all or any portion of the Common Areas or the personal property acquired by the Association; supplies and materials; and such other services for the use, enjoyment and protection of the Development and its Residents as the Board may determine from time to time are reasonable, proper, or desirable.

4.5 Rules and Regulations. The Board may adopt, amend, and repeal Rules and Regulations regarding any matter set forth in the Governing Documents, including, but not limited to: (i) the use, occupancy, and maintenance of the Development; (ii) the general health, welfare, peace, comfort, safety and security of Residents in the Development; and (iii) the interpretation and implementation of the Governing Documents.

4.6 Foreclose, Hold Title and Make Conveyances. The Association is authorized to lien and foreclose upon any Lot for non-payment of Assessments, to take title to the Lot, to assume or otherwise pay off encumbrances, and to acquire, hold title to, lease and convey, with or without consideration, real and personal property and interests.

4.7 Fee Limitation. The Association may not impose fees that exceed the amount necessary to defray the costs for which the fee is levied.

4.8 Commercial Concessions. The Board may negotiate contracts and grant commercial concessions over portions of the Common Area, subject to Membership Approval.

4.9 Utility and Cable Easements. The Association is hereby granted easements to enter into Lots as is necessary or prudent to: (i) install, maintain, repair, and replace Common Area Utility Lines; and (ii) install, operate, maintain, repair, and replace transmission lines and other facilities for a community television system, high-speed internet lines, community security systems, or other similar systems; provided that any damage to an Owner's Lot caused by such work must be repaired to original construction building standards at the Association's expense and in a timely fashion.

4.10 Granting Utility Easements. The Board is authorized to grant easements and rights of way in, under, or through the Common Areas for constructing, erecting, operating, maintaining, repairing, and replacing utilities and similar services.

4.11 Limitation on Granting Easements. Granting any Owner an easement for exclusive use of any portion of the Common Areas requires the approval of at least sixty-seven percent (67%) of the Voting Power, except if the easement is for any of the reasons stated in the Davis-Stirling Act.

4.12 Borrow Money. The Association may borrow and repay monies, as needed to discharge its duties, and pledge or assign Special Assessment rights, as security for repayment of such borrowed money. Except for emergencies, the aggregate total of all loans made by the Association in a given fiscal year may not exceed five percent (5%) of the budgeted gross expenses for the same fiscal year, without Membership Approval.

4.13 No Power to Encumber Real Property. The Common Area of the Association may not be encumbered as a security for debt.

4.14 Represent Association in Litigation. The Association, by its Board, may institute, defend, settle, or intervene in litigation, arbitration, mediation, administrative proceedings, or any other legal proceeding in any capacity necessary to represent the interests of the Association.

4.15 Receive and Dispose of Property. Subject to the Section of these CC&Rs entitled "Limitations on Transfer of Real Property", the Association may acquire, hold, lease, encumber, convey, or otherwise dispose of real and personal property and to take real and personal property by will, gift, bequest or any other legal transfer. Any funds or property so received must be used consistently with the purposes for which the Association was formed.



4.16 Limitations on Disposition of Personal Property. The Board may not, without Membership Approval, dispose of during any fiscal year personal property owned by the Association having an aggregate market value in excess of five percent (5%) of the Association's budgeted gross expenses for that year.

4.17 Limitations on Transfer of Real Property. The Board may exchange, sell, dedicate, or otherwise transfer real property, including Common Area, owned by the Association only on the following conditions:

- a. Approval by a majority of the Voting Power of the Association must first be obtained, except for the sale or other transfer of property acquired by the Association in foreclosure proceedings.
- b. No exchange, sale, dedication or other transfer may include real property to which an Owner has an exclusive right to occupy or use.
- c. For any exchange of real property, the property received by the Association must be of equal or greater value than the property given.
- d. Any dedication of property must only be to a public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.
- e. If the exchange, sale, dedication or other transfer of real property requires an amendment to the Governing Documents, any approval of such exchange, sale, dedication or other transfer by the Board must be conditioned upon approval of such amendment.

4.18 Capital Improvements. The following applies to Common Area Capital Improvements:

- a. *Authority.* The Board may alter, remove or replace Common Area Improvements as-needed to carry out their duties.
- b. *Defined.* "Capital Improvement" means any substantial discretionary addition to the Common Areas or significant alterations to the appearance of the Development. A Capital Improvement is not defined to mean additions or upgrades to Common Area materials which are necessary or prudent to comply with building or safety codes, or to prevent property damage or personal injury, or to reduce operating or maintenance costs for the Common Areas or to comply with Reserve component repairs or replacements.
- c. *5% Limitation.* Capital Improvements may not be made to the Common Areas in any fiscal year in excess of five percent (5%) of the Association's budgeted gross expenses for that year, without Membership Approval.

- d. *Obsolescence.* If the Board determines that any Common Area Improvement is obsolete, and/or no longer brings sufficient value to the Association to justify its upkeep, and the cost to remove the amenity is more than five percent (5%) of the budgeted gross expenses for that fiscal year, the Board must obtain Membership Approval to remove the amenity.

4.19 Vendor Contract Limitations. Except for the contracts listed below, the Association is prohibited from entering into any contract for services which binds the Association for a period for more than two (2) years, without Membership Approval.

- a. *Public Utility Contract.* A contract with a public utility company, if the rates charged for the materials or services are regulated by the Public Utilities Commission. However, the term of the contract must be for the shortest term for which the supplier will contract at the regulated rate.
- b. *Fire and Burglary.* Contracts for terms up to three (3) years to lease or service burglar and/or fire alarm equipment or provide protective services.
- c. *Bulk Cable Service.* Contracts for terms up to five (5) years to provide cable, internet, or satellite communications service.
- d. *Insurance.* Contracts for insurance, if the policies do not exceed three (3) years duration.
- e. *Reserve Studies.* Contracts for up to three (3) years for reserve studies.

4.20 Delegation to Manager. The Board may delegate any of its duties, powers, or functions to any qualified Person or management company to act as Manager, except (i) attending Board meetings and voting on motions; (ii) electing Officers; (iii) filling vacancies on the Board; (iv) appointment of executive committees; and (v) approving settlement agreements. Notwithstanding any delegation of duties, however, the Manager's actions are subject to the direction and supervision of the Board.

4.21 Nonprofit Character of Association. Notwithstanding anything contained in these CC&Rs to the contrary, the Association may not engage in any activity which may jeopardize the nonprofit character of the Association.

4.22 Discharge of Liens. When necessary, the Association is empowered to discharge, by payment, any lien against the Common Area and assess the cost thereof to the Owner or Owners responsible for the existence of the lien. Prior to any Board decision to discharge a lien, the Owner or Owners responsible for the existence of the lien must be given written notice and an opportunity to be heard by the Board and present any defenses which may exist.

## ARTICLE 5: ARCHITECTURAL CONTROL

5.1 No Improvements or Alterations Without Approval. No Renovations by or on behalf of an Owner which alter the exterior appearance of any Lot or its Improvements or Common Area are permitted until plans and specifications have been submitted to and approved in writing by the Architectural and Residential Landscaping Committee or Board. Any Renovations which are unapproved, different from those approved by the Committee, or done without required governmental permits, are automatically deemed disapproved and the Owner must promptly remove or correct the disapproved Renovations to comply with the Architectural Standards, the Committee's or Board's approvals, and governmental requirements.

5.2 No Exterior Installations. Installations of any kind, including but not limited to, trellises, awnings, electric lines, telephone lines, television antennas, satellite dishes, machines, or air conditioning units, on the exterior of the Buildings of the Development are prohibited except as authorized by the Committee.

5.3 Architectural Standards. The Board is authorized to adopt, amend, and repeal Architectural Standards. These Architectural Standards interpret and implement the provisions of these CC&Rs by setting forth the standards and procedures for the review and approval of proposed Renovations, guidelines or requirements for architectural design, placement of any Renovation, color schemes, exterior finishes and materials, and similar features which are recommended or required for use within the Development, provided that the Architectural Standards meet any minimum standards required by these CC&Rs. If any conflict exists between the Architectural Standards and these CC&Rs, the CC&Rs prevail.

5.4 Architectural and Residential Landscaping Committee. The Board is authorized to appoint an Architectural and Residential Landscaping Committee. If the Board does not appoint one, the Board is automatically deemed to be the Committee. The Committee has the authority to approve, reject, modify, give conditional approvals, and give limited approvals of Improvements and alterations as provided for in the Association's Architectural Standards.

- a. *Architect.* The Board is authorized to retain the services of an architect and one or more consultants to assist the Committee in its duties. Compensation for consultants' services must be determined by the Board. The cost of such consultants and any related expenses may be charged to those Owners submitting plans for Renovations as a Reimbursement Special Assessment. Any significant costs for which the Owner will be responsible must be submitted to the Owner for approval before being incurred by the Association.
- b. *Conflicts of Interest.* A Director or Committee member is not permitted to participate in the decision-making process of any architectural submittal made by that Director or Committee member or members of their family. Further, a Director or Committee member is not permitted to participate in the decision-making process of any other architectural submittal if the

approval would result in a monetary benefit to the Director or Committee member or any company in which the Director or Committee member or members of their family have a financial interest.

5.5 Submission of Plans.

- a. Plans and specifications in accordance with the Association's Governing Documents, describing the proposed Renovations, must be submitted to the Committee by personal delivery or certified mail.
- b. Applications are deemed approved within forty-five (45) days from the date of submission of a complete application unless (i) disapproved by the Committee, (ii) additional information necessary to properly consider the application is requested by the Committee within the forty-five (45) day period, or (iii) any proposed Renovations would violate the Association's Governing Documents, any Building, Safety and Fire Codes, or any other laws.
- c. Applications shall not be approved by any individual Committee member or Director. In the event an individual Committee member or Director approves architectural plans and specifications, such approval should not be relied upon and shall not be deemed approval.
- d. The Architectural and Residential Landscaping Committee is authorized to impose any reasonable conditions of approving an architectural application, in writing, including, but not limited to, (1) requiring modifications of particular aspects of the Owner's architectural submission and/or (2) requiring the preparation, execution and recording, at the Owner's expense, of a covenant establishing maintenance, repair and replacement, indemnity, and other obligations binding current and future Owners owning the Lot.
- e. Applications that are disapproved must be in writing and must explain why the proposed Renovation is disapproved. The Owner is permitted to seek reconsideration of a disapproved application, in writing, by the Board, unless (1) the original disapproval was made by the Board or a body that has the same membership as the Board at a meeting that satisfied the requirements of the Open Meeting Act or (2) as to any Renovations that were disallowed because they would violate the Association's Governing Documents, any Building, Safety and Fire Codes, or any other laws. A permissible written request for reconsideration must be received by the Board not more than forty-five (45) days after the denial. Within forty-five (45) days after receipt of the request for reconsideration, the Board must hold an open meeting to consider the reconsideration and decide. Failure of the Board to decide within the forty-five (45) day period is deemed a decision in favor of the Owner.

- f. Once an application has been approved, material modifications to the approved plans and specifications thereof are not permitted and any subsequent alterations, relocations, additions or modifications require a separate application, review and approval. If a proposed material modification is likely to materially affect other aspects or components of the work, the Board, in its discretion, may order the Owner and their contractors and agents to cease working on both the modified component of the Renovation and any other affected component.
- g. Unless a shorter period is specified in the approval, Renovations approved by the Committee must be completed within six (6) months of the Owner receiving approval. Renovations not completed within six (6) months must be resubmitted for approval. The Committee, in its discretion, may grant short extensions for Renovations to be completed.

5.6 Rescinding Approval. The Architectural and Residential Landscaping Committee and/or the Board is authorized to rescind previously approved plans but only for good cause.

5.7 Failure to Comply with Approval Requirements. Any Renovations, whether in progress or completed, which (1) were not approved in writing by the Committee or Board when such approval is required by the Governing Documents, (2) violate the Committee's or Board's conditions of approval, the Association's Governing Documents, or any Building, Safety and Fire Codes, or other laws, or (3) were performed by an unlicensed contractor (where a licensed contractor was required by law, the Governing Documents, or the Committee's conditions of approval), are automatically deemed disapproved and in violation of the Governing Documents.

5.8 Review Fees and Remodeling Agreement. The Board is authorized to establish a schedule of fees to be charged to an applicant to reimburse the Association for any out-of-pocket expenses it may incur in connection with the approval of an application, including architectural and/or engineering consultant fees, attorneys' fees for the preparation of recordable covenants or easements, or other documents uniquely necessary for compliance with reasonable conditions of approval, and expert expenses for reviewing plans. In addition, the Board is authorized to adopt and require Owners to sign a remodeling agreement.

5.9 Variances. The Architectural and Residential Landscaping Committee is permitted to recommend reasonable architectural variances, subject to advanced written Board approval. The Board may grant the variance if it determines the variance will not (i) constitute a material deviation from the overall plan and scheme of the Development, (ii) result in a material detriment to the Association or any Owner, or (iii) create a nuisance in the Common Area or affecting any other Owner. The granting of a variance by the Board is not a variance or waiver as to any other Lot, nor does any variance affect the applicability or enforceability of any provision of this Article in respect to any other Lot.

5.10 Engineering and Code Requirements. Plans and specifications approved by the Architectural and Residential Landscaping Committee or Board are not approved for engineering

design, Building, Safety or Fire codes, or other safety specifications. Approval by the Committee or Board does not absolve Owners of the responsibility of obtaining any necessary governmental approvals or permits. Owners must ensure compliance with applicable Building, Safety and Fire codes, ordinances, and specifications.

5.11 Inspection. The Association has the right, but not the obligation, to periodically inspect any work approved by the Committee or Board. Owners must allow inspection. Any work in progress may be halted and the Owner will be subject to a fine if (1) an inspection is not allowed, or (2) the Renovations are in violation of the Governing Documents as provided in the Section above entitled "Failure to Comply with Approval Requirements" or elsewhere. Such inspections do not absolve Owners from compliance with the Association's Architectural Standards and all applicable Building, Safety and Fire codes.

5.12 Building Department and Association Approvals. Any construction, repair, modification, or alteration of any Improvement requiring the issuance of a building permit must be submitted by the Owner to the appropriate governmental entity for review and approval. The Committee may impose conditions of approval which are more restrictive than conditions imposed by governmental agencies. If the conditions of approval imposed by the governmental entity and the Committee conflict, the more restrictive conditions control.

5.13 Mechanics' Liens. Owners must ensure that no lien is placed against any other Lot, or against the Common Areas, for labor or material furnished to their Lots. If a lien is placed against the Common Areas and/or another Owner's Lot, and the responsible Owner does not immediately cause the removal of the lien, the Association may, after written notice to the responsible Owner, pay the amounts necessary to have the lien removed and levy a Reimbursement Special Assessment against the responsible Owner for the monies advanced and any fees and costs incurred by the Association.

5.14 Hold Harmless and Indemnify. Approval of plans by the Association signifies only a general conformance with its Architectural Standards and not with Building, Safety, or Fire code compliance, lot lines, easements, or best construction practices. The Association and its Architectural and Residential Landscaping Committee, Owners, Officers, Directors, employees, and agents are not liable and must be held harmless, defended and indemnified for mistakes in judgment or negligence arising out of or in connection with the Association's approval or disapproval of plans.

5.15 Combining Lots. The combining of Lots is not permitted

5.16 No Right to Divide Lots. No Owner is permitted to divide any Lot.

5.17 Square Footage and Setbacks. The minimum and maximum square footage of structures and their setback requirements from lot lines must comply with the Association's Architectural Standards and any governmental requirements.

5.18 Drainage. Any changes to the established drainage patterns over a Lot (i) must comply with applicable Building Codes (ii) must not adversely affect the property of others, and (iii) must be approved in writing by the Committee in advance of any changes.

5.19 Occupancy of Unfinished, Temporary or Mobile Structures Prohibited. No trailer, RV, bus, tent, shack, garage, temporary building or structure of any kind is permitted to be occupied or lived in at any time. Permanent residential dwellings must not be occupied or lived in until they have been completed and the exterior is made to comply with the Association's Architectural Standards and any required governmental occupancy permit has been issued.

5.20 Removal of Temporary Buildings. Temporary buildings or structures used during construction or remodeling must be removed immediately after the completion of construction.

5.21 Diligent Construction. The construction of any Building or structure must be prosecuted diligently and continuously from the time of commencement until fully completed, and all structures, once the foundations are erected, must be completed in six (6) months or any other time frame approved by the Board.

5.22 Landscaping Following Construction. Within two (2) months of the completion of any construction work during which the Association's landscaping requirements were waived, or within any shorter time frame required by the Committee Architectural and Residential Landscaping Committee, Owners must landscape their Lots as required by the Association's Architectural Standards and/or any conditional approvals of the Committee.

5.23 Waiver of Liability. Neither the Architectural and Residential Landscaping Committee or its members nor the Association or its Officers, Directors, employees or agents are liable for any damage, loss or prejudice suffered or claimed on account of the Committee's review, approval, or disapproval of any plans, drawings or specifications, or the conformance of the construction with the approved plans and any such claims are expressly waived.

## **ARTICLE 6: MAINTENANCE, REPAIR AND REPLACEMENT RESPONSIBILITIES**

6.1 Association and Owner Responsibilities. The Association's and Owners' maintenance, paint, repair, and replacement obligations are as set forth below.

a. *Buildings and Equipment*.

- i. Association Responsibility. All portions of Buildings and equipment owned by the Association must be maintained, painted, repaired, and replaced by the Association. The Association may discontinue the use of or dispose of equipment or Association Buildings as it deems appropriate.

- b. *Common Areas/Common Area Facilities/Recreational Amenities.*
  - i. Association Responsibility. The Association must maintain, paint, repair, and replace the Common Areas, including any Common Area facilities and recreational amenities including, without limitation, all private streets/fire lanes, street signs, guest parking lots, the clubhouse, RV lot, fitness facilities, maintenance rooms, restrooms, shower, spa, sauna, swimming pool, and sports courts.
  
- c. *Drainage Structures.*
  - i. Association Responsibility. The Association must maintain, repair, and replace all drainage structures, culverts and canals for the major collection of storm runoff and any natural drainage courses within Common Areas.
  
  - ii. Owner Responsibility. Owners must keep all drainage courses, ditches and swales on their Lots free and clear of all obstructions, and must maintain, repair and replace all such drainage ditches, swales and culverts in good order. Owners must not alter or obstruct a natural drainage course, or materially add to the natural water volume of a drainage course without making adequate provisions with respect to neighboring Lots and Common Areas. Any such alterations, obstructions or additions to water volume must have the prior written approval of the Architectural and Residential Landscaping Committee.
  
- d. *Fences and Walls.*
  - i. Association Responsibility. The Association must maintain, paint, repair, and replace all Common Area fences and walls, including the fences around the Common Area amenities (i.e., pool, sports court, and RV lot).
  
  - ii. Owner Responsibility. Owners must maintain, paint, repair, and replace fences and walls on their Lots, including the perimeter chain link fence. Owners must keep those portions of their Lots under and around fences in a clean and neat condition, including the removal of all weeds. Owners must remove other vegetation and materials from around the fences when so requested by the Association.
  
- e. *Improvements.*
  - i. Owner Responsibility. Owners must maintain, paint, repair and replace all Improvements or alterations to the Lot or appurtenant areas by any current or prior Owner of the Lot, or by any party other than the Association.



- f. *Landscaping and Irrigation.*
  - i. Association Responsibility. The Association must maintain, repair, and replace all landscaping and irrigation in the Common Area.
  - ii. Owner Responsibility. Owners must maintain, repair, and replace all landscaping and irrigation on their Lots.
  
- g. *Lots and Residences.*
  - i. Owner Responsibility. Owners must maintain, paint, repair, and their Lot and Residence and shall maintain the same in a neat, orderly and attractive condition and in such a manner as to enhance its appearance. Owners must prevent their Lots from becoming unsightly by reason of deterioration of paint or other materials and, in general, must do all other things necessary or desirable to keep their property neat, clean, attractive and in good order. Owners must keep their Lots free and clear of all weeds, debris and rubbish (including rubbish dumped by others), and must keep all shrubs, trees, grass and plantings of every kind neatly trimmed, watered, cultivated and free of weeds and other unsightly material.
  
- h. *Private Streets/Fire Lanes.*
  - i. Association Responsibility. The Association must maintain, repair, and replace the private streets/fire lanes within the Development.
  
- i. *Slopes.*
  - i. Association Responsibility. The Association must stabilize, maintain, repair, and replace all Common Area slopes and drainage contours throughout the Development.
  - ii. Owner Responsibility. Owners must maintain, repair, and replace slopes, terraces, drainage contours, drainage devices, and landscaping on their Lots.
  
- j. *Termites and Pests.*
  - i. Association Responsibility. The Association may exercise any rights and authority provided for in the Davis-Stirling Act. In addition, the Association has the authority and duty to do the following:
    - (a) Treat, repair and/or replace, at its own cost, Common Areas, and any other areas which the Association must maintain, repair or

replace, infested or damaged by insects, rodents, and wood-destroying pests or organisms (including microorganisms); and

- (b) Impose a Special Assessment against the membership for the cost of the treatment and/or repairs.
- ii. Owner Responsibility. Each Owner is obligated to do the following with respect to the Owner's Lot and Residence:
- (a) Treat, at Owner's expense, the portions of Owner's Lot and Residence infested or damaged by wood-destroying pests or organisms (including microorganisms);
  - (b) Treat Owner's Lot and Residence infested by insects (such as ants, cockroaches, silverfish, etc., other than wood-destroying pests) and rodents; and
  - (c) Repair and replace, at Owner's expense, any damage to Owner's Lot and Residence caused by the presence of wood-destroying pests or organisms (including microorganisms), other insects and rodents.
- k. *Trees*.
- i. Association Responsibility. The Association must trim, prune and remove trees in the Common Area.
  - ii. Owner Responsibility. Owners are responsible for trimming and removal of trees on their Lots. Owners must keep the trees on their Lots properly pruned and topped to prevent them from becoming overgrown or diseased. Individual Owners and not the Association are responsible for any damage caused by the trees and shrubs on their Lots. Owners must ensure that no tree, shrub or planting of any kind be allowed to protrude from their Lot onto a sidewalk or street. Trees which overhang a pedestrian walkway or street must be kept free of limbs from the walkway or street to a height of ten (10) feet above the walkway or street.
- l. *Utility Lines*.
- i. Association Responsibility. The Association must maintain, repair, and replace all Utility Lines located in the Common Area, except for those installations maintained by utility companies of any kind, whether public, private or municipal.

- ii. Owner Responsibility. Owners must maintain, repair, and replace all Utility Lines that exclusively serve the Lot, wherever located within the Development. The Owners' obligations include repairs and replacements necessary to restore interrupted service to the Utility Lines that exclusively service the Lot, wherever located within the Development.
  
- m. *Water Damage and Mold*.
  - i. Owner Responsibility.
    - (a) Each Owner is responsible for the maintenance, repair and/or replacement of items within the interior of their Residence, including, but not limited to, cabinets, fixtures, appliances, flooring, and personal property, that may be damaged from water that may leak or flow into the Residence from within the Lot or the Common Area, unless such damage is determined by a court, arbitrator or other tribunal to be caused by the gross negligence or intentional misconduct of the Association, its Board, Officers, or designated agents.
    - (b) Each Owner, and not the Association, is liable for water damage and mold in and to Lots, Common Areas, and any personal property: (i) negligently caused by the Owner, Owner's Tenant or their respective family, guests, or invitees, vendors, or (ii) caused by Owner's negligent failure to mitigate damage from failing to regularly inspect and promptly report signs of water intrusion and leaks, including, but not limited, to roof, door, window and slab leaks.
    - (c) The Association and all Owners must repair, restore or replace any water or mold damaged portions of the Development as required by these CC&Rs. Each Owner is financially liable for any and all damage to the Common Area or other Lots due to the Owner's failure to promptly perform such work. The Association reserves the right to enter any Lot, as permitted by these CC&Rs, to repair, restore, remediate or replace any portion of a Lot in order to protect any Building and Common Area from any damage from water and/or mold. The Association may impose a Reimbursement Special Assessment against any liable Owner for all costs incurred by the Association for any such repairs, restoration, remediation or replacement. The Reimbursement Special Assessment may become a lien against the liable Owner's Separate Interest enforceable by the sale of the Owner's Lot under Civil Code sections 2924, 2924b, and 2924c.

6.2 Easement for Maintenance. Each Owner has easements across Lots and Common Areas as may be necessary for installing, maintaining, repairing, or replacing Utility Lines which cannot reasonably be serviced from their Lots. Access to Lots and Common Areas is limited to a reasonable work area and for a reasonable time. Except in emergencies, reasonable notice and consent to perform such work, which may not be unreasonably withheld, must be obtained from the affected Lot Owner and/or the Association, as applicable. Immediately after the work is completed, Owners must restore affected Lots and/or the Common Areas to the same or better condition than they were in prior to the commencement of such work. Such restoration work on affected Lots and Common Areas must be done promptly at the sole expense of the Owner performing the installation, repair, or maintenance work.

## **ARTICLE 7: AGE RESTRICTIONS**

7.1 Statement of Intent to Provide Housing for Seniors. The Development is “housing for older persons.” To the fullest extent permitted by federal, state and local law, it is the intent of the Development to operate as housing for Senior Citizens (that is, persons 55 years of age or older), and to that end, occupancy of Residences in the Development shall be restricted to Senior Citizens, except as otherwise provided.

7.2 Definitions. The following are definitions applicable to this Article.

- a. “*Laws*” means and refers to: the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. §§3601 et seq.), California’s “Unruh Civil Rights Act” (California Civil Code §51 et seq.), and California Government Code §12955.9, as the same may be amended from time to time.
- b. “*Permitted Health Care Resident*” means and refers to a Person hired to provide live-in, long-term, or terminal health care to a Senior Citizen, or a family member of the Senior Citizen providing that care. The care provided by a Permitted Health Care Resident must be substantial in nature and must provide either assistance with necessary daily activities or medical treatment, or both.
- c. “*Qualified Permanent Resident*” means a Person who satisfies the following requirements:
  - i. Resided with the Senior Citizen prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the Senior Citizen; and
  - ii. Was (A) forty-five (45) years of age or older, (B) a spouse or cohabitant of the Senior Citizen, or (C) providing primary physical or economic support to the Senior Citizen.
- d. “*Qualified Permanent Resident by Virtue of Disability*” means a disabled Person or Person with a disabling illness or injury who is a child or

grandchild of the Senior Citizen or Qualified Permanent Resident as defined above, who needs to live with the Senior Citizen or Qualified Permanent Resident as defined above, because of the disabling condition, illness or injury.

- e. “*Senior Citizen*” means a person fifty-five (55) years of age or older.

### 7.3 Residency Restrictions.

- a. *Permissible Occupants and Requirement that Eighty Percent (80%) of the Residences Shall be Occupied by a Senior Citizen.* The Persons commencing any occupancy of a Residence in the Development shall include at least one (1) Senior Citizen. All other occupants of the Residence must be either Qualified Permanent Residents, Qualified Permanent Residents by Virtue of Disability, Permitted Health Care Residents, or persons who lawfully occupied the Residence as of January 1, 1985. These Persons shall be collectively referred to as “Qualified Occupants.” Notwithstanding the foregoing, no more than twenty percent (20%) of the occupied Residences within the Development shall be occupied solely by Persons who are not Senior Citizens.
- b. *Age Verification.* All occupants of the Development must provide verification of age, in a form (“Age Verification and Information Form”) and at the time or times directed by the Board. Such age verification shall occur not less than once every two (2) years. The Board is specifically empowered to enact Rules to assure compliance with Laws regarding housing for older persons, including age verification; furthermore, said Rules may include pre-screening requirements for all Residents in the Development.
- c. *Guests.* A Person not otherwise qualified for residency may remain in the Residence as a guest of the Qualified Occupants, for a period not to exceed sixty (60) days in any calendar year. Any Person who resides in the Residence for more than sixty (60) days in any calendar year shall be deemed a Resident; said person must submit an Age Verification and Information Form as directed by the Board, and must be qualified for residency (that is, must be a Qualified Occupant) in order to remain. For the purpose of calculating the sixty (60) day period described in this Section, presence in the Residence for more than twelve (12) hours of a day, or overnight, shall constitute a day’s stay. Notwithstanding the foregoing, if a Person determines to occupy the Residence on a permanent basis, that Person shall become a Resident, and not a Guest, regardless of the length of the stay, and must qualify for residency pursuant to this Article.
- d. *Termination of Residency of Disabled Qualified Permanent Resident by Virtue of Disability.* Any Owner of a Residence in the Development, or the

Board, may take action to prohibit or terminate occupancy by a person who is a Qualified Permanent Resident by Virtue of Disability (as defined above), if the Owner or the governing body finds, based on credible and objective evidence, that such person is likely to pose a significant threat to the health or safety of others that cannot be ameliorated by means of a reasonable accommodation, provided, however, that the termination of residency can take place only after the following:

- i. Notice to the disabled Person and the disabled Person's co-resident parent or grandparent of (A) the basis for the proposed termination of residency, and (B) a hearing before the Board, wherein the disabled persons and/or their co-resident parent or grandparent may be heard on the subject;
  - ii. The notice of hearing shall provide for a hearing date no less than ten (10) days from the date of the notice;
  - iii. The decision to terminate residency of the disabled person shall be made only after due consideration is given to the relevant, credible, and objective information provided in the hearing. The evidence shall be taken and held in a confidential manner, pursuant to an executive (i.e., closed) session in order to preserve the privacy of the affected Persons. The affected Persons shall be entitled to have present at the hearing an attorney or any other person authorized by them to speak on their behalf or to assist them in the matter.
  - iv. Nothing in this provision shall be construed as requiring the Board to take action to terminate a disabled Person's residency.
- e. *Continued Residency of Qualified Permanent Resident.* Upon the death or dissolution of marriage, or upon hospitalization, or other prolonged absence of the Senior Citizen, any Qualified Permanent Resident is entitled to continue their occupancy, residency, or use of the Residence.
- f. *Restrictions Pertaining to Permitted Health Care Residents.* A Permitted Health Care Resident shall not be a Qualified Permanent Resident. However, a Permitted Health Care Resident shall be entitled to continue their occupancy, residency, or use of the Residence in the absence of the Senior Citizen, only if both of the following are applicable:
- i. The Senior Citizen became absent from the Residence due to hospitalization or other necessary medical treatment and expects to return to their residence within ninety (90) days from the date the absence began.

- ii. The absent Senior Citizen or an authorized Person acting for the Senior Citizen submits a written request to the Owner of the Residence, or the governing body of the Development, stating that the Senior Citizen desires that the Permitted Health Care Resident be allowed to remain in order to be present with the Senior Citizen return to reside in the Development.

7.4 Procedural Restrictions Pertaining to Age Restrictions.

- a. *Enforcement.* The Association and any one or more of its Owners or Members shall each be empowered to enforce compliance with all applicable Laws, as such may be amended or supplemented from time to time hereafter. Notwithstanding any provisions regarding enforcement of the restrictions in these CC&Rs, and in addition thereto, the Association and any one or more of its Owners or Members may use any proceeding at law or in equity to enforce the provisions of this Article.
- b. *Compliance with the Law.* If any provisions contained in this Article or within these CC&Rs related to age restricted housing become non-compliant with local, state or federal law, the Association, acting through the Board, shall have the power unilaterally to amend this Article without the necessity of the vote or consent of the Members or any other Person so as to maintain consistency and compliance with the applicable law. Such amendment shall be effective when approved by the Board and recorded in the Official Records of San Diego County.
- c. *Conflicts.* If there is any inconsistency or conflict between the provisions of this Article and any other provision of these CC&Rs, the terms of this Article shall control.

7.5 Notification to Association. In the event of any change in occupancy of a Lot, the Owner of such Lot shall immediately notify the Association in writing and provide documentation to the Association with the names and ages of all occupants of the Lot.

**ARTICLE 8: GENERAL RESTRICTIONS**

8.1 Antennas. No antennas for transmitting or receiving radio signals or any other form of electromagnetic radiation may be installed, except as provided in the Association's Rules and Regulations, its Architectural Standards, and applicable law.

8.2 Barbecues. Charcoal burners and other open-flame cooking devices shall not be operated within 10 feet of combustible construction, except LP-gas cooking devices having LP-gas container with a water capacity not greater than 2-1/2 pounds [nominal 1 pound (0.454 kg) LP-gas capacity]. Hours of operation, other permissible equipment, and other Rules regarding

barbecue operation may be stated in the Rules and Regulations. Occupants must take reasonable precautions to minimize smoke from entering other Lots.

8.3 Criminal Activity Prohibited. No Person is permitted to engage in criminal activities anywhere within the Development, including, without limitation, within the Common Areas, any Lot and/or Residence. For purposes of this Section “criminal activities” includes, without limitation, drug-related activities (including the illegal manufacture, sale, distribution, use or possession of a controlled substance), gang-related activities, the unlawful use or discharge of firearms, prostitution, or any misdemeanors or felonies enumerated in the California Penal Code, or any federal criminal statute, local ordinance, regulation or other law. In addition, Owners owning a Lot must prohibit, in their lease, rental agreement or otherwise, Persons who engage in criminal activities from occupying their Residence or Lot.

8.4 Drains. Owners are not permitted to interfere with established drainage patterns in the Development unless an alternative provision is made and approved in advance in writing by the Architectural and Residential Landscaping Committee.

8.5 Drilling and Exploration. No Lot is permitted to be used in any manner to explore for, remove, refine, or store any quantities of water, gasoline, oil, hydrocarbons, minerals, gravel, earth, or earth substances of any kind in excess of usual and customary amounts necessary for residential use.

8.6 Drones. A “drone” is defined as a powered aerial vehicle that flies autonomously or is remotely piloted. The operation of drones in the Development, if allowed by the Association, must comply with the Association’s Rules and Regulations, federal and state law. No Person is permitted to operate, cause, allow or authorize the operation of a drone in the airspace above any portion of the Development in such a way as to invade the privacy of Association Owners, guests, Residents or vendors, whether equipped with a camera or otherwise. Prior written approval of the Board of Directors must be given for drone operations that are contrary to this Section or the Association’s Rules and must comply with such terms and conditions as the Board may deem appropriate under the circumstances.

8.7 Flammable Materials. Except for reasonable amounts of legal ammunition for use with legal firearms, the storage or use of explosives, fireworks, or highly flammable or highly corrosive materials by Owners, Tenants, Residents, or their respective family, guests, or invitees anywhere in the Development is prohibited.

8.8 Health/Safety Hazards. Owners must not permit conditions which constitute a health, safety, or fire hazard to exist on their Lots, Patios, storage areas, or Parking Areas.

8.9 Insects and Plant Diseases. No thing or condition is permitted to exist upon any Lot which induces, breeds or harbors infectious plant diseases or noxious insects.

8.10 Laundry. No clothesline or drying rack may be erected, maintained or used in the exterior of the Development, except in an exclusive use backyard of an Owner. The Association



may adopt reasonable Rules and restrictions regarding the use of clotheslines and drying racks as allowed by law. No item may be draped over fences, trees or Patio walls or railings.

8.11 Machinery and Equipment. No machinery or equipment of any kind is permitted to be placed, operated or stored upon or adjacent to any Lot except for such machinery or equipment as is usual and customary in connection with the use, maintenance, repair, or construction of a Lot or its Improvements, and only for as long as is necessary to complete such maintenance, repair, or construction.

8.12 Marijuana and Controlled Substances. Growing or distributing marijuana or medical marijuana, whether for personal use, as well as manufacturing, synthesizing, producing or distributing any illicit or controlled substances as defined by applicable state and/or federal laws is strictly prohibited in the Development, whether in Lots or Common Areas.

8.13 Nudity. Public displays of nudity are prohibited.

8.14 Nuisance. Owners are prohibited from causing or permitting any act or condition which constitutes a nuisance.

- a. *Unreasonableness*. To constitute a nuisance, the act or condition must be an unreasonable disturbance or annoyance, unreasonably injurious to health, indecent, or unreasonably detrimental to Persons or property.
- b. *Secondhand Smoke*. Any “exfiltration” (air flow outward through a wall, Building envelope, window, etc.) of any noxious odor or smoke, including tobacco smoke, from a Lot, whether through windows, doors, vents, or other means, is prohibited. It is the responsibility of the Owner causing such exfiltration of smoke or odors to prevent it.
- c. *Allergies*. Residents with allergies or sensitivities must, at their own expense, take precautions to protect themselves against commonplace levels of noise, odors, dust, smoke, gases, pollen, or other environmental pollutants.
- d. *Board Determination*. Because a nuisance is largely subjective, the Association is not obligated to become involved in disputes where, in the opinion of the Board, the alleged disturbance does not constitute a nuisance. Despite the Board’s determination, the parties retain the right to take appropriate legal action against each other without involving the Association.

8.15 Obstruction of Common Areas. Obstruction or misuse of the Common Area, for other than its intended purpose, is prohibited, unless expressly permitted in writing by the Board for good cause.

8.16 Ownership Limitation. The vesting of title in and ownership of more than two Lots by the same natural Person or Persons, their agents, assigns, heirs, or nominees or by any corporation, trust organization or other entity, their agents, or nominees, is prohibited.

8.17 Quiet Enjoyment. No one may engage in any behavior, whether verbal or physical, including, but not limited to, the posting or distributing of documents, openly or anonymously, anywhere in the Development, where such behavior is abusive, harassing, threatening, intimidating, defaming, slanderous, unlawfully aggressive, and/or otherwise legally actionable against other Owners, Residents, guests, invitees, Directors, or the Association's management, employees, agents, or vendors. Because such breaches of quiet enjoyment are largely subjective, the Board may choose to act only against egregious breaches. When the Association chooses not to act on a complaint of breach of quiet enjoyment, or the complaining party believes the Association's action is not sufficient, such party may take legal action to enforce this provision against other Owners and/or Residents, but is not permitted and expressly waives their right to take any action, legal or otherwise, including commencing or maintaining a lawsuit against the Association and/or its Officers, Directors, employees, and/or agents for their failure to act on the party's complaint and/or for the manner in which they handled it.

8.18 Residential Use. Using a Lot, or permitting a Lot or any portion of it, to be occupied or used for any purpose other than a private residential dwelling is prohibited. Lots must not be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purpose. Notwithstanding the foregoing, Residents may use a room in their Lot as a home office, provided that (1) the primary use of the Lot remains as a Residence, (2) no business advertising or signage is used in connection with the home office use, (3) package deliveries are kept to a minimum, and (4) no customers, clients or patients visit the Lot. The Board may adopt additional Rules regarding the use of such home offices.

8.19 Sale of Accessory Dwelling Unit (ADU). Accessory dwelling units ("ADU") must not be sold or conveyed separately from the primary Residence on any Lot unless the City of Vista, County of San Diego has adopted an ordinance, pursuant to Government Code § 65852.2 that allows the Lot owner to create a condominium project for such separate sale or conveyance. In addition to any requirements imposed by the City of Vista, County of San Diego, Owners must not record a condominium plan for the separate sale or conveyance of the primary Residence and ADUs under Government Code § 65852.2 without the Association's approval. For purposes of this Section, approval of the Association means approval of the Board and approval of at least sixty-seven percent (67%) of the Association's Owners. The vote of the Association's Owners must be held pursuant to the requirements of Civil Code §§ 5100-5145. The Owner of the Lot shall be responsible to reimburse the Association for all costs incurred in holding the membership vote. Any Person or entity acquiring title to any ADU or Residence that is sold as a condominium shall not be deemed to be an Owner or Owner of the Association and shall have no voting rights or responsibility to pay the Assessments, unless they are the record Owner of the Lot. The Owner of the Lot shall continue to be an Owner of the Association and shall continue to be solely responsible for all rights and obligations under the Association's Governing Documents, including voting rights, and the obligation to pay Assessments imposed

on the Lot. Junior accessory dwelling units (“JADU”) must not be separately sold or conveyed from the primary Residence on the Lot.

8.20 Sale of Lot. The Association may impose restrictions or limitations on open houses, brokers’ caravans and other matters relating to the sale of a Lot in the Rules and Regulations.

8.21 Sanitary Conditions. Owners must maintain and repair their Lots and all Improvements thereon in a clean and sanitary condition and not allow rubbish or debris of any kind to accumulate causing any Lot or portion of a Lot to become unsanitary, unsightly, or offensive.

8.22 Satellite Dishes. Satellite dishes may only be installed as provided for in the Rules and Regulations, Architectural Standards, and applicable law.

8.23 Signs, Posters and Flags. Signs, posters, flags, banners, notices, nameplates, cards, and advertisements of any kind may only be displayed to the public view on or from any Lot or in or on any Common Area as allowed by law. Owners may display one sign in a designated area which is of reasonable dimensions and design, advertising that the property is for sale or lease, as allowed by law and subject to any restrictions in the Rules and Regulations. Commercial signs may not be displayed.

8.24 Smoking and Vaping. All smoking, vaping, and use of e-cigarettes is prohibited everywhere in the Common Areas. “Smoking” means, but is not limited to, any practice by which a substance, whether tobacco, marijuana or any other substance, is burned for the purpose of inhaling its smoke. “Vaping” means inhaling water vapor to obtain nicotine, cannabis or any other substance. “E-cigarette” means an electronic device that vaporizes liquid nicotine, cannabis or any other substance. Additional Common Area restrictions concerning Smoking, Vaping and E-cigarette use, consistent with these CC&Rs, may be adopted by the Board.

8.25 Solar Energy Systems. Solar Energy Systems may only be installed after obtaining written approval of the Architectural and Residential Landscaping Committee and as provided for in the Rules and Regulations, Architectural Standards, and applicable law.

8.26 Spas, Hot Tubs and Saunas. No spa, hot tub, or sauna may be installed in any Lot without the written approval of the Architectural and Residential Landscaping Committee or the Board. Such installations must conform to the Association’s Architectural Standards.

8.27 Storage. No Lot is permitted to be used at any time for open air storage of building materials, vehicles, implements, tools, furniture, landscaping materials or equipment, irrigation pipes or apparatus, junk, trash or any other things whatsoever; provided, however, that building and landscaping materials, tools or equipment may be placed and maintained on construction sites as provided for in the Architectural Standards.

8.28 Tanks and Receptacles. Installation of any tank for the storage of fuel outside any structure on a Lot is subject to advanced written approval of the Architectural and Residential Landscaping Committee. Such tanks must be either buried below the surface of the ground or screened by fencing or shrubbery to the satisfaction of the Architectural and Residential Landscaping Committee.

8.29 Time Sharing Prohibited. No Lot or Residence may be divided, used or conveyed on a time increment basis (commonly referred to as “time sharing”). The term “time sharing” is defined to include any agreement, plan, program or arrangement under which the right to use, occupy or possess a Lot or Residence or any portion of a Lot or Residence rotates or changes among various Persons, either corporate, partnership, individual or otherwise, on a periodically recurring basis.

8.30 Trash. Owners must not keep trash on or in any portion of the Lot or the Development except as provided for in the Rules and Regulations. Every outdoor receptacle for trash, rubbish or garbage must be placed, screened, and kept as provided for in the Association’s Rules and Regulations. Owners must use only permitted trash receptacles and ensure that such receptacles are visible from the Common Areas only on scheduled trash pick-up days in accordance with the requirements of the applicable City or County and as provided for in the Rules and Regulations.

8.31 Use of Independent Contractors. Owners may use independent contractors to perform work in their Lots subject to the Association’s Rules and its Construction Guidelines, if any. Such contractors must be licensed and insured as required by law. The Association is permitted to, but not required to, police or enforce this provision, and has no responsibility or liability for failing to do so. Owners are liable for any injury to Persons or damage to the Common Areas, Lots and any personal property caused by the acts or omissions of such Owner’s contractor. The Association is authorized, in its sole discretion, to repair, restore or replace property damaged by an Owner’s contractor and is permitted to impose a Reimbursement Special Assessment against the responsible Owner for all costs and expenses incurred by the Association from repairing the damage. The Reimbursement Special Assessment may become a lien against the liable Owner’s Lot enforceable by the sale of the Owner’s Lot under Civil Code sections 2924, 2924b, and 2924c.

8.32 Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, are permitted to be constructed, placed or maintained anywhere in or upon any Lot without advanced written approval of the Architectural and Residential Landscaping Committee. Such lines, wires or other devices must be constructed, placed and maintained underground or concealed in, under, or on Buildings or other structures as specified in the Architectural and Residential Landscaping Committee approval. Nothing herein forbids the erection and use of temporary power or telephone services incident to previously approved construction on the Lot.

8.33 Vibrations. No Owner, or Tenant, guest or invitee of an Owner, may operate any fixtures, appliances, furniture, equipment or other devices which cause unreasonable vibrations resulting in unreasonable annoyance to occupants of other Lots and Residences.

8.34 Window Coverings. No window may be covered by paint, aluminum foil, newspapers, bed sheets, cardboard, blankets, or other similar items.

## **ARTICLE 9: LEASING AND RENTAL LIMITATIONS**

In addition to the restrictions found in Article 8, that Owners may not use their Lots for business, commercial, manufacturing, mercantile, storing, or vending purposes, the following residential restrictions apply:

9.1 No Hotel Purposes. Lots and Lot Improvements, including Residences, may not be rented for hotel, fractional or similar purposes.

9.2 No Short-Term and Transient Rentals.

- a. *Prohibited Short Term Rental Period*. Short-term and transient rentals or leases of a Lot for a period of thirty (30) days or less are prohibited.
- b. *Advertising Limitation*. No Lot or Residence may be advertised with Airbnb, VRBO, Flipkey, or by any other means, as being available for rent or lease for a period of thirty (30) days or less or in a manner that would suggest or imply the Lot was available for rent or lease for a period of thirty (30) days or less.

9.3 Lease of Less than Entire Lot. Except for detached accessory dwelling units, no Owner is permitted to lease or rent less than the entire Lot unless an Owner also resides on the Lot. The entire Lot, or any portion thereof as permitted herein, may only be leased or rented under a single lease or rental agreement signed by all adult Tenants occupying the Lot.

9.4 Lease and Rental Requirements.

- a. *Minimum Lease Term*. The minimum term of a lease or rental agreement of a Lot or Lot Improvements, including a Residence, must be for a period greater than thirty (30) days.
- b. *Re-Leasing Within Thirty (30) Days of Lease Start*. If a Tenant terminates their lease or rental agreement or otherwise vacates the Residence or Lot before the end of the term of the lease or rental agreement, the Owner is not permitted to re-lease or re-rent the Residence or Lot until at least thirty (30) days have passed since the beginning of the term of the lease or rental agreement, unless the Owner applies for and receives a hardship exception from the Board.

- c. *No Assignment or Subleasing.* No lease of or rental agreement concerning a Lot or Residence may be assigned. No Lot or Residence may be sublet or subleased.

9.5 Rental Cap. No more than twenty-five percent (25%) of the Lots in the Development may be leased to Tenants at any given time. If an Owner wishes to lease a Lot to a Tenant at a time when twenty-five percent (25%) of the Lots are already being leased, the Owner may appeal to the Board for a special exemption.

- a. *Rental Cap Exception.* All record Owners of a Lot on the date these CC&Rs are recorded may rent or lease their Lot to Tenants regardless of the percentage of rented or leased Lots. Owners must adhere to all other rental or lease prohibitions, restrictions, Rules and requirements.
- b. *Waiting List.* Any Owner wishing to lease a Lot must submit a written request to the Board to ensure the leasing capacity has not been met. When at least twenty-five (25%) of all Lots are leased or rented to Tenants, the Board must maintain a waiting list.
- c. *Lots with Owner in Residence Not Subject to Rental Cap.* Lots are not deemed to be counted toward the rental cap while an Owner resides on the Lot.

9.6 Lease and Rental Agreements and Addendums.

- a. *Leases and Rental Agreements in Writing.* All leases and rental agreements between an Owner and Tenant must be in writing.
- b. *Required Lease and Rental Agreement Provisions.* All provisions of any leases and rental agreements between an Owner and Tenant must be consistent with and not violate any provisions of the Association's Governing Documents. All leases must include, at a minimum, provisions that require Tenants (1) to comply with all provisions of the Association's Governing Documents and (2) to be bound by and subject to the same disciplinary procedures and fines as Owners.

9.7 Governing Documents. Owners must provide their Tenants with the Association's Rules and Regulations and ensure compliance with them.

9.8 Transfer of Common Area Privileges. Any Owners residing offsite, and whose Lot and/or Residence is occupied by others, automatically transfers the Owners' rights to use the Association's Common Area facilities to the Residents until the Owner retakes possession of the Lot.

9.9 Transfer of Occupancy. Owners living offsite must promptly provide the Association with the current name, address, phone number, and email address of each Lot Resident and any changes in such information.

9.10 Repairing Damage. Owners are liable for all damage to the Lots and Common Areas, and any personal property which was caused by the negligent acts or omissions of such Owner, Owner's Tenant, or their respective family, guests, invitees, vendors, or pets. The Association is authorized, in its discretion to repair, restore or replace such damaged property and is permitted to impose a Reimbursement Special Assessment against the liable Owner for all costs and expenses incurred by the Association from repairing, restoring or replacing the damaged property. The Reimbursement Special Assessment may become a lien against the liable Owner's Lot enforceable by the sale of the Owner's Lot under Civil Code sections 2924, 2924b, and 2924c.

9.11 Unlawful Detainer. Owners who lease their Lots and/or Residences must ensure compliance with the Association's Governing Documents by their Tenants. If an Owner fails to take legal action against their Tenant, who is in violation of the Governing Documents, within ten (10) days after receipt of the Association's written demand to do so, the Association is permitted to institute unlawful detainer proceedings on behalf of such Owner and against the Tenant and the Association is hereby granted right of possession to the Lot and/or Residence for such purpose. The Association may be awarded costs of suit and/or attorneys' fees by the court as provided by law.

9.12 Assignment of Rents. As security for the payment of Assessments, fines, and other sums owed to the Association, Owners who lease their Residences pledge their rights as Landlords (including the right to receive rent) to the Association. If an Owner becomes delinquent in payment of Assessments or fines to the Association, the Association is permitted to assign the rents payable by the Tenant to the Association until the Owner's account is paid in full as provided for in Civil Code § 2938 or any other provision of law. During the period of assignment, Owners have no right to collect the assigned amounts from Tenants and may not evict Tenants for complying with the Association's assignment of rents.

## **ARTICLE 10: PETS**

10.1 Pet Limitation. Usual domesticated dogs, cats, and birds may be kept in Lots as pets. No more than one (1) pet (as defined in the Rules and Regulations) may be kept on any Lot. Aquariums of 100 gallons or less are permitted to be maintained in Lots with only non-poisonous, legal, aquatic creatures, excluding any snakes. No animal is permitted to be kept, bred, or maintained: (i) for any commercial purpose; or (ii) for any purpose that would involve any odor, noise, or other nuisance which would unreasonably disturb the use and enjoyment of any portion of the Development by other Owners. The Board is permitted to adopt additional Rules and Regulations regarding the quantity, kinds and sizes of pets, and tanks which may be kept and other pet issues not conflicting with these CC&Rs.

10.2 Preexisting Pets. Pets being kept in the Development on the date of recordation of these CC&Rs, which were not in violation prior to that date, but which are prohibited under these CC&Rs, are permitted. Residents may keep any such pets for as long as the Resident resides in the Development. If the pet has died it may not be replaced, except as provided for in these CC&Rs.

10.3 Assistance Animals. An animal otherwise prohibited by these CC&Rs, which is kept by a Resident for the purpose of servicing the Resident's qualified disability, may be kept by such Resident provided the animal is properly cared for (i.e., kept healthy, clean, and properly groomed and waste material is properly disposed of) and not unruly or disruptive (e.g., barking, growling, running loose, displaying aggressive behavior, etc.). All pet Rules apply to assistance animals, unless contrary to law.

10.4 Nuisance. The Board is authorized to prohibit any animal which, in its opinion, constitutes a nuisance to other Owners pursuant to evidence provided at a noticed hearing.

10.5 Dangerous Animals. No wild or undomesticated animal, or animal which the Board has determined to be aggressive or dangerous pursuant to evidence provided at a noticed hearing, is permitted to be kept in the Development. The Board is authorized to require dogs found to exhibit aggressive or dangerous behavior to wear a muzzle while in the Common Area until a further determination is made by the Board as to whether the pet will be allowed to remain in the Development.

10.6 Liability. Owners are liable for any injury to Persons or property caused by any animal brought or permitted onto or kept within the Development by the Owner, Owner's Tenant or their respective family, guests, or invitees.

10.7 Control. Pets are permitted in the Common Area, only as permitted by the Rules or this Section. All dogs in the Common Area must be on a leash held by a natural Person capable of controlling the dog. The Association is permitted to remove any unleashed dog found within the Common Areas to a pound or animal shelter under the jurisdiction of the city or county in which the Development is located.

## **ARTICLE 11: VEHICLES AND PARKING**

11.1 Management of Parking. The Association manages and controls the use of all Common Area parking and private streets/fire lanes.

11.2 Restricted Parking. Only the following types of vehicles are permitted to be parked or stored in parking spaces: automobiles, trucks, motorcycles, golf carts, and mopeds. Vehicles must be parked completely within the parking space. No RV, camper, boat, recreational watercraft, trailer, or any other similar vehicle is permitted in any portion of the Common Areas or in any parking space, except in the RV storage lot as provided in the Rules and Regulations. All streets in the Development are designated as fire lanes. Parking shall not be permitted on any street/fire lane within the Development, except in approved, designated and marked parking areas.



11.3 Commercial Vehicles. Commercial vehicles, including pickup trucks one ton or larger panel trucks, tow trucks, stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, taxis, buses, vans designed for ten (10) people or more, vehicles with commercial signage, and the like, are prohibited, except as provided in the Rules and Regulations.

11.4 Recreational Vehicle Storage Lot. The recreational vehicle storage lot shall be used, subject to such Rules and Regulations as promulgated by the Board of Directors from time to time, solely by Owners and Residents of the Association that own an RV.

11.5 Guest Parking. Guest parking is limited by and subject to the Association's Rules and Regulations. Unless prohibited by law, the Association is permitted to suspend guest parking rights at a disciplinary hearing due to delinquent Assessments, unpaid fines or other charges, and repeated Rules violations.

11.6 Proper Operating Condition. All vehicles parked or stored outside the Residence must be maintained in proper operating condition, and not be a hazard or nuisance by noise, exhaust emissions, or appearance. All vehicles parked or stored outside the Residence must carry current registration tags and must be insured.

11.7 Electric Vehicle Charging Stations. Owners are permitted, with written approval of the Architectural and Residential Landscaping Committee and/or Board, to install at their own expense an electric charging station compliant with Section 4745 of the Civil Code or any successor statute. Use of Association electricity to power an Owner's electrical vehicle charging station is prohibited unless, following written approval of the Architectural and Residential Landscaping Committee and/or the Board, the Owner has installed an electrical submeter to track electricity usage. The Owner must pay the Association for all Association electricity used by the electrical vehicle charging station. The Association may impose reasonable requirements on the location and installation of the equipment. All electrical work must be done by a licensed electrician with appropriate permits from the Building Department.

11.8 Noise Limitation. All vehicles must be operated quietly.

11.9 Repair of Vehicles. Construction, repair, or servicing of vehicles within any portion of the Development is prohibited. However, emergency repairs are permitted when necessary to move a vehicle to a proper repair facility.

11.10 Fluid Leaks. Owners must keep their driveways, Common Area, and streets in front of their Lots free of fluids such as oil, radiator coolant, brake fluid, power steering fluid, etc. Owners who fail to do so are subject to fines or other discipline, and a Reimbursement Assessment for the cost of cleaning the affected areas.

11.11 Theft or Damage. The Association is not liable for any loss or damage suffered by any Owner, Tenant, or guest due to theft of or damage to any vehicle parked in the Development or vehicle contents, unless resulting from the Association's intentional misconduct or gross negligence.

11.12 Impeding Access. Vehicles must not impede or prevent ready access to any door, gate, entrance, or exit.

## **ARTICLE 12: ENFORCEMENT OF GOVERNING DOCUMENTS**

12.1 Association Enforcement Rights. In addition to any other rights described in these CC&Rs and without waiving the Association's right to institute any other enforcement measures, and subject to the notice and hearing provisions in the Bylaws and as required by law, the Association is authorized to enforce the Governing Documents by any of the following means:

- a. *Monetary Penalties (Fines)*. The Board is authorized to assess reasonable monetary penalties (fines) for violations of the Association's Governing Documents by an Owner, Owner's Tenants or their respective family, invitees or guests. A monetary penalty (fine) imposed by the Association as a disciplinary measure for failure of an Owner to comply with the Association's Governing Documents, is hereby treated and deemed to be an Assessment that may become a lien against the Owner's Separate Interest, but such lien may not be enforced by the sale of the interest under Sections 2924, 2924b, and 2924c (non-judicial foreclosure). As Assessments, Owners are liable for all costs of collection, including reasonable attorneys' fees, court costs, and related expenses for delinquent monetary penalties (fines).
- b. *Suspend Common Area Privileges*. The Board is authorized to temporarily suspend Common Area privileges of Owners, Owner's Tenants and their respective family, invitees, and guests for their failure to comply with the Association's Governing Documents. Any such suspension must be for a period of time not to exceed thirty (30) days for each noncontinuing violation. For continuing violations, the suspension may be imposed for as long as the violation continues.
- c. *Dispute Resolution*. As to any dispute between an Owner and the Association, the Association is authorized to engage in Internal Dispute Resolution and/or Alternative Dispute Resolution as provided for in the Governing Documents and the law.
- d. *Judicial Enforcement*. A lawsuit may be filed for damages, declaratory relief, injunctive relief (whether the relief sought is mandatory or prohibitory) and/or such other relief permitted by law.

12.2 Cumulative Remedies. The respective rights and remedies, provided by the Governing Documents, under the law, or available in equity, are cumulative and the exercise of any one or more of such rights or remedies does not preclude or affect the exercise, at the same or at different times, of any other such rights or for the same or different failures of the Owners or others to perform or observe any provision of the Governing Documents.

12.3 Failure to Enforce Not a Waiver. Failure to enforce the Governing Documents, whether by the Board or any Owner or other Person entitled to enforce them, is not deemed a waiver of the right to do so. Waiver or attempted waiver of any provision of the Governing Documents with respect to a given Lot is not deemed a waiver of such right as to any other Lot. Additionally, violation of any provision of the Governing Documents by the Owners owning any Lot or Lots does not affect the applicability or enforceability of any provision of the Governing Documents against the Owners owning any other Lot.

12.4 Remedy at Law Inadequate. If remedies at law for violation of the Association's Governing Documents are inadequate, then equitable, declaratory, and/or injunctive relief may be sought and awarded.

12.5 Right of Action Against Buyer. If an Owner fails to correct architectural, nuisance, or other continuous violations concerning the Owner's Lot prior to the transfer of title to the Lot to a buyer, the Association retains the right to enforce compliance against the buyer for such violations.

12.6 Attorneys' Fees. If any party initiates any action or proceeding to enforce or interpret the Governing Documents or California law relating to the Development, the prevailing party is entitled to recover reasonable attorneys' fees and court costs, including reasonable expert fees, as permitted by law.

### **ARTICLE 13: RIGHT OF ENTRY**

13.1 Limited Right of Entry. During reasonable hours and subject to the notice requirements contained in this Article, the Association's representatives, employees, and vendors are authorized to enter Lots and Common Areas: (i) to inspect and perform maintenance, repairs, or replacements to the Common Areas; or (ii) to mitigate or repair damage; or (iii) to inspect the Lots to ensure compliance with the Governing Documents.

13.2 Notice of Entry. The Association must give at least three (3) business days' written notice by personal delivery, or five (5) calendar days' written notice by first class mail or email, to the Resident and a Lot Owner, stating the purpose for and time of the entry. Email notification may be used only if the recipient previously consented to receive such notices and communications from the Association by email.

13.3 Avoid Unreasonable Interference. The right of entry must be exercised to avoid unreasonable or unnecessary interference with the possession, use, and enjoyment of the Owner or Resident of such Lot.

13.4 Emergency Entry. In an emergency, the Board or its authorized representatives may enter the Lot without permission and is not subject to liability to the Owner or Resident for such entry. If exercised in good faith, such entry is deemed to be consented to by all Owners and does not constitute trespass or any other wrongful act. If the Association must damage or destroy property to gain access to the Lot, the Owner will have no right of action against the Association or its representatives for such damage or destruction. However, the Association must repair any

such damage or destruction if the emergency did not originate in the affected Lot. Prior to emergency entry, if feasible, the Board must make a good faith effort to contact an Owner owning the Lot.

13.5 Refusal to Allow Entry.

- a. *Entry by Court Order.* Following any refusal to expressly grant entry permitted in these CC&Rs, the Association may file suit and seek a court order to gain entry authorized in these CC&Rs. However, if the Owner owning the Lot or a Resident of the Lot has expressly prohibited entry authorized in these CC&Rs, the Association's representatives are permitted to gain entry only after filing suit and obtaining a court order.
- b. *Entry without Court Order.* If the Owner owning the Lot or a Resident of the Lot does not expressly prohibit entry authorized in these CC&Rs, but is unavailable or otherwise refuses to expressly grant access, the Association, through its representatives, are permitted to enter the Lot, without a court order, in the manner permitted elsewhere in this Article. Such Persons entering with no court order, when acting in good faith, are not liable for trespass or any other unintentional damages resulting from such entry.
- c. *Recovery of Attorneys' Fees and Costs in Lawsuit.* If the Association files a lawsuit to gain entry and prevails, it is entitled to recover from the Owner, by judgment, all expenses the Association incurred because of refusal to allow entry, including, without limitation, the cost of hiring a locksmith, the cost of repairing damage that was reasonably necessary to gain entry, and reasonable attorneys' fees and costs of suit for enforcement of this provision of the CC&Rs as the court may order.
- d. *Expenses Not Recovered as Part of a Lawsuit.* If the Association gains entry without a court order and/or chooses not to seek recovery of its expenses in a lawsuit, it is permitted to recover all expenses it incurred because of an Owner's refusal to allow entry, including, without limitation, the cost of hiring a locksmith and the cost of repairing damage that was reasonably necessary to gain entry, but excluding attorneys' fees, by a Reimbursement Special Assessment against the Owner, enforceable by all means provided for in these CC&Rs and by law, including lien and foreclosure.

13.6 Damage Repaired by Association. Any damage caused by the Association to the Common Areas or Lot Improvements must be promptly repaired by the Association to original building construction standards. The Association is authorized to recover the cost of any damage caused by others, but repaired by the Association, by a Reimbursement Special Assessment (if caused by an Owner, an Owner's Tenant, family member, invitee or guest), or any other legal means against the responsible parties.

13.7 Power to Vacate Lot. The Association is permitted to require Residents to vacate a Lot to allow maintenance, repair or replacement of the Association's Common Areas or other areas for which the Association is obligated. All costs of temporary relocation during the maintenance, repair or replacement of the areas within the responsibility of the Association must be borne by the Owner owning the Separate Interest affected, and not the Association, as provided for in the Davis-Stirling Act. Such temporary relocation costs include, without limitation, food, lodging, lost rent or other income, and any other associated expenses incurred by the Owner. However, it is the Association's duty to diligently make such repairs reasonably quickly.

- a. *Notice.* The Board must give notice of the need to temporarily vacate a Residence or Lot to Residents and Owners not less than fifteen (15) days prior to the date of the relocation. The notice must state the reason for the temporary relocation, the date and time of the repairs, and the anticipated date and time of completion of repairs. Notice must be either by personal delivery or first-class mail to the address shown on the books of the Association.
- b. *Duty to Vacate.* Owners and Residents must cooperate with the Association and, if requested by the Association, vacate their Residences or Lots to allow the Association to perform its obligations. If not, the Association may file a lawsuit to require cooperation and/or for the Residence or Lot to be vacated.
- c. *Recovery of Attorneys' Fees and Costs in Lawsuit.* If the Association files a lawsuit to require cooperation and/or require the Residence or Lot to be vacated and prevails, it is entitled to recover from the Owner, by judgment, all expenses the Association incurred because of refusal to cooperate and/or vacate, including, without limitation, reasonable attorneys' fees and costs of suit for enforcement of this provision of the CC&Rs as the court may order.

13.8 Entry by Owner. Each Owner must permit other Owners and their representatives to enter their Lot to perform installations, alterations, or repairs to the mechanical or electrical services to a Lot, if: (i) requests for entry are made in advance; (ii) entry is made at a time reasonably convenient to the Owner whose Lot is being entered; and (iii) the entered Lot is left in substantially the same condition as existed immediately preceding such entry. Any damage to the Lot caused by entry must be repaired by the entering Owner. Both the Owner allowing entry and the Owner gaining entry must hold harmless and defend the Association and its Officers, Directors, Committee members, Owners, agents, and employees against claims of damage or injury resulting from one Owner's entry into another Owner's Lot.

#### **ARTICLE 14: ASSESSMENTS**

14.1 Purpose of Assessments. The general purpose of Assessments is to provide for the recreation, health, safety, and welfare of the Owners, enforce and comply with the Governing

Documents, manage the Development, enhance the quality of life in the Association, improve, maintain, repair, and replace Common Areas, provide for the acquisition and maintenance of property, services and facilities devoted to these purposes, and for any action or undertaking on behalf of the Association.

14.2 Regular Assessment. The Board must levy Regular Assessments in an amount sufficient to provide for the performance by the Board of each and every one of its powers and duties provided, however:

- a. *20% Limitation*. Pursuant to the Davis-Stirling Act, the Board is not permitted, without the approval of Owners casting a majority of the votes with a Quorum present, to impose a Regular Assessment which is more than twenty percent (20%) greater than the Regular Assessment for the immediately preceding fiscal year. Quorum for the purposes of this provision means more than fifty percent (50%) of the Members of the Association.
- b. *Uniform Rate of Assessment*. Regular Assessments must be fixed at a uniform rate for all Lots.
- c. *Payable Monthly*. Regular Assessments are payable by each Owner against whom assessed in twelve (12) equal monthly installments on the first day of each calendar month or at such other dates and in such other installments as the Board determines. Assessments for new Owners must be prorated in the first month of membership according to the date on which the individual becomes an Owner.
- d. *Written Notice*. Individual notice under Civil Code § 4040 of any increase in Regular Assessments must be given to each Owner not less than thirty (30) days nor more than sixty (60) days prior to the increased Assessment becoming due.
- e. *Modification of Assessment*. The Board may modify the Regular Assessments during the course of a fiscal year if necessary to conform to a revised estimate of costs and expenses. However, if the aggregate increase exceeds twenty percent (20%) of the Regular Assessment for the immediately preceding fiscal year, the Board must obtain the approval of Owners as provided for in the Davis-Stirling Act. If an annual Regular Assessment is not published for a new fiscal year, the Regular Assessment for the prior fiscal year will apply and govern each Owner's payments until changed by a new Regular Assessment.

14.3 Special Assessment. In addition to the Regular Assessment, the Board may levy a Special Assessment for any purpose necessary for the Association to carry out its duties; provided, however:

- a. *5% Limitation.* Pursuant to the Davis-Stirling Act, the Board is not permitted, without the approval of Owners casting a majority of the votes with Quorum present, to impose a Special Assessment which is more than five percent (5%) of the budgeted gross expenses of the Association for such fiscal year. Quorum for purposes of this provision means more than fifty percent (50%) of the Members of the Association.
- b. *Uniform Rate of Assessment.* Special Assessments are fixed at a uniform rate for all Lots.
- c. *Reimbursement Assessments.* Special Assessments are also permitted to be levied against individual Lots for reimbursement of expenses incurred by the Association arising out of actions or omissions of such Owner, Owner's Tenant, or their respective family, guests, invitees or pets, as expressly provided for elsewhere in these CC&Rs.
- d. *Payment Schedule.* Special Assessments are payable by each Owner against whom assessed either monthly or at such dates and in such installments as the Board determines.
- e. *Written Notice.* Written notice of Special Assessments must be sent by first-class mail to each Owner not less than thirty (30) days nor more than sixty (60) days prior to the Assessment becoming due.

14.4 Emergency Assessment. In emergency situations, the Board may increase Regular Assessments beyond twenty percent (20%) or impose Special Assessments above five percent (5%) only as provided for by law.

14.5 Deposit of Assessments. All sums received by the Association must be promptly deposited into accounts clearly designated in the Association's name.

- a. *Commingling.* The Association must maintain separate accounts for its operating funds and its Reserves, respectively, and no funds from those separate accounts are permitted to be commingled at any time.
- b. *Interest.* No Owner has the right to receive interest on any such funds deposited.

14.6 Reserves. All Reserves, must:

- a. *Be Segregated.* Be received in trust by the Board, set aside and segregated from the other monies and not be commingled with the Association's Operating Account.
- b. *Be Invested.* Be invested in low-risk investments consistent with the requirements of Civil Code § 5380. Reserves must be deposited in a

financial institution, as defined in the Financial Code § 31041, in California, which is insured by the federal government, the Federal Deposit Insurance Corporation, the National Credit Union Administration Insurance Fund, or a guaranty corporation subject to the Financial Code § 14858 and only into accounts that protect the principal. In no event may reserve funds be invested in stocks or high-risk options.

- c. *Require Two Signatures.* Be withdrawn from the Reserve Account only upon approval by the Board and the signature of two (2) Directors.
- d. *Not Be Reimbursed to Owners.* All contributions to the Reserves, as well as interest earned, are for the benefit of the Association and not to benefit any individual Owner. As such, contributions and interest are not refundable to Owners when they cease to be Owners of the Association.

## **ARTICLE 15: ENFORCEMENT OF ASSESSMENTS**

15.1 Liability for Assessments. Assessments, together with charges, interest, costs, and attorneys' fees (regardless of whether legal proceedings are instituted), are a debt of each Owner of a Separate Interest at the time the Assessment or other sums are levied. Co-owners and/or Owners owning a full or partial interest in a Lot are jointly and severally liable for the entire amount of all Assessments, late charges, interest, reasonable costs of collection, reasonable attorneys' fees, and monetary penalties.

15.2 Enforcement Rights. In addition to any other rights provided for by law or described in these CC&Rs, the Board has the right to collect delinquent Assessments as follows:

- a. *Late Fees and Interest.* Unpaid Assessments are deemed delinquent fifteen (15) days after they are due and are subject to a late charge of the greater of either ten percent (10%) or ten dollars (\$10.00), which may not be imposed more than once on any delinquent payment, and interest at the rate of twelve percent (12%) per annum, which may commence thirty (30) days after the Assessment becomes due.
- b. *File Suit.* The Association is authorized to commence and maintain a lawsuit directly on the debt without waiving its right to establish a lien and initiate foreclosure against the Owner's Lot for the delinquent Assessment. In any action to collect delinquent Assessments, late charges and/or interest, the prevailing party is entitled to costs and reasonable attorneys' fees. All amounts included in any judgment may become the subject of a judgment lien in any county in California in which an abstract of judgment is recorded.
- c. *Lien and Foreclose.* In accordance with the Davis-Stirling Act, a delinquent Assessment or installment, together with any late charges, interest, costs, attorneys' fees, and penalties, will become a lien on the Lot upon the



recording of a “Notice of Delinquent Assessment” in the Office of the County Recorder. The Board is permitted to enforce any Assessment lien against a Lot by filing an action for judicial foreclosure or by nonjudicial foreclosure in the manner provided for in the Davis-Stirling Act. The Association, through its Board, is authorized to bid on the Lot at the sale and may hold, lease, mortgage, and convey the acquired Lot as permitted by law.

- d. *Continuing Lien.* Any demand or claim of lien or lien on account of prior delinquencies is deemed to include subsequent delinquencies and amounts due on account thereof. It is the intent of these CC&Rs that any lien recorded against a Separate Interest by the Association to secure payment of delinquent Assessments and/or other amounts be a continuing lien to include any and all subsequent Assessments and other amounts as permitted in the Davis-Stirling Act, to the full extent allowed in *Bear Creek Master Ass’n v. Edwards*, (2005) 130 Cal. App. 4th 1470.
- e. *Suspend Privileges.* Subject to the notice and hearing provisions set forth in the Bylaws, the Association is authorized to suspend membership privileges, except voting rights, until the delinquent Assessments, fees and fines, including any accumulated penalties, interest, and costs of collection have been paid in full.
- f. *Additional Remedies.* The remedies provided in this Section are in addition to, not in substitution for, any other rights and remedies which the Association may have.

15.3 No Offsets. All Assessments are payable in the amount specified by the Assessment and no offsets against such amount are permitted for any reason, including, without limitation: (i) a claim that the Association is not properly exercising its duties and powers, as provided in these CC&Rs; (ii) an Owner has not made or elects not to make use of the Common Area; (iii) any maintenance, repairs or replacements for which the Association is responsible have not been performed or have not been performed to an Owner’s satisfaction.

15.4 No Exemption by Waiver of Use. Owners are not permitted to exempt themselves from liability for Assessments nor release their Lots from liens and charges by waiver of their use and enjoyment of the Common Areas, by abandonment of their Lots, or through non-use of Common Areas or membership privileges.

15.5 Attorneys’ Fees. Any reasonable attorneys’ fees and costs incurred by the Association in the collection of Assessments, late fees, and interest against an Owner may become a Reimbursement Special Assessment against that Owner, which may be collected in any manner provided for by these CC&Rs or by law.

15.6 Non-Waiver of Assessments. If the Board fails to approve a Budget or fix the Assessments for the current year, the Budget and Assessments from the preceding year continue until a new Budget is approved and new Assessments are fixed.

## **ARTICLE 16: INSURANCE**

16.1 Association Insurance. The Association must obtain and maintain policies of insurance as described below. To help keep premiums at a reasonable level, the Board is authorized to establish appropriate deductibles for its policies of insurance. Unless otherwise determined by the Board, coverage must be on an occurrence basis.

- a. *Automobile Liability Insurance*. If appropriate, the Association is permitted to purchase non-owned and hired automobile liability coverage and garage-keepers legal liability coverage.
- b. *Boiler and Machinery Insurance*. If appropriate, the Association is permitted to purchase insurance for the loss or damage to or as a result of equipment failures such as boilers, pressure vessels, pressure pipes, motors, mechanical breakdowns, electrical failures, and the like.
- c. *Commercial General Liability (“CGL”)*. The Association must maintain one or more CGL policies which provide appropriate liability limits for injury or death to one or more Persons in any one accident or occurrence. The Association must carry coverage in amounts that meet or exceed those called for in Civil Code § 5805 and any successor statutes.
- d. *Direct Physical Loss*.
  - i. Generally. Unless unavailable, the Association must maintain one or more policies for loss or damage by fire or other perils covered by the standard “Special Form” policy (or its equivalent) covering all Common Area Improvements in the Development, and such other Improvements in the Development as the Board may deem appropriate.
  - ii. Coverage Levels. The amount of such insurance must not be less than one hundred percent (100%) of the aggregate full insurable value, meaning replacement cost, not a depreciated amount or actual cash value (ACV), if available and economically feasible. If coverage for one hundred percent (100%) of the aggregate full insurable value of the insured property is not available through one or more carriers, the Association must obtain coverage for the highest percentage of the property available to the extent such percentage is also economically feasible. When determining economic feasibility for a given amount of coverage, the Board may consider:

- (a) The difference in cost between different percentages of coverage;
  - (b) The relative risks of experiencing different percentages of loss, such as the risk of a 50% loss vs. a 100% loss;
  - (c) Actual or anticipated increases in other required Association expenses;
  - (d) The general financial health of the Association including its Reserves and delinquency status;
  - (e) The general ability of the membership to bear the cost of increased Assessments to pay for increased premiums; and
  - (f) Such other financial and economic factors that a reasonable Board would consider under the circumstances.
- iii. Blanket Basis. The coverage must be written on a blanket basis with an agreed value endorsement and an inflation guard endorsement, if available.
- iv. Ordinance or Law Coverage. If available and economically feasible, the Association must provide “Ordinance or Law Coverage” or its equivalent, including:
- (a) Coverage for Loss to the Undamaged Portion of the Building or structure.
  - (b) Demolition Cost Coverage.
  - (c) Increased Cost of Construction Coverage.
- v. Maintenance Fee Receivable Coverage. If available and economically feasible, the Association must provide “Maintenance Fees Receivable” coverage, or its equivalent, to cover the loss from unpaid or uncollected Assessments resulting from a covered property loss.
- vi. Other Coverage. The Association may include such other endorsements which the Board may deem necessary or reasonable.
- e. *Directors and Officers*. The Association must purchase Directors and Officers errors and omission insurance insuring the Association, Directors, Officers, Committee members, trustees, Association employees, Association volunteers, any community manager in contract with the Association, any management company in contract with the Association and employees of such Association management company who perform services on behalf of

the Association. The Association must carry coverage in amounts that meet or exceed those called for in Civil Code § 5800 and any successor statutes.

- f. *Earthquake Insurance.* The Association may purchase earthquake insurance, after considering the cost and availability.
- g. *Employment Practices Liability.* The Association should consider purchasing employment practices liability coverage (whether or not it has employees), when available and affordable.
- h. *Crime Insurance and Fidelity Bond.* The Association must maintain crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent, for its Directors, Officers, and employees in an amount that is equal to or more than the combined amount of the Reserves of the Association and total Assessments for three months. The coverage maintained by the Association shall also include protection in an equal amount against computer fraud and funds transfer fraud. If the Association uses a managing agent or management company, the Association's crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent, shall additionally include coverage for, or otherwise be endorsed to provide coverage for, dishonest acts by that Person or entity and its employees. Self-insurance does not meet the requirements of this Section.
- i. *Flood Insurance.* When required by any first mortgage holder, Fannie Mae, Freddie Mac, or the Fair Housing Administration (FHA), the Association must purchase flood insurance on any portion of the premises that Federal Emergency Management Agency (FEMA) determines to be in a Special Flood Hazard Area (SFHA). Otherwise, the Association may purchase flood insurance, after considering the cost and availability.
- j. *Umbrella Policy.* The Association may purchase an excess or umbrella policy over its public liability and property damage, Directors and Officers liability, and workers' compensation policies to provide higher liability limits as the Board determines.
- k. *Workers' Compensation.* The Association must carry workers' compensation insurance as required by law to cover employees of the Association. If available, the Association is also permitted to purchase a Voluntary Labor Endorsement to protect its volunteers.

#### 16.2 Owner Obligation to Carry Insurance.

- a. *Owner Insurance.* At their sole expense, Owners must purchase and maintain insurance covering their real and personal property whether the Lot is Owner occupied, vacant or held out for rent. This includes, without limitation:

- i. Personal property coverage that insures the contents of their Lot against damage or loss;
  - ii. Real property coverage that insures their Lot against damage or loss, including, but not limited to, all Improvements to the Lot and all fixtures and components within or appurtenant to the Lot;
  - iii. Premises liability that includes protection for bodily injury and property damage;
  - iv. Personal liability coverage with a policy limit of at least One Million Dollars (\$1,000,000);
  - v. Loss of use that protects an Owner for additional living expenses, loss of rents, or any other losses should their Lot become uninhabitable due to a covered loss;
  - vi. Loss assessment coverage that protects against Special Assessments due to a loss which exceeds the Association's master policy limits or deductible; Master policy deductible coverage, and;
  - vii. Such other coverage as the Owner deems appropriate.
  - viii. The Owner's policy shall be the primary policy for any claims for damages or loss of the Owner's property.
- b. *Automobile Coverage.* If an Owner operates a vehicle which is driven across or stored in the Association's Common Areas, the Owner must carry appropriate automobile insurance. The Association has no obligation to police this provision and is specifically relieved of any responsibility or liability from doing so or failing to do so.
- c. *Waiver of Claims.* Owners waive their claims against the Association to the extent such claims are covered under insurance which Owners are required to carry under these CC&Rs, regardless of whether Owners actually carry such insurance.
- d. *Assignment of Proceeds.* If any loss intended to be covered by the Association's insurance occurs and the proceeds payable by the Association's insurance are reduced because of proceeds paid under an Owner's insurance coverage, that Owner must assign such insurance proceeds to the Association, to the extent of the reduction. The Board must apply those proceeds to the same purposes as the reduced proceeds received by the Association.

- e. *Waiver of Subrogation.* All insurance policies maintained by an Owner must include a waiver of subrogation clause against the Association.

16.3 Responsibility for Deductible and Uncovered Losses.

- a. *Intentional or Negligent Acts.* If any Common Area property is damaged as a result of the intentional or negligent acts or omissions of any Owner, Owner's Tenant, or their respective family, guests, invitees, vendors, or pets and a claim is tendered to the Association's insurance carrier, the Owner will be solely responsible for paying any portion of the claim not paid due to the deductible.
- b. *Non-Negligent, Unintentional Acts.* If any property damage loss which results from a failure of any component, element or portion of the Development and did not result from a negligent or intentional act or omission is tendered to the Association's property damage policy, the Association will apportion the deductible of such policy or policies amongst all claimants according to the percentage each claim bears against the total of all claims for the loss when distributing the Association's insurance proceeds to the various claimants.
- c. *Uncovered Losses.* Apart from deductibles as set forth above, responsibility for any losses for which the Association's property damage policy does not provide coverage will be determined according to the maintenance, repair and/or replacement provisions set forth in these CC&Rs and/or the law.

16.4 Liability for Increased Insurance Rates. If any negligent act or omission of any Owner, Owner's Tenant, or their respective family, guests, invitees, vendors, or pets causes an increase in the cost of the Association's insurance, the amount of the increase may be assessed against the Owner and their Lot as a Reimbursement Special Assessment.

16.5 Choice of Contractor. With respect to any repairs for which proceeds of insurance are paid or are payable to the Association, the Board must designate the contractor to perform the repairs to the Common Areas.

16.6 Insurance Company Rating. All policies of insurance required by this Article must be issued by either a California admitted insurance company or an approved carrier on the California List of Approved Surplus Line Insurers (LASLI). Each such carrier must hold an A.M. Best Insurance or Standard and Poor's rating of "A" or better.

**ARTICLE 17: PROTECTION OF LENDERS**

17.1 Furnishing of Information. Each Lender is, upon written request, entitled to inspect the books and records of the Association during normal business hours and receive written notice of Board and membership meetings and designate a representative to attend such meetings.

17.2 No Priority Over Rights of First Mortgagees. Nothing in these CC&Rs gives an Owner or any other party priority over any rights of first Mortgagees of Lots, pursuant to their Mortgages, in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Lots and/or the Common Area. Additionally, if any Lot or any portion of a Lot is made the subject matter of any condemnation or eminent domain proceeding, no provision herein entitles the Owner, or any other party, to priority over a first Mortgagee of a Lot, concerning any distribution of the proceeds of any award or settlement.

17.3 Relationship with Assessment Liens. Any lien that the Association may have on any Lot for the payment of Assessments subordinates to the lien or equivalent security interest of any Lender with a first trust deed or Mortgage on the Lot, made in good faith and for value, and no such lien impairs the obligation or the priority of such trust deed or Mortgage, unless the Lender expressly subordinates its interest, in writing, to such lien.

17.4 Foreclosure. Any holder of a first Mortgage who takes title to a Lot, pursuant to the remedies provided in the mortgage, through foreclosure of the Mortgage takes the property free of any claim for unpaid Assessments or charges against the mortgaged Lot which accrued prior to the time such Person takes title to the Lot.

17.5 Priority of Mortgage Lien. No breach of any provision of these CC&Rs nor the enforcement of any lien created herein affects, impairs, defeats, or invalidates the lien of any Mortgage or deed of trust made in good faith and for value, but these CC&Rs are binding upon any Owner whose title is derived through foreclosure, trustee sale, or otherwise.

17.6 Payment of Taxes and Charges. Lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Common Area. Lenders making such payments shall be owed immediate reimbursement from the Association.

## **ARTICLE 18: LIMITATIONS OF LIABILITY**

18.1 Standard for Liability. Officers, Directors, Committee members, employees, or agents are not responsible to the Association, or any Owner, Owner's Tenant, or their respective family, guests, or invitees for any loss or damage to the Association, or any Person or property suffered by reason of water, fire, smoke, explosion, electricity, dust, sand, insect or rodent infestation, or any other source, unless there is clear and convincing evidence the damage or loss was caused by the willful, intentional or bad faith misconduct of the Association's Officers, Directors, Committee members, employees, or agents, based upon the information such individual possessed at the time of the purported act or omission. The Association's Officers, Directors, Committee members, employees and agents cannot be held strictly liable for their acts or omissions.

18.2 Limited Personal Liability. No Officer, Director, Committee member, or employee of the Association is personally liable for any loss, injury, or damage to Persons or property for any act or omission, if the act or omission was performed in good faith, within the

scope of the Person's duties for the Association, was not self-dealing, and did not constitute willful or intentional misconduct.

18.3 Association Not a Security Provider. The Association is authorized to provide security measures in the Development. However, the Association is not a provider of security and has no duty to provide any security in the Development. The obligation to provide security lies with each Owner individually. The Association cannot be held liable for any harm, loss or damage to Persons or property by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. This includes, but is not limited to, any harm, loss or damage from theft of or damage to any article or thing placed or stored in or on any portion of the Common Area.

18.4 Duty to Defend. The Association must indemnify and defend and must advance reasonable attorneys' fees and costs to its Officers, Directors, Committee members, and employees for all expenses and liabilities reasonably incurred by such Person(s) regarding any proceeding (including, but not limited to, alternative dispute resolution proceedings) to which they are a party by reason of having been an Officer, Director, Committee member, or employee of the Association. However, the Association may seek recovery of its attorneys' fees and costs from, and is not liable for, any judgments or other liabilities for the acts or omissions of, any Persons adjudged to have acted in bad faith or in gross negligence in the performance of their duties to the extent permitted by law.

18.5 Duty to Protect. The Association must protect its Officers, Directors, Committee members, and employees from unlawful harassment in the workplace as such phrase is defined in the law. However, the Association has no duty to prosecute or fund the prosecution of any claim or cause of action which an Officer, Director, Committee member, or employee of the Association asserts against another Officer, Director, Committee member or employee of the Association, or against an Owner, which is (1) not based on conduct of the accused performed in the course and scope of their duties (2) founded on personal issues or disputes between the parties, (3) for personal injuries or emotional distress, or (4) for defamation.

18.6 Personal Injury or Property Damage Sustained Within a Lot. This Section applies if any Person sustains personal injury or property damage within a Lot and the injury or damage results in a claim against the Association or any of its Officers, Directors, Committee members, Owners, agents, or employees. The Owner of the Lot where the injury or damage occurred must: (i) fully indemnify and hold harmless the Association, Officer, Director, Committee member, Owner, agent, or employee against whom such claim or suit is brought; and (ii) defend, at their own cost and expense, any resulting litigation against the Association, Officer, Director, Committee member, Owner, agent, or employee. However, there is no obligation to hold harmless, defend or indemnify any party whose gross negligence or willful misconduct was the cause of the injury or damage.

18.7 Actions Against Directors. Owners are not permitted, and waive all rights, to file an action or state any cause of action in any pleading against a Director or Officer of the Association, acting within the scope of that Person's duties as a Director or Officer unless the



court first determines that the Owner seeking to file the pleading has established evidence that substantiates the claim.

## **ARTICLE 19: DAMAGE/DESTRUCTION TO IMPROVEMENTS**

19.1 Generally. All provisions of this Article apply only when the Common Area has been partially or totally destroyed by fire, earthquake, groundwater flooding or other similar casualties.

- a. *Cost of Reconstruction*. As soon as practical, the Board must: (i) obtain bids from at least two (2) reputable contractors that are licensed in California and insured, which bids must set forth in detail the work required to reconstruct the damaged or destroyed portions of the Common Area to substantially the same condition as they existed prior to such damage and the itemized cost of such work (subject to any increased building standards then in effect); and (ii) determine the amount of all insurance proceeds and Reserves available to the Association for the purpose of effecting such reconstruction.
- b. *Automatic Reconstruction*. If the cost to reconstruct the Common Areas, excluding the deductible and the value of any insurance proceeds due the Association, is less than or equal to three times the amount of the total annual operating Budget of the Association for the current fiscal year, the Board, without a vote of the membership, must cause the Common Area to be reconstructed to substantially the same condition as existed prior to such damage (subject to any increased building standards then in effect). Such reconstruction must be completed as promptly as practical. Notwithstanding any other provision, the Board is authorized, without a vote of the membership, to levy an Emergency Special Assessment against the membership to provide the funds necessary for such reconstruction and/or for repayment of any monies borrowed by the Association for such reconstruction.
- c. *Ownership Approval*. If the Board determines that the cost to reconstruct the Common Areas, excluding the deductible and the value of any insurance proceeds due the Association, is an amount greater than three times the total annual operating Budget of the Association for the current fiscal year, then the Common Areas must be reconstructed unless sixty-seven percent (67%) of the membership, by ballot or at a special meeting called for such purpose, vote not to reconstruct the damaged or destroyed Common Areas.
- d. *Distribution of Insurance Proceeds*.
  - i. No Partition Action Promptly Filed. If a partition action is not filed within six (6) months of the partial or total destruction, the Board must distribute the insurance proceeds available for reconstruction, together with any other sums otherwise available to the Association for such

purpose, to the Owners equally, less costs for clearing the debris, collecting insurance proceeds, and any other expenses necessarily incurred as a result of the damage or destruction. Such payment is subject to rights of Mortgagees holding Mortgages encumbering Lots and all unpaid Assessments, together with any interest charges.

- ii. Partition Action Promptly Filed. If a partition action is filed within six (6) months of the partial or total destruction, the Association must interplead the insurance proceeds available for reconstruction, together with any other sums otherwise available to the Association for such purpose, to the Owners, less costs for clearing the debris, collecting insurance proceeds, and any other expenses necessarily incurred as a result of the damage or destruction into the partition action.

19.2 Association's Duties. If the Common Areas, any Improvements thereon, and/or any other portion of the Development which the Association is obligated to maintain, repair or replace, are partially or totally destroyed by fire, earthquake, flood or other casualty, the Association must maintain, repair, replace and/or restore same to its former condition (or better) as promptly as practical. The proceeds of any insurance received must be used for such maintenance, repair, replacement and/or restoration.

19.3 Owner's Duties. If an Owner's Lot, any Improvements thereon, and/or any portion of the Development which the Owner is obligated to maintain, repair or replace, are partially or totally destroyed by fire, earthquake, flood or other casualty, the Owner must either: (i) restore the same to its former condition (or better) as promptly as practical, or (ii) as promptly as possible remove the damaged Improvement and any debris and place the Lot in a clean and presentable condition to the satisfaction of the Architectural and Residential Landscaping Committee.

19.4 Duties of Board During Reconstruction. If reconstruction is undertaken, the Board must: (i) enter into a written contract with a contractor who is licensed and insured for such repair, reconstruction, and restoration; (ii) disburse insurance proceeds available for the work, along with funds collected by reason of Assessments, in appropriate progress payments; and (iii) take all steps necessary to ensure the commencement and completion of such repair, reconstruction, and restoration in a lawful, workmanlike manner at the earliest possible date.

19.5 Interior Residence Damage. Repair, restoration and rebuilding of any damage caused by fire, earthquake, or other casualty to: (i) the interior of any individual Residence or Lot; (ii) personal property, furniture, furnishings, and decorations contained within a Residence or Lot; or (iii) any Improvements which were added to a Residence or Lot by any present or prior Lot Resident or Owner not covered by the Association's insurance must be made by and at the individual expense of the current Lot Owner. The Lot Owner must receive written architectural approval from the Association of the plans to repair, restore and reconstruct before beginning the work and comply and conform to any requirements of the Association's Governing Documents and all state and local building ordinances, codes, and statutes. The repairs, restoration and

reconstruction must be completed as promptly as practical and in a lawful and workmanlike manner. If the work is of a nature that would normally require approval by the Association, the Owner must seek such approval, as provided for in these CC&Rs.

19.6 Special Assessment for Reconstruction. If the proceeds of insurance obtained by the Association are paid to any Mortgagee of a Lot and, by reason of such payment, the insurance proceeds are not made available to the Association as trustee, or otherwise, to effect any repair, reconstruction, or restoration of any damage and/or destruction to all or any portion of the Development as provided in these CC&Rs, the amount of such proceeds not made available must be assessed and charged to and against the Owner(s) and their Lot as an Emergency Special Assessment. The Emergency Special Assessment must be made by written notification from the Board to the Owner or Owners against whom made.

19.7 Encroachment. If a Building is partially or totally destroyed and then rebuilt, Owners agree that minor encroachments of the Common Area on Lots or of Lots on the Common Area or on other Lots are permitted and that valid easements for the encroachments exist. Such encroachments are not considered to be encumbrances either on the Lots or the Common Area.

## **ARTICLE 20: CONDEMNATION**

20.1 Notice. Promptly upon learning of any potential condemnation or sale by eminent domain, the Board must notify all Owners and First Mortgagees who have filed a written request for notice.

20.2 Payment for Common Area. When an action in eminent domain is brought to condemn all or any portion of the Common Areas, the Association must represent the Owners in all proceedings, negotiations, or settlements. Awards for the acquisition of Common Area must be paid to the Board, as trustee, for deposit into the Association's Reserves unless a majority of the total Voting Power of the Association elects to distribute the award among the Owners in accordance with their Percentage Interest.

20.3 Payment for Lot. When an action in eminent domain is brought to condemn all or any portion of one or more Lots, the award made for such taking must be payable to the respective Owners of the Lots, subject to: (i) the rights of Mortgagees holding Mortgages covering such Lots; and (ii) all unpaid Assessments of each Owner, taken together with interest and other pending charges. The Board of Directors has no responsibility for the restoration of an Owner's personal or real property taken as a result of condemnation.

20.4 Revision of Documents. When any part of the Development is condemned, the Board must, as soon as practical, prepare, file, and/or record a revised subdivision map, or other documents, reports, schedules, or exhibits necessary to show the changed or altered status of the Development.

20.5 Status of Membership. If a Lot is taken in condemnation, the Lot ceases to be part of the Development, the Owner ceases to be a Member of the Association, and the Percentage Interest in Common Area appurtenant to that Lot automatically become vested in the remaining Owners, in proportion to their respective Percentage Interests in the Common Area.

## **ARTICLE 21: MISCELLANEOUS**

21.1 Amendment. Amendment or restatement of these CC&Rs is permitted by obtaining the affirmative vote of Owners comprising more than fifty percent (50%) of the Voting Power of the Association or as provided for by law, provided that the percentage of the Voting Power necessary to amend a specific provision is not less than the percentage of affirmative votes prescribed for action to be taken under that provision. Any amendment enacted in compliance with this provision becomes effective when recorded with the Offices of all County Recorders where the Development is situated.

21.2 Lender Approval. If a First Mortgagee is entitled, by the terms of these CC&Rs, to consent to, approve, disapprove, or object to a proposed amendment to or restatement of the CC&Rs, but fails to return a ballot, or other form providing written disapproval or objection within thirty (30) days of receipt, such First Mortgagee is deemed to have consented to and approved the proposed amendment or restatement, provided the ballot, or other form permitting written disapproval or objection, was delivered by certified or registered mail with return receipt requested and the delivery signed for by a representative of the First Mortgagee.

21.3 Amendment to Conform to Statute. If a provision in these CC&Rs contradicts current law, according to a written opinion of the Association's legal counsel, on the unanimous approval of the Board of Directors and without approval of the Owners, the Board is authorized to amend that provision, but only to the extent necessary to render the provision compliant with applicable law. A resolution explaining the need for the change must be adopted by the Board in an open meeting of the Board and recorded in the minutes.

21.4 Term of CC&Rs. These CC&Rs continue in full force and effect for a term of sixty (60) years from the date of their recordation (the Renewal Date), after which time they are automatically extended for successive periods of twenty (20) years. The provisions of this Article are also subject to any prohibitions against partitioning the Common Area that might apply. These CC&Rs may be terminated if, within six (6) months prior to the Renewal Date of any twenty-year extension period, (i) at least seventy-five percent (75%) of the Owners and seventy-five percent (75%) of the First Mortgagees approve by secret ballot circulated by the Association via its Board of Directors to terminate these CC&Rs, and (ii) an appropriate governmental agency has agreed in writing to assume the Association's Common Area maintenance, repair, and replacement obligations, and (iii) certification of the Owners' and First Mortgagee's approval to terminate and the agency's agreement to assume maintenance duties are recorded with the Office of County Recorder in which the Development is situated, and (iv) the Association's contractual and other legal obligations are wound up, and (v) all required corporate filings, tax returns, and notices are filed with appropriate agencies to effectuate dissolution of the Association/corporation, and (vi) insurance tail coverage is purchased to cover any potential

liability the Association may have until all applicable statutes of limitations have run their course.

21.5 Attorneys' Fees. In a lawsuit by the Association seeking the enforcement of the Governing Documents against an Owner or to determine the rights or duties of the Owner under the Governing Documents, the prevailing party may be awarded reasonable attorneys' fees and costs as permitted by law.

21.6 Notices. Any communication or notice of any kind permitted or required to be delivered pursuant to the Association's Governing Documents, or pursuant to the Davis-Stirling Act, must be in writing. Such delivery must be made as follows:

a. *To the Association:*

- i. Manner of Delivery. By electronic delivery (email, facsimile, or other electronic means), by personal delivery (for which a receipt will be provided), or by mail (first class, postage prepaid, registered or certified, express mail, or overnight delivery by an express service center). This provision consents to allow personal delivery and electronic delivery to the Association. However, the Association is permitted to withdraw such consent, in writing, as to any Owner whose electronic communications or personal visits are abusive or harassing, and limit communications and notices from such Owner to mail only.
- ii. Recipient of Delivery. The Person designated in the Association's annual policy statement to receive documents on behalf of the Association. If no Person has been designated to receive documents, the document must be delivered to the President or Secretary of the Association.

b. *To the Owners:*

- i. Manner of Delivery. For communications and notices subject to the Davis-Stirling Act, in the manner required therein, including individual notice or delivery, general notice or delivery, electronic delivery (with consent), or otherwise. For other communications and notices not subject to the Davis-Stirling Act, by electronic delivery (email, facsimile, or other electronic means), by personal delivery, or by mail (first class, postage prepaid, registered or certified, express mail, or overnight delivery by an express service center).
- ii. Location of Delivery by Mail or Email. Delivery must be made according to the Owner's preferred delivery method, or if no method is selected, as otherwise determined by Civil Code § 4041, and as further

provided for in Civil Code § 4040 (individual delivery) and Civil Code § 4045 (general delivery).

c. *When Notice Deemed Delivered.*

- i. By Mail. If a document is delivered by mail, delivery is deemed to be complete on deposit into the United States mail.
- ii. By Electronic Means. If a document is delivered by electronic means, delivery is complete at the time of transmission.

21.7 Headings. The headings contained in these CC&Rs are for convenience of reference and are not a part of and are not intended to govern, limit, or aid in the construction of any term or provision of these CC&Rs.

21.8 Liberal Construction. The provisions of the Governing Documents must be liberally construed to effectuate their purpose of creating a uniform plan for the use, operation and maintenance of the Development.

21.9 Number and Gender. Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

21.10 Severability. The provisions of these CC&Rs and any other Governing Document are deemed independent and severable and the invalidity, partial invalidity, or unenforceability of any one provision has no effect on the validity or enforceability of any other provision.

21.11 No Public Rights. Nothing contained in these CC&Rs is a gift or dedication of all or any portion of the Development to the general public or for any public use or purpose whatsoever.

21.12 Successor Association. If the Association, as a corporate entity, is dissolved, a nonprofit, unincorporated association, without further action, automatically succeeds to all the rights and duties of the corporation. The affairs of the unincorporated association will continue to be governed by these CC&Rs, the Bylaws, Architectural Standards, and the Rules and Regulations, as well as any applicable law.

21.13 Conflicting Provisions. When a conflict exists between these CC&Rs and the Articles or the Bylaws, these CC&Rs control. When a conflict exists between the Articles and the Bylaws, the Articles control.

**CERTIFICATION**

WE CERTIFY this \_\_\_\_\_ day of \_\_\_\_\_, 2025 that this Fifth Restated Declaration of Covenants, Conditions and Restrictions has been duly approved and adopted by the affirmative vote of at least fifty-one percent (51%) of the total voting power of Vista Homeowners Association.

VISTA HOMEOWNERS ASSOCIATION

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

REPLACE THIS PAGE WITH NOTARY ACKNOWLEDGEMENT(S)



ADAMS | STIRLING PLC  
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## **FIFTH RESTATED BYLAWS**

**VISTA HOMEOWNERS ASSOCIATION**  
a California nonprofit mutual benefit corporation

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# **FIFTH RESTATED BYLAWS**

## **VISTA HOMEOWNERS ASSOCIATION** a California nonprofit mutual benefit corporation

By this instrument, the Members of the Association hereby fully amend and restate, in their entirety, all previous bylaws, as well as all amendments to those bylaws, and substitute in their place these Bylaws.

### **ARTICLE 1: DEFINITIONS**

1.1 “Association” means the Vista Homeowners Association, a California nonprofit mutual benefit corporation.

1.2 “Board” or “Board of Directors” means the Board of Directors of the Association.

1.3 “Bylaws” means the Association’s bylaws.

1.4 “CC&Rs” means the Association’s declaration as the term is defined in the Davis-Stirling Act.

1.5 “Davis Stirling Act” means and refers to the Davis-Stirling Common Interest Development Act, which is the portion of the California Civil Code beginning with Section 4000, that governs common interest developments.

1.6 “Development” has the same meaning as such term is defined in the Association’s CC&Rs.

1.7 “Director” means any member of the Association’s Board of Directors.

1.8 “Electronic Secret Ballot” means a ballot conducted by an electronic voting system that ensures the secrecy and integrity of a ballot pursuant to the requirements of the Davis-Stirling Act and as allowed by the Election Rules. Unless otherwise specified in these Bylaws, the term “ballot” may mean secret and non-secret ballots, as applicable.

1.9 “Inspector of Election” means an inspector of elections as defined in the Davis-Stirling Act.

1.10 “Member” means a Member of the Association as defined in the Association’s CC&Rs.

1.11 “Quorum” means a quorum of the membership as defined hereinafter.

1.12 “Lot” means a Lot as defined in the Association’s CC&Rs.

## ARTICLE 2: MEMBERSHIP

2.1 Membership. Each person or entity automatically becomes a Member of the Association upon obtaining a publicly-recorded fee title ownership interest in a Lot and remains a Member until they cease to have such recorded fee ownership of a Lot in the Development. Members are subject to the terms and provisions of the Articles of Incorporation, the CC&Rs, these Bylaws, and the Rules & Regulations (“Rules”).

2.2 Proof of Ownership. If the Board requests proof of record fee ownership of a Lot, the Member must provide such proof in the form of a recorded deed.

2.3 Suspension of Membership Privileges. The Association is permitted to suspend membership rights and privileges, except voting rights, as provided for in these Bylaws.

## ARTICLE 3: MEMBERSHIP MEETINGS

### 3.1 Generally.

- a. *Annual Meetings*. The Association must hold a membership meeting at least each year (1) to count ballots for any balloted election of Directors at the expiration of any Director’s term, (2) to announce the outcome of any balloted Director election, and (3) to conduct any other Association business. Such meetings may include ballot counting for other types of elections as well.
- b. *Special Meetings*. Special meetings may be called for any lawful purpose by any of the following: (i) President of the Association, or (ii) majority of a quorum of the Board. In addition, special meetings of Members for any lawful purpose may be called by five percent (5%) or more of the Members in good standing, or as otherwise required by law. If a special meeting is called by Members of the Association, the request must be submitted to the Board in writing, specifying the nature of the business to be transacted. The Director or officer receiving the request must promptly deliver the request to the remaining Directors.
- c. *Date, Time, and Location of Meetings*.
  - i. Selected by the Board. The Board is permitted to set the date and hour to hold annual meetings. However, the annual meeting must be held in the same month as the preceding annual meeting if it is reasonably practical to do so, but not more than fifteen (15) months from the date of the preceding annual meeting.
  - ii. Selected by the Membership. If the date, time and/or location of a membership meeting selected by petitioning Members is unreasonable or contrary to the Governing Documents and/or statutory requirements, the Board is empowered to reschedule the date, time and/or location to something reasonable, relatively close to the original date, time and



location requested by the Members calling the meeting, and compliant with the Governing Documents and statutory requirements.

- iii. Location of Membership Meetings. Annual and special membership meetings will be held at a suitable location in or reasonably close to the Development.
- iv. Membership Meetings Conducted Entirely By Teleconference. A membership meeting may be conducted entirely by teleconference, without any physical location being held open for the attendance of any Director or Member, if all notices and other conditions required in Civil Code §§ 4926 or 5450 are met. This Section does not apply to teleconference membership meetings at which ballots are counted and tabulated pursuant to Civil Code § 5120.

### 3.2 Notice Requirements.

- a. *Notice of Annual or Special Membership Meetings Called by the Board*. Except where one or more different periods are required by superseding provisions of the Davis-Stirling Act, notice of annual meetings or special membership meetings called by the Board must be given not less than ten (10) days nor more than ninety (90) days before the date of the meeting.
- b. *Notice of Special Meetings Called by Petition of the Members*. Notice of special meetings called by the Members must be given by the Board within twenty (20) days of the Board's receipt of such request. If the Board fails to give notice, the persons calling the special meeting may give notice consistent with these Bylaws and the law. Member-initiated special membership meetings must be held not less than thirty-five (35) days nor more than one hundred and fifty (150) days following the Board's receipt of the request.
- c. *Notice for Ballot-Counting Meetings*. If written secret ballots and/or Electronic Secret Ballots are to be counted at a membership meeting or Board meeting, at least thirty (30) days' notice, or any longer period of notice required by the Bylaws or the Davis-Stirling Act, must be given to every Member before the ballots are distributed.
- d. *Notice Contents and Other Requirements*.
  - i. Generally. The notice must specify at least the place, date, and time of the meeting.
  - ii. Special Membership Meetings. In the case of a special membership meeting, the notice must include the general nature of the business to be transacted as specified by those persons calling the meeting. No other business may be transacted except as specified in the notice.

- iii. Annual Membership Meetings. In the case of the regular annual meeting, the notice must include those matters which the Board intends to present for action by the Members. When the authorized Quorum for a regular membership meeting is less than one-third of the voting power, then only matters, the general nature of which was given in the notice, may be voted upon. Otherwise, any proper matter may be presented at the meeting.
  - iv. Teleconference Membership Meetings. Notices of membership meetings held by teleconference must comply with the requirements of Civil Code §§ 4926 or 5450.
- e. *Delivery Requirements*. Notice of any membership meeting must be delivered as follows:
- i. Method of Delivery. Either personally, by electronic transmission (when consented to by the Member and not revoked), by first-class mail, charges prepaid, or by any other means permitted by law.
  - ii. Location of Delivery. To the Member: (a) at the Member's preferred delivery method, and, if specified, the Member's alternate or secondary delivery method as specified in a written notice provided by the Member to the Association pursuant to Civil Code § 4041(a); or (b) if the Member fails to provide such notice, the last mailing address provided in writing by the Member; or (c) if none of the above, the property address of the Member's Lot.
  - iii. Delivery Deemed Given. Notice of a membership meeting is deemed given when delivered personally, deposited in the mail, or upon completion of electronic transmission to those Members who have consented to same.

3.3 Chair and Secretary of Meeting. The President of the Board or, in the President's absence, the Vice President or any other person designated by the Board must call the membership meeting to order and must chair the meeting. The Secretary of the Board must act as Secretary. In the absence of the Secretary, the presiding Officer must appoint someone to serve as acting Secretary for the meeting.

3.4 Recording of Meetings. Audio and video recording of membership meetings are prohibited by anyone other than a person authorized by the Board to record the meetings for the sole purpose of preparing official Association minutes.

#### **ARTICLE 4: VOTING RIGHTS**

4.1 Number of Votes. For each matter submitted to the membership for a vote, Members are entitled to one (1) vote for each Lot (regardless of the number of Members having an interest in the Lot). The Association may not suspend the voting rights of Members.

4.2 Co-Owners. Where there is more than one Owner of a Lot subject to the Association's CC&Rs, all such co-Owners are Members and may attend any meeting of the Association, but only one co-Owner is entitled to exercise a vote to which the Lot is entitled. Fractional votes are not permitted. In the event more than one ballot is cast for a particular Lot on the same matter, only the first ballot received will be opened and counted. If the Inspector(s) of Elections is unable to determine from the postmark or otherwise which ballot was received first, neither will be counted.

4.3 Proof of Membership. No person or entity may exercise the rights of membership without an ownership interest in a Lot subject to the Association's CC&Rs. If the Board requests proof of ownership, the required proof is a recorded deed showing the required ownership or, if the property was transferred within the past thirty (30) days and a copy of the newly-recorded deed is not yet available, a completed escrow closing statement is sufficient.

4.4 Presumption of Consent. Unless the Inspector(s) of Elections receive a written objection prior to the close of balloting from a co-Owner, it is conclusively presumed that a voting Owner acted with the consent of their co-Owners.

4.5 Voting for Properly Nominated Candidates. Members must vote only for those candidate(s) who have been properly nominated prior to the close of nominations.

4.6 Electing Board Seats with Different Terms. In any election where different Board seats to be filled have different terms, the elected candidate(s), in the order of the most votes received, will fill the longest terms available first.

4.7 Record Date. For membership elections where written secret ballots or Electronic Secret Ballots are used, the record date for voting in the election will be the first date any ballots are distributed to the membership. However, if a ballot-counting meeting (whether a membership meeting or a Board meeting) for a membership election is adjourned, the Board may establish a new record date and if so, must give notice of the adjourned meeting to each Member who, on the record date for notice of the meeting, is entitled to vote at the meeting. Only persons who are/were Members on the original or new record date are entitled to vote for their respective Lot(s). Nothing in this subsection permits the casting of more than one ballot for each Lot. Members not on title on a record date may attend the ballot-counting election meeting but are not entitled to vote. For any membership election where a written ballot or Electronic Secret Ballot is not used, the Board is permitted to set a record date for an election no more than sixty (60) days before the date of the election meeting.

4.8 Proxies. Proxy voting is not permitted.

4.9 Cumulative Voting. Cumulative voting is not permitted.

4.10 Quorum for Director Elections. There is no Quorum required for an election of Directors.

4.11 Quorum for Membership Meetings/Elections (Other than Director Elections). Unless otherwise provided by law or these Bylaws, the Quorum requirement for membership

meetings or elections (other than an election of Directors) is a majority (over 50%) of the voting power of the Association. A Quorum may be represented by any combination of Members physically present, virtually present by electronic video screen communication, conference telephone, or other means of remote communication, as permitted by Corp. Code § 7511(a), present by casting a ballot as provided for in Civil Code § 5115(d), and/or voting electronically pursuant to Civil Code § 5105(i) (if Electronic Secret Ballots are allowed). Under the Davis-Stirling Act, the Quorum for elections regarding Assessments legally requiring Membership Approval is more than fifty percent (50%) of the Members.

- a. *Reconvene.* In the absence of a Quorum at the beginning of a membership meeting, no business may be transacted, except to reconvene the meeting to another date and time by the vote of at least a majority of the Members represented at the meeting. However, excepting only the circumstances described in the first sentence of this paragraph, a ballot-counting meeting for any election by the Members (except an election of Directors), whether conducted at a membership meeting or a Board meeting, may be reconvened to another date and time selected by vote of the Board of Directors. The date of any reconvened ballot-counting or other meeting must be announced by the Board at the membership or Board meeting, and written notice of the date, time, and place the reconvened meeting must be given to the Members within the notice period required by law. Except for an election of Directors meeting, any reconvened meeting must be to a date not less than five (5) days nor more than thirty (30) days from the date the original meeting was called.

4.12 Loss of Quorum. The Members present at a duly called membership meeting at which a Quorum is initially present may continue to transact business until adjournment, notwithstanding the loss of a Quorum, so long as the business must be approved by enough Members to constitute at least a majority of a Quorum had a Quorum been present.

4.13 Approval Requirements.

- a. *Generally.* The approval requirement for all matters decided by the membership is the affirmative vote of a majority of the votes represented and voting in a duly held election in which a Quorum is represented, which affirmative votes also constitute a majority of the required Quorum, unless otherwise specified in these Bylaws or the CC&Rs.
- b. *By Ballot.* Approval by ballot (written or electronic, secret, or non-secret) is valid only when: (i) the number of votes cast by ballot by the specified deadline equals or exceeds the Quorum (if any) required to be present at a meeting authorizing the action; and (ii) the number of votes cast equals or exceeds the number of votes that would be required to approve the action at a meeting.

## **ARTICLE 5: NOMINATIONS**

5.1 Nomination Procedures and Notice. Prior to the election of Directors, the Board must, by written notice to all Members, solicit nominees. The solicitation must specify the qualifications for candidates for the Board the procedure and deadline for submitting a nomination. The deadline must be at least thirty (30) days after giving notice or otherwise as provided by law. Delivery of the solicitation must be by general notice or, if individual notice is requested by a Member before the solicitation is given, by individual notice, pursuant to Civil Code § 4040. Nominees must be listed as candidates on the ballot provided (i) they meet candidate and Director qualifications and (ii) their nomination is made prior to the date and time set for the close of nominations.

5.2 Self-Nomination. Any qualified Person may nominate themselves for election to the Board of Directors by submitting to the Association a written statement signed and dated by the person nominating himself or herself on or before the deadline for submitting a nomination. Self-nominations are subject to the same procedures and deadlines as nominations by others as set forth above in Section 5.1.

5.3 Floor Nominations and Write-In Candidates. Once nominations have been closed, no write-in candidates are allowed on written ballots and Electronic Secret Ballots, and no floor nominations of candidates can be made at the ballot-counting meeting.

5.4 Election by Acclamation (Uncontested Elections). When, as of the deadline for submitting nominations provided for in Civil Code § 5115(a), the number of qualified candidates is not more than the number of vacancies to be elected, as determined by the Inspector(s) of Elections, the Association may, but is not required to, consider the qualified candidates elected by acclamation if all the conditions set forth in Civil Code § 5103 are met.

## **ARTICLE 6: DIRECTOR ELECTIONS**

6.1 Number and Term of Directors. The Board will consist of seven (7) Directors. The term of each Director is two (2) years and until a qualified successor is elected to fill their seat. Four (4) Directors will be elected in even -numbered years and three (3) Directors will be elected in odd numbered years.

6.2 Candidate and Director Qualifications. Members must meet the qualifications in the subsections hereafter to be eligible for nomination as a candidate for, or to serve as a Director on, the Board.

- a. *Candidates and Directors Must Be Members.* The Board must disqualify (1) the nomination of any candidate running for the Board and/or (2) any director serving on the Board, who is not a Member of the Association. Further the Board is not permitted to appoint any Person to serve on the Board who is not a Member of the Association. A Director who ceases to be a Member shall be disqualified from continuing to serve as a Director. Proof of membership must be a recorded deed. Persons holding a fee simple

interest in a Lot merely as security for the performance of an obligation are not eligible to either be a candidate for or to serve on the Board.

- b. *Member in Good Standing.* To be eligible for nomination and/or to serve on the Board, the person or impersonal entity must not be delinquent in the payment of any regular or special Assessment, except:
  - i. A person may not be disqualified from nomination for nonpayment of fines, fines characterized as Assessments, collection charges, late charges or costs levied by a third party.
  - ii. A person may not be disqualified from nomination because the person has paid the regular or special Assessment under protest.
  - iii. A person may not be disqualified from nomination due to delinquent Assessments if the person has entered into a payment plan with the Association pursuant to Civil Code § 5665 and is fulfilling the terms of the payment plan.
- c. *Co-Owners Eligible for only One Position.* To be eligible for nomination and/or to serve on the Board, the person or impersonal entity must not have a record fee simple ownership interest in a Lot which is part of the Development with another person or impersonal entity concurrently serving as a Director. Where two or more co-Owners concurrently seek election to the Board, only the first nomination will be effective.
- d. *Criminal Conviction.* The Association may disqualify a candidate or Director that discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the person was elected, either prevent the Association from purchasing the insurance required by Civil Code § 5806 or terminate the Association's existing insurance coverage required by Civil Code § 5806 as to that person. Each nominee, at the time of nomination, shall disclose the existence of any past criminal conviction, with sufficient details to allow the Board to determine whether the criminal conviction will prevent the Association from purchasing the required insurance coverage or result in the termination of such insurance coverage.
- e. *Internal Dispute Resolution.* Before any candidate for nomination or serving Director may be disqualified, the person or impersonal entity must be provided the opportunity to engage in internal dispute resolution as provided in the Davis-Stirling Act.

6.3 Impersonal Entities. If title to a Lot is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a Member for the purpose of candidacy or serving on the Board. The designation by the impersonal legal entity must be in writing with documentation confirming both the designation and its authority to do so.

6.4 Trusts. If title is held in the name of one or more trustees, subject to a trust, a sole trustee or one of several trustees is permitted to be a candidate for a position on the Board or to serve on the Board subject to all qualifications and/or requirements of the Association's Governing Documents and/or the law. The designation of one of several trustees must be in writing with documentation confirming both the designation and the authority of the designator to do so.

6.5 One Directorship Only. No Member who is a natural person is permitted to be a candidate for and/or to hold multiple positions on the Board, regardless of the number of Lots owned by such Member. No natural person designated by a Member, which Member is not a natural person to be a candidate for and/or to serve on the Board is permitted to hold multiple candidacies for or positions on the Board, regardless of the number of Lots owned by such Member. No Member who is not a natural person can designate more than one person to be a candidate and/or to serve on the Board, regardless of the number of Lots owned by such Member. Any Director, whose term extends beyond a current election and who wishes to become a candidate for that election, must first resign their seat on the Board. This rule does not apply to a candidate whose term is expiring and who wishes to run for re-election.

## **ARTICLE 7: REMOVAL OF DIRECTORS**

7.1 Removal of Director by the Board. By vote at a duly noticed meeting of the Board, a majority of the Board may declare vacant the position of any Director for any of the reasons listed below. However, before any such removal may occur, the Board must, at its next open meeting or a special open meeting called for this purpose, review evidence and make a finding of whether the Director should be removed and, if the Board makes such finding, the Board may remove the Director from the Board and, if so, must record its findings and action in the minutes of the meeting.

- a. The Director ceases to meet the qualifications for election or service as a Director.
- b. The Director has been declared of unsound mind by a final order of court.
- c. The Director has been absent from more than three (3) consecutive regular meetings of the Board or more than four (4) regular meetings within any twelve (12) month period.
- d. The Director has allowed a proposed contract or other transaction to be put to a vote by the Board or membership without disclosing that they will receive a financial benefit from the transaction.
- e. The Director has failed to cooperate and provide any required information and documents for the Association to file beneficial ownership information as required under the Federal Corporate Transparency Act and any similar California law within the required time period(s). This provision is effective so long as the Federal Corporate Transparency Act or any similar California law requires the Association to file beneficial ownership information.

7.2 Removal of Directors by Membership. The entire Board, or any individual Director, may be removed from the Board by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a Quorum is present, which affirmative votes also constitute a majority of the required Quorum. The successors to Directors removed by the membership must be elected by the membership. If the election is to remove the entire Board or a quorum of the Board, such replacement election must be conducted simultaneously with the removal election. If the election is to remove less than the entire Board or less than a quorum of the Board, the replacement election may be conducted simultaneously with the removal election or may be conducted after the removal election, as long as the timing of the elections is consistent with the law. Ballots for the replacement election may only be counted if the removal election is successful. If the replacement election does not result in electing the number of Directors who were removed, then any remaining vacant positions may be appointed by the Directors who were elected.

7.3 Resignation. Any Director may resign by giving notice to the President, the Secretary, or the Board. The resignation will take effect upon the giving of the notice unless a later time is specified in the notice. If the resignation is effective at a future time, the resigning Director may participate in the selection of a successor to fill the vacated seat.

7.4 Vacancies. Vacancies created other than by removal by the Members may be filled by the designation of a majority of the remaining Directors, except, if there are less than a quorum of Directors, vacancies may be filled by the unanimous designation of the remaining Directors. If the remaining Directors are unable to so designate a qualified Member to fill the vacancy, the Board may notice a special election for Members to elect replacement Directors. Each Director so appointed or elected holds office until the end of their predecessor's term.

7.5 Recall Petitions. Recalls are not permitted to be started against the Board as a whole or any individual Director if: (a) the Board or Director has held office during the current term for less than ninety (90) days; (b) a recall election has been determined in the Board's or the Director's favor within the last six (6) months; (c) for a recall of an entire Board, when an election of Directors will be held within six (6) months or less or (d) for the recall of individual Directors, when their term will end within six (6) months or less. Additionally, if a recall of the entire Board fails, a six (6)-month waiting period must be observed before recall petitions may be filed against individual Directors who served on that Board.

## **ARTICLE 8:     ROLE OF BOARD OF DIRECTORS**

8.1 Powers. The business and affairs of the Association is controlled by the Board. In addition to the powers and duties set forth in the Association's Governing Documents, the Board is empowered to perform any and all other acts that a nonprofit mutual benefit corporation is empowered to do in the administration of the Association's affairs and to protect and advance the general welfare of the Association.

8.2 Enactment of Rules. The Board may adopt, amend, and repeal Rules and Regulations and establish a system of fines and penalties regarding any matter set forth in the Governing Documents, including, without limitation, (i) the use, occupancy, and maintenance of the Development, (ii) the general health, welfare, comfort, and safety of residents in the



Development, (iii) the conduct of persons within the Development, (iv) the use of Common Areas, and (v) the interpretation and implementation of the Governing Documents. The Board must use the following procedure for adopting Rules and Regulations:

- a. *Distribution to Members.* The proposed Rules must be distributed to the membership at least twenty-eight (28) days (unless the law provides a different minimum and, if so, at least that number of days) before an open Board meeting at which the Board will vote on adopting the Rules. The distribution must include a notice of the meeting and a description of the purpose and effect of the proposed Rules.
- b. *Vote on Rules.* At the scheduled Board meeting, the Board must vote on adoption, amendment, or repeal of the Rules after considering any comments received from Members on this issue.
- c. *Approved Rules.* Within fifteen (15) days of approving the Rules, the Association must distribute notice of the Rules change to the membership.
- d. *Applicability.* This Section applies only to Rules that relate to: (i) use of the Common Area, Exclusive Use Common Areas, or Lots; (ii) architectural modifications by the Members, including procedures for architectural approval; (iii) Member discipline, including fine schedules and procedures for imposing discipline; (iv) standards for payment plans for Members' delinquent Assessments; (v) dispute resolution procedures; and (vi) election procedures. This Section does not apply to: (i) Common Area maintenance; (ii) decisions on specific situations that are not intended to apply generally; (iii) Assessment rates; or (iv) Rules changes or the issuance of other documents that are required by law or that repeat existing law or the Governing Documents if the Board has no discretion as to the substantive effect of the change.
- e. *Member Vote to Reverse Rule Change.* A Rule change may be reversed by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a Quorum is present. A Rule which is reversed pursuant to this Section may not be re-adopted for one (1) year after the date of the membership vote reversing the Rule change. However, the Board may at any time adopt a different Rule on the same subject as the Rule change that had been reversed.

8.3 No Compensation. No Officer or Director is permitted to receive compensation for services rendered to the Association. However, Officers and Directors may be reimbursed for actual expenses incurred in the performance of their duties. Any Officer or Director requesting reimbursement for expenses must provide appropriate documentation, such as a receipt, to the Board before being reimbursed by the Association.

8.4 Conflicts of Interest. The Association is not permitted to enter into any contract with any party in which any Officer or Director of the Association, the Manager, management

company, or any employee of the Association has a direct or indirect economic interest in the contract without: (i) full disclosure of the interest to the Board; (ii) full disclosure of the interest in the minutes of the Board meeting where the discussion occurred; and (iii) recusal by the interested party from deliberations and voting on the issue.

8.5 Duty to Defend. The Association must indemnify and defend and must advance reasonable attorneys' fees and costs and all expenses and liabilities its Officers, Directors, Committee members, and employees reasonably incur in connection with any proceeding to which they may be a party by reason of having been an Officer, Director, Committee member, or employee of the Association. However, the Association may recover its attorneys' fees and costs from those persons who are adjudged to have acted in bad faith or in gross negligence in the performance of their duties or to be liable to the Association (unless the Court determines that the person is fairly and reasonably entitled to indemnity for expenses).

## **ARTICLE 9: MEETINGS OF THE BOARD**

9.1 Member Notice of Board Meetings. Members must be given an agenda and notice of the date, time, and place of open session Board meetings at least four (4) calendar days prior to the meeting and of executive session Board meetings at least two (2) calendar days prior to the meeting. The notice and agenda may be given by posting the notice in a prominent place or places accessible to all Members and which have been designated for the posting of notices by the Association in the annual policy statement, by mail or delivery of the notice to each Lot, by newsletter, inclusion in a billing statement or other properly delivered document, by broadcast television programming, or as otherwise permitted in the Davis-Stirling Act. An emergency meeting of the Board may be called if there are circumstances that could not have been reasonably foreseen which require immediate attention by the Board. In such instances, The Board must give notice, as may be reasonable and practical.

9.2 Director Notice of Board Meetings. Notice of Board meetings must be given to each Director, at least four (4) calendar days prior to an open meeting or at least two (2) calendar days before an executive session meeting, to the address, phone number, fax number, or e-mail address listed on the Association's records for the Director.

9.3 Waiver of Notice. Notice of a meeting need not be given to a Director who (1) provided a waiver of notice or consent to holding the meeting or (2) provided an approval of the minutes thereof in writing, whether before or after the meeting, or (3) who attends the meeting without protesting the lack of notice to that Director, prior thereto or at its commencement. The waivers, consents and approvals referenced in this Section must be filed with the corporate records or made a part of the minutes of the meetings.

9.4 Place of Meetings. Except for teleconference meetings held pursuant to Civil Code § 4926 or 5450, all meetings of the Board must be held at a place in or near the Development designated by the Board or at a suitable location in or reasonably close to the Development.

9.5 Teleconference Meetings. Board meetings may be held entirely by teleconference (e.g., conference telephone, electronic video screen, or similar communications equipment) without any physical location being held open for the attendance of any Director and Members so

long as the meeting is conducted in a manner permitted in Civil Code § 4090, and Civil Code §§ 4926, and 5450. This Section does not apply to teleconference Board meetings at which ballots are counted and tabulated pursuant to Civil Code § 5120. Participation in a meeting pursuant to this Section by Directors or Members constitutes presence in person at such meeting.

9.6 Regular Meetings. Meetings of the Board must be held at least once per month although the Board may, for good reason, waive a monthly meeting. Such “good reason” must be set forth in the minutes of the next Board meeting.

9.7 Special Meetings. Special meetings of the Board may be called by the President or by a majority of the Board. Such meetings may be held upon four (4) days’ notice for open session meetings and upon two (2) days’ notice for executive session meetings. In the event of an emergency, the Board may meet with less notice, but must post such notice to the membership and must note in the minutes of the meeting the reason why more notice could not be given.

9.8 Executive Sessions. Executive session meetings of the Board may be held as authorized by statute. Such purposes include but are not limited to: (i) litigation; (ii) the formation of contracts with third parties; (iii) Member discipline; (iv) personnel matters; (v) meeting with a Member to consider a payment plan for delinquent Assessments; and (vi) to vote on the foreclosure of a delinquent Assessment lien. Any matters considered in executive session must be generally noted in the minutes of the next meeting that is open to the membership.

9.9 Quorum of Directors. A majority of the number of Directors authorized in the Bylaws constitutes a quorum of the Board for the transaction of business. Directors may not attend Board meetings by proxy and may not vote by proxy.

9.10 No Action Outside Meetings. Except for emergency meetings, the Board is not permitted to take action on any “item of business” (as defined in the Davis-Stirling Act) outside of a Board meeting.

9.11 Adjournment of Board Meetings. A majority of the Directors present at a meeting, whether or not a quorum is present, may adjourn any Board meeting to a stated day and hour. If the meeting is adjourned for more than twenty-four (24) hours, before the adjourned meeting is held, notice of the adjournment must be given to Directors who were not present at the time of the adjournment.

9.12 Attendance by Members. Members are entitled to attend regular and special (non-executive session) meetings of the Board. A reasonable amount of time must be set aside during the meeting for Members to address the Board, as provided for in the Davis-Stirling Act.

9.13 Conduct of Board Meetings. The Board may establish Rules for the orderly conduct of its meetings. Board meetings must be conducted by the Association’s President or, in the President’s absence, an Officer or Director designated by the Board.

9.14 Minutes of Meetings. The minutes, minutes proposed for adoption that are marked as draft, or a summary of the minutes of Board meetings, other than executive session meetings,

must be available to Members within thirty (30) days of the meeting and must be distributed to any Member upon request and upon reimbursement of the Association's cost.

9.15 Recording of Meetings. Audio and video recording of meetings are prohibited by anyone other than a person authorized by the Board to record the meetings for the sole purpose of preparing official Association minutes.

## **ARTICLE 10: OFFICERS**

10.1 Number. The Officers are President, Vice President, Secretary, Treasurer, each of whom must be a Director, and such other Officers as the Board may designate. The President may not hold more than one (1) office; however, any two (2) of the remaining offices may be held by a single person.

10.2 Election of Officers. The Board must meet to select the Officers of the Association immediately after or as soon as practicable after the results of the election of Directors are announced. If the meeting of the Board for selection of Officers occurs at a separate meeting from the one where the Directors were elected, the Board must give notice to all Members, consistent with notice requirements. Notice of the organizational meeting must be given at the same time as the annual meeting. If the meeting is held immediately following the annual meeting, notice to the newly elected Directors is not necessary to legally constitute the meeting, provided that a majority of the Board is present.

10.3 Term of Office. Officers hold office at the pleasure of the Board. Officers must be appointed by the Board and will hold office until the annual election of Directors or such time as they resign, are removed, or are otherwise disqualified to serve. Within thirty (30) days of any election of Directors resulting in a change in the membership on the Board, the Board must reappoint Officers. The same persons may be appointed to the same offices.

10.4 Removal and Resignation. Any Officer may be removed at any time by the vote of a majority of all the Directors then in office, at any regular or special meeting of the Board at which a quorum is present. Any Officer may resign at any time by giving written or verbal notice to the Board. Any such resignation will take effect on the date the notice is given unless a later date is specified in the notice.

10.5 Vacancies. A vacancy in any office, because of death, resignation, removal, disqualification, or any other cause, must be filled in the manner prescribed in these Bylaws for regular appointments to such office.

10.6 President. The President is the principal executive Officer of the Association and, subject to the control of the Board, supervises, directs, and controls all of the business and affairs of the Association. The President presides at all meetings of the Board, has the general powers and duties of management usually vested in the office of the President of a corporation, and has such other powers and duties as may be prescribed by the Board or these Bylaws. The President acts as the spokesperson (or liaison) between the Manager and the Board unless the Board directs otherwise.

10.7 Vice President. In the absence or disability of the President, the Vice President must perform all duties of the President. The Vice President has such other powers and will perform such other duties as from time to time may be prescribed by the Board or these Bylaws.

10.8 Secretary. The Secretary must keep or cause to be kept in the management office: (i) minutes of all meetings of the Board and the membership; (ii) the names of all Members of the Association and their addresses; and (iii) such other records of the Association's affairs as may be necessary and proper. The Secretary must give or cause to be given notice of all meetings of the Members and of the Board that are required by the Bylaws or by law and has such other powers and performs such other duties as may be prescribed by the Board or by these Bylaws.

10.9 Treasurer. The Treasurer must keep or cause to be kept accounts of the monies, properties, and business transactions of the Association. The Treasurer must cause to be deposited all monies and other valuables, in the name and to the credit of the Association, with such depositories, as may be designated by the Board. The Treasurer must cause to be disbursed the funds of the Association as may be ordered by the Board, must render to the President and Directors, whenever they request it, an account of the Association's transactions and the financial condition of the Association, which must be made a part of the minutes of Board meetings, and has such other powers and performs such other duties as may be prescribed by the Board or these Bylaws.

10.10 Assistant Treasurer and Assistant Secretary. The Board may appoint one (1) or more Assistant Treasurers and/or Assistant Secretaries, who need not be Members of the Association, to assist the Officers in their duties.

10.11 Parliamentarian. The Board may also appoint a Parliamentarian to advise it on matters of parliamentary procedure.

## **ARTICLE 11: COMMITTEES**

11.1 Establishment of Committees. The Board may establish Committees as it deems appropriate and necessary to advise and/or assist the Board in carrying out its duties. The Board is empowered to specify the task of each Committee, may limit the number of members of any Committee, may appoint non-Members to Committees, may limit the term of the Committee, and may appoint Committee chairpersons, who need not be Directors. Committee chairpersons may be appointed by the Board and, if not appointed, may be elected by members of the Committee.

11.2 Term of Office. Committees dissolve automatically at each annual meeting to be reappointed by the new Board at the Board's discretion. Individual Committee members and Committee chairs may be added or removed at any time by the Board, with or without cause.

11.3 Committee Authority. Except as may be otherwise provided in the Governing Documents, Committees are advisory only and have no authority to spend Association monies, enter into contracts, or direct Association personnel or vendors without Board approval.

11.4 Member Comments. Each Committee must receive comments and complaints from Members on any matter within its field of responsibility. Committees must handle or

dispose of such comments or complaints as they deem appropriate or refer them to any other Committee, Director, or Officer of the Association also involved in that matter or to the Board.

11.5 No Compensation. Committee membership is voluntary, and members are not permitted to be compensated for their services. However, Committee members are permitted to be reimbursed for reasonable expenses incurred in the performance of their duties.

11.6 Meetings. Committees must meet from time to time as may be necessary to perform their duties. Committees must make interim reports to the Board during the course of their task and must make a final report to the Board upon completion of their tasks.

11.7 Conflicts of Interest. No Committee member may participate in or make recommendations on any matter which involves a Committee member or a member of their own family or in which a Committee member or a member of their family has a direct or indirect financial interest.

11.8 Executive Committee. The Board may appoint Executive Committees as provided for by law.

## **ARTICLE 12: BUDGETS, RESERVES, AND FINANCIAL STATEMENTS**

12.1 Review of Accounts. The Board must do the following not less frequently than monthly, in accordance with the Davis-Stirling Act:

- a. *Operating Accounts*. Cause a current reconciliation of the Association's operating accounts to be made and to review the same.
- b. *Reserve Accounts*. Cause a current reconciliation of the Association's Reserve Accounts to be made and to review the same.
- c. *Actual to Budget*. Review the current year's actual revenues and expenses compared to the current year's budget for the Association's Operating and Reserve Accounts.
- d. *Bank Statements*. Review and cause to be reconciled the most current account statements prepared by the financial institution where the Association has its Operating and Reserve Accounts.
- e. *Income and Expense Statements*. Review an income and expense statement for the Association's Operating and Reserve Accounts.
- f. *Register, Ledger, and Delinquencies*. Review the check register, monthly general ledger, and delinquent Assessment receivable reports.

12.2 Operating Budget. The Board must annually prepare an estimated operating budget for the next fiscal year. The budget must include the following, in accordance with the Davis-Stirling Act:

- a. *Revenue and Expenses.* The estimated revenue and expenses on an accrual basis;
- b. *Reserves.* A summary of the Association's Reserves, based upon the most recent review or study, which must be printed in bold type and include: (i) the current estimated replacement cost, estimated remaining life, and estimated useful life of each major component; (ii) the current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components; and (iii) the current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components, as of the end of the fiscal year for which the study is prepared;
- c. *Special Assessments.* A statement as to whether the Board has determined or anticipates that the levy of one or more Special Assessments will be required in order to repair, replace, or restore any major component or to provide adequate Reserves therefor;
- d. *Reserve Procedure.* A general statement addressing the procedures used for the calculation and establishment of Reserves to defray the costs of future repair, replacement, or additions to those major components that the Association is obligated to maintain;
- e. *Summary in Lieu of.* In lieu of the distribution of the budget, the Board may elect to distribute a summary of the budget to all Members, with a written notice, in at least 10-point boldface type on the front page of the summary, that the budget is available at the business office of the Association or at another suitable location and that copies will be provided upon request, at the Association's expense;
- f. *Revised Budget.* If the Board, in its reasonable discretion, deems it necessary at any time during the course of its fiscal year to adjust or modify the budget, it may do so, and copies of the revised budget must be sent to all Members within thirty (30) days of its adoption by the Board.

12.3 Annual Review. An annual review of the financial statement of the Association must be prepared in accordance with Generally Accepted Accounting Principles by a licensee of the California State Board of Accountancy. A copy of the review of the financial statement must be distributed to all Members within one hundred twenty (120) days after the close of each fiscal year.

12.4 Reserve Study. The Reserve study must be reviewed annually and at least once every three (3) years, the Board must cause a site-review study of the Reserve account to be performed. The study must, at a minimum, include:

- a. *Major Components.* Identification of those major components of the Common Areas which the Association is obligated to repair, replace, restore, or maintain;

- b. *Remaining Life.* Identification of the probable remaining useful life of the components, as of the date of the study;
- c. *Cost to Repair or Replace.* An estimate of the cost of repair, replacement, restoration, or maintenance of the components during and at the end of their useful life;
- d. *Annual Contribution.* An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components during and at the end of their useful life, after subtracting total Reserve funds as of the date of the study;
- e. *Reserve Funding Plan.* A Reserve funding plan that indicates how the Association plans to fund the annual contribution to meet the Association's obligations for the repair and replacement of all major components with an expected remaining life of thirty (30) years or less, not including those components that the Board has determined will not be replaced or repaired. The plan must include a schedule of the date and amount of any change in regular or special Assessments that would be needed to sufficiently fund the Reserve funding plan. The plan must be adopted by the Board of Directors at an open meeting before the membership of the Association. If the Board of Directors determines that an Assessment increase is necessary to fund the Reserve funding plan, any increase must be approved in a separate action of the Board.

12.5 Approval of IRS Resolution. A majority of the membership present at a membership meeting may approve an IRS Resolution that any excess income for the current year will be applied to the next fiscal year, as provided by IRS Revenue Ruling 70-604 or any other applicable IRS Revenue Ruling. Neither balloting nor a Quorum is required for this approval.

## **ARTICLE 13: INSPECTION OF RECORDS**

13.1 Maintenance of Records. The Association must keep or cause to be kept records of the Association as follows:

- a. A membership register, setting forth all names, mailing addresses, and telephone numbers of the Members (as may be changed from time to time by written notice from the Member to the Board of Directors);
- b. The Association's books and records, membership lists, Governing Documents, minutes of meetings, and any other documents relevant to the Association must be kept in written form or any other form capable of being converted into clearly legible paper form, and must be retained pursuant to the Association's document retention policy and applicable law;
- c. Financial records and books of account of the Association, including a chronological listing of all receipts and expenditures of funds and a separate



account for each Assessment levied or charged against each Lot or Member, the dates when so assessed and when due, the amounts paid thereon, and the balance, if any, of any Assessment remaining unpaid; and

- d. All other documents required to be made available to Members under this Article. Such additional documents must be kept for at least the time frame during which Members are entitled to inspect them, as stated below.

13.2 Records Subject to Inspection. The Association must make the following documents available for inspection and copying by any Member or a representative designated in writing by the Member:

- a. Any financial document or statement required to be distributed annually to Members;
- b. Interim unaudited financial statements, periodic or as compiled, containing any of the following, which must be prepared in accordance with Generally Accepted Accounting Principles: (i) balance sheet; (ii) income and expense statement; (iii) budget comparison; and (iv) general ledger, showing all transactions that occurred in Association's account over a specified period of time;
- c. Executed contracts, not otherwise privileged under law;
- d. Written board approval of vendor or contractor proposals or invoices;
- e. State and federal tax returns;
- f. Reserve account balances and records of payments made from Reserve accounts;
- g. Agendas and minutes of meetings of the Members, the Board, and any Committees appointed by the Board; excluding, however, minutes, and other information from executive sessions of the Board;
- h. Check registers;
- i. The Association's Governing Documents;
- j. An accounting prepared pursuant to Civil Code § 5520(b) or any successor statute;
- k. "Enhanced Association Records" which are defined as invoices, receipts, and canceled checks for payments made by the Association, purchase orders approved by the Association, bank account statements for bank accounts in which Assessments are deposited or withdrawn, credit card statements for credit cards issued in the name of the Association, statements for services rendered, and reimbursement requests submitted to the Association,

provided that the person submitting the reimbursement request is solely responsible for removing all personal identification information from the request;

- l. The Association's membership list, including each Member's name, property address, mailing address and email address, but not including information for Members who have opted out under the Davis-Stirling Act. The Member requesting the list must state the purpose for which the list is requested which purpose must be reasonably related to the requester's interest as a Member. If the Association reasonably believes that the information in the list will be used for another purpose, it may deny the Member access to the list; and
- m. "Association Election Materials" which means returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent, proxies, the candidate registration list, and the tally sheet of votes cast by Electronic Secret Ballot (if Electronic Secret Ballots are used). Signed voter envelopes may be inspected but may not be copied. Association election materials must be maintained for one year after the date of the election.

13.3 Records Not Subject to Inspection. The following records are not subject to inspection:

- a. Executive session minutes of the Board;
- b. Personnel records (other than payroll records);
- c. Litigation files or records protected by the attorney-client privilege;
- d. Pending contracts;
- e. Legal invoices (however, Members do have the right to know how much money is being spent on legal matters);
- f. Records likely to lead to identity theft;
- g. Records likely to lead to fraud;
- h. Records reasonably likely to compromise the privacy of an individual Member (such as Owner records, including goods or services provided to Members for which the Association received monetary consideration other than Assessments);
- i. Disciplinary actions, collection activities, or payment plans of other Members;

- j. Personal information, including a social security number, tax id number, driver's license number, credit card account numbers, bank account number, or bank routing number; and
- k. Interior architectural plans for individual homes.

13.4 Limitation on Availability of Records. As provided for in the Davis-Stirling Act, Association records for the current fiscal year and for each of the previous two (2) fiscal years must be made available for inspection and copying. However, minutes of Member meetings, Board meetings, and meetings of Committees with decision-making authority must be permanently available for inspection and copying. All records are subject to redacting, as provided for by law.

13.5 Deadlines for Producing Records. Associations must produce records within the following time frames pursuant to the Davis-Stirling Act:

- a. Minutes of Member and Board meetings: within thirty (30) calendar days of the meeting;
- b. Minutes of Committees with decision making authority: within fifteen (15) calendar days following approval of the minutes;
- c. Records for the current fiscal year: within ten (10) business days from receipt of the request;
- d. Records for the previous two (2) fiscal years: within thirty (30) calendar days from receipt of the request;
- e. Any record or statement available pursuant to Civil Code § 5300 (budget, Reserves, lien policies, insurance, financial statement, etc.) or Civil Code § 4525 (Governing Documents, Assessments, violations, construction defects, etc.), or any successor statutes within the timeframes specified by statute;
- f. Membership list: within five (5) business days of the Association's receipt of a Member's written request.

13.6 Inspection and Copying Procedure. The Association must make the above Association records available for inspection and copying in the Association's business office within the Development. If the Association does not have a business office within the Development, the Association must make the specified Association records available for inspection and copying at a place agreed upon by the Member and the Association. If the Association and the Member cannot agree upon a place for inspection and copying, or if the Member requests, in writing, copies of specifically-identified records, the Association may mail copies of the requested records to the Member by first-class mail.

13.7 Redacting Information. The Association may withhold or redact information from the Association records, as provided for by law.

13.8 Sale and Use of Association Records. The Association records, and any information from them, may not be sold, used for a commercial purpose, or used for any other purpose not reasonably related to a Member's interest as a Member. Neither the Association nor its managing agent shall (a) sell a Member's personal information for any purpose without the consent of the Member or (b) transmit a Member's personal information to a third party without the consent of the Member unless required to do so by law, including, but not limited to, Civil Code §§ 5200 through 5240, inclusive.

13.9 Production Fees. The Association may bill the requesting Member, including a Director, for copying, redacting, and mailing the requested records as permitted by the Davis-Stirling Act.

#### **ARTICLE 14: DISCLOSURES**

14.1 Distribution of Disclosures. The Board must distribute documents and disclosures described in this Article by individual delivery pursuant to Civil Code § 4040. The annual budget report and annual policy statement must be made available to the Members as a full report, or a summary of the report as provided for in Civil Code § 5320.

14.2 Annual Budget Report. The Board must distribute an annual budget report thirty (30) to ninety (90) days before the end of its fiscal year including all of the following information:

- a. A pro forma operating budget, showing the estimated revenue and expenses on an accrual basis.
- b. A summary of the Association's Reserves, prepared pursuant to Civil Code § 5565.
- c. A summary of the Reserve funding plan adopted by the Board, as specified in paragraph 5 of subdivision (b) of Civil Code § 5550. The summary must include notice to Members that the full Reserve study plan is available upon request, and the Association must provide the full Reserve plan to any Member upon request.
- d. A statement as to whether the Board has determined to defer or not undertake repairs or replacement of any major component with a remaining life of thirty (30) years or less, including a justification for the deferral or decision not to undertake the repairs or replacement.
- e. A statement as to whether the Board, consistent with the Reserve funding plan adopted pursuant to Civil Code § 5560, has determined or anticipates that the levy of one or more special Assessments will be required to repair, replace, or restore any major component or to provide adequate Reserves therefor. If so, the statement must also set out the estimated amount, commencement date, and duration of the Assessment.

- f. A statement as to the mechanism or mechanisms by which the Board will fund Reserves to repair or replace major components, including Assessments, borrowing, use of other assets, deferral of selected replacements or repairs, or alternative mechanisms.
- g. A general statement addressing the procedures used for the calculation and establishment of those Reserves to defray the future repair, replacement, or additions to those major components that the Association is obligated to maintain. The statement must include, but need not be limited to, Reserve calculations made using the formula described in paragraph (4) of subdivision (b) of Civil Code § 5570 and may not assume a rate of return on cash Reserves in excess of two percent (2%) above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.
- h. A statement as to whether the Association has any outstanding loans with an original term of more than one year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.
- i. A summary of the Association's property, general liability, earthquake, flood, and fidelity insurance policies. For each policy, the summary must include the name of the insurer, the type of insurance, the policy limit, and the amount of the deductible, if any. To the extent that any of the required information is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it with the annual budget report. The summary distributed pursuant to this paragraph must contain, in at least 10-point boldface type, the following statement:

This summary of the Association's policies of insurance provides only certain information, as required by section 5300 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association Member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association Members should

consult with their individual insurance broker or agent for appropriate additional coverage.

- j. A copy of the completed “Charges For Documents Provided” disclosure identified in Civil Code § 4528. For purposes of this Section, “completed” means that the “Fee for Document” section of the form individually identifies the costs associated with providing each document listed on the form.

14.3 Assessment and Reserve Funding Disclosure Summary Form. The Assessment and Reserve Funding Disclosure Summary form, prepared pursuant to Civil Code § 5570, must accompany each annual budget report or summary of the annual budget report.

14.4 Annual Policy Statement. Within thirty (30) to ninety (90) days before the end of its fiscal year, the Board must distribute an annual policy statement that provides the Members with information about Association policies. The annual policy statement must include all of the following information:

- a. The name and address of the person designated to receive official communications to the Association, pursuant to Civil Code § 4035;
- b. A statement explaining that a Member may submit a request to have notices sent to up to two (2) different specified addresses, pursuant to Civil Code § 4040(b);
- c. The location, if any, designated for posting of a general notice either at a physical location and/or on the Association’s internet website, pursuant to Civil Code § 4045(a)(3) and (5);
- d. Notice of a Member’s option to receive general notices by individual delivery, pursuant to Civil Code § 4045(b);
- e. Notice of a Member’s right to receive copies of meeting minutes, pursuant to Civil Code § 4950(b);
- f. The statement of Assessment collection policies required by Civil Code § 5730;
- g. A statement describing the Association’s policies and practices in enforcing lien rights or other legal remedies for default in the payment of Assessments;
- h. A statement describing the Association’s discipline policy, if any, including any schedule of penalties for violations of the Governing Documents pursuant to Civil Code § 5850;
- i. A summary of dispute resolution procedures, pursuant to Civil Code §§ 5920 and 5965;

- j. A summary of any requirements for the Association approval of a physical change to property, pursuant to Civil Code § 4765;
- k. The mailing address for overnight payment of Assessments, pursuant to Civil Code § 5655;
- l. If the Association has adopted Election Rules authorizing Electronic Secret Ballots, information on the procedures to either opt out of or opt into voting by Electronic Secret Ballot; and
- m. Any other information that is required by law or the Governing Documents or that the Board determines to be appropriate for inclusion.

14.5 Minutes. The Board must notify Members of their right to receive minutes and how and where those minutes may be obtained at the time the budget is distributed or at the time of any general mailing to the entire membership of the Association.

14.6 Financial Statement. The Board must annually distribute to the Members a review of the Association's financial statement for any fiscal year in which the gross income of the Association exceeds \$75,000 within one hundred twenty (120) days of the close of the fiscal year all pursuant to Civil Code § 5305.

14.7 Reserve Transfers for Litigation. The Board must notify Members, in its next available mailing, of any transfers from Reserves to pay for litigation pursuant to Civil Code § 5520.

14.8 Other Disclosures as Required by Law. The Board must make such other applicable disclosures as are required by law.

## **ARTICLE 15: ENFORCEMENT AND DISPUTE RESOLUTION**

15.1 Enforcement Procedures. Voting rights may not be suspended. Other membership privileges may not be suspended, or fines imposed, except as follows:

- a. *Notice of Hearing*. The Board must set a hearing date and notify the Member in writing at least ten (10) days in advance, by either personal delivery or individual delivery pursuant to Civil Code § 4040. The notice must set forth the date and nature of the violation, the proposed penalty, and the Member's right to attend the hearing in person, or the opportunity to provide a written statement in advance of the hearing.
- b. *Hearing*. The hearing must be held in executive session.
- c. *Notice of Decision*. Within fifteen (15) days after the Board makes a decision on imposition of any penalty or fine, notice of the decision must be given to the Member, which must specify the violation and the penalty imposed. In the event the Association suspends membership privileges, the suspension

does not take effect until five (5) days after the notice of decision is given to the Member.

15.2 Internal Dispute Resolution. If the Association and a Member are involved in a dispute involving their rights, duties, or liabilities under California law or the Governing Documents, either the Association or the Member may request internal dispute resolution, as provided for in the Association's Rules and Regulations, pursuant to the Davis-Stirling Act.

15.3 Pre-Litigation Dispute Resolution. Before filing suit for actions for declaratory, injunctive, or writ relief, either alone or in conjunction with a money claim in an amount within the jurisdiction of the small claims court, the party seeking to litigate the matter must offer alternative dispute resolution, pursuant to the procedures described in the Civil Code § 5930.

#### **ARTICLE 16: MISCELLANEOUS**

16.1 Fiscal Year. The fiscal year of the Association must be a calendar year unless a different fiscal year is adopted by the Board.

16.2 Singular Includes Plural. Words used herein regardless of the number and gender specifically used, are deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

16.3 Conflicts. In the case of any conflict, the CC&Rs prevail over the Articles of Incorporation, which prevail over the Bylaws and the Bylaws prevail over the Rules.

16.4 Amendments. These Bylaws may be modified, amended, or replaced with new Bylaws as follows:

- a. *Amendment by Members*. These Bylaws may be modified, amended, or replaced with new Bylaws by the affirmative vote of a majority of the votes represented and voting in a duly held election in which a Quorum is represented.
- b. *Amendment to Conform to Statute*. If at any time a provision in these Bylaws contradicts current law, according to a written opinion of the Association's legal counsel, the Board of Directors will have the authority, on the unanimous approval of the Directors and without approval of the Members, to amend that provision, but only to the extent necessary to render the provision compliant with applicable law.



**CERTIFICATION**

WE CERTIFY this \_\_\_\_\_ day of \_\_\_\_\_, 2025 that these Fifth Restated Bylaws have been duly approved and adopted by at least a majority of the total voting power of the membership of Vista Homeowners Association.

VISTA HOMEOWNERS ASSOCIATION

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary