



May 27, 2022

Attention All Members:

A Special Meeting of the Members will be held as follows:

Date: July 25, 2022
Time: Polls Open at 6:00 PM
Polls Close at 7:00 PM
Location: The Riverdale Clubhouse



This Special Meeting of the Members is being held to vote on amending the CC&Rs.

For the amendment to be approved, a minimum of 67% (88 ballots) of the Association Members must vote in favor of the amendment.

Enclosed in this package is the following:

- Official Ballot
- Amendment to the CC&Rs Voting Cover Letter (2 pages)
- Amendment to the CC&Rs Voting Summary Letter (1 page)
- Pages from the CC&Rs showing the proposed changes (29 pages)
Note: Only the pages that are proposed to be amended are included with this package, the entire CC&R document can be downloaded from www.thehoaelectionguys.com/riverdale or by scanning the QR code shown on this letter)
- Two envelopes for your use in returning the Ballot as per the below instructions.

Instructions:

- 1) Cast your vote(s) on the enclosed ballot.
- 2) Insert ballot into the yellow Secret Ballot Envelope.
- 3) Insert the sealed Secret Ballot (yellow) Envelope into the provided white envelope which is addressed to Riverdale care of the HOA Election Guys
- 4) **SIGN THE LEFT-HAND CORNER OF THE WHITE ENVELOPE!!!!**
(Your vote will not count if you do not sign the envelope)
- 5) Mail your ballot, return postage has already been provided.
Mailed ballots must be received by July 25, 2022

The envelopes are already pre-addressed with our return address (and our address is also reflected on the footer of this letter).

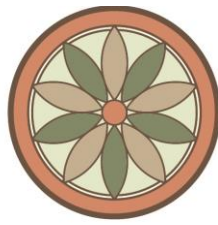
Please do not hand-deliver the envelopes without making arrangements with us first by calling (888) 380-3332. Ballots can also be hand-delivered at the meeting, but you are encouraged to mail them in to establish quorum.

If we have not received enough ballots to satisfy the approval threshold, or at the discretion of the Board of Directors, this meeting may be reconvened. In this case, the deadline for receiving ballots will be extended as well.

If you have any questions, please do not hesitate to contact your association's Inspector of Elections, The HOA Election Guys, Inc. an independent third-party as required per CA Civil Code.

The HOA Election Guys, Inc can be reached at (888) 380-3332 or by email at info@thehoaelectionguys.com

*The HOA Election Guys, Inc
27472 Portola Parkway Suite 205-412
Foothill Ranch, CA 92610*



RIVERDALE

Dear Fellow Homeowners,

The Board of Directors are pleased to offer for your approval Amendments to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Riverdale (CC&Rs) designed to reflect how we all desire to live and operate within our community. Our goal is to improve the lives of our neighbors, have our governing documents accurately support our community life, and find flexibility in the highly structured environment of an HOA.

Enclosed, Homeowners will find a letter detailing the Amendments, a web link to a copy of the amended CC&Rs to review and voting materials.

A Town Hall meeting will be held June 13th at 7:45pm to discuss the Amendments, provide further insight and address questions or concerns residents may have about these changes. All votes must be returned by July 25th.

To encourage engagement from the community, we are excited to announce that there will be (4) incentives awarded at random to Association Members who cast their vote:

- ✓ \$500.00 gift card will be randomly awarded to (2) participating Members if the Association meets the minimum participation requirement of 67% (88 votes) regardless of whether the vote passes.
- ✓ \$500.00 gift card will be randomly awarded to (2) participating Members should the Amendments PASS, regardless of whether those (2) Members vote yay or nay.

In the meantime, we wanted to provide some context and information about the recommended Amendments:

As many of us are aware, there was significant debate about the nature of parking in our community. We heard proposals, suggested changes and formally voted on the topic. The resulting desire of the majority of the community was implemented and has been in practice for many months now. We need to update the CC&R so that this desire is legal under their governance as it currently is not. The Amendments proposed do exactly that to the fullest extent we are able to under local codes and regulations which require 33 spots as guest spots. To sidestep this requirement, we have also added an Amendment that allows enforcement at the discretion of the Association - meaning we as a community decide if we enforce the guest spot rule. The proposed parking Amendments:

- Remove existing Guest designation of all common area parking, allowing optimal usage of the common area parking by homeowners.
- Allow parking in driveways for Lots that have driveways in compliance with laws and ordinances of local government agency(s).
- Allow alternative use of a garage if the occupants of the home possess fewer vehicles than allowed parking locations on their Lot.



Another major Amendment is the expansion of EV Charger installation options. This Amendment allows the installation of certain make and model EV Chargers in more areas, including Exclusive Use Parking Spaces and Conforming Driveways. Additionally, we will be launching a special committee of homeowners to advise the Board on charging station selection. Our hope is to encourage and empower neighbors to install EV Chargers in practical locations for their use.

The Board has also proposed an Amendment to the voting participation requirement for future CC&R changes, reducing the requirement from 67% of Association Members to 51%, or the base majority of the community. The reason for this Amendment is simply that we have a very difficult time meeting this participation requirement currently and do not want the formalization of future desires of the community to be delayed because of a lack of participation.

Other minor changes proposed include: those required to comply with current local codes and regulations; elimination of the time frame requirement for the removal of graffiti (24 hours) because we feel this is an impossible and impractical time frame, though the requirement to remove graffiti remains intact; allowing the installation of window film with approval from the Architectural Committee.

We look forward to your active engagement in this voting process and are hopeful the community will agree that these Amendments allow us to live more flexibly in our community and align more accurately with our reality.

Please mark your calendar for the Town Hall scheduled for June 13 at 7:45pm. and ballot submission.

BALLOT SUBMISSIONS ARE DUE BY JULY 25th!!!

See you around the neighborhood,

The Riverdale HOA Board



To the Members of the Riverdale Homeowners Association:

The Riverdale Homeowners Association Board of Directors (the “Board”) has worked the Association’s legal counsel to update the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (“CC&R”) in accordance with the real and practical operation of our Association as it functions today and as desired by the Members of the Association. A summary of the Amendments are detailed below, a copy of the amended sections of the CC&Rs are included and a complete copy of the Amended CC&Rs are available at online for Members review and will be subject to approval by Association Members, defined as the individual(s) listed on the title of the property.

SUGGESTED AMENDMENTS

- ❖ Parking Provision: Allows use of community parking as voted on and as is currently in practice.
 - Allows parking in driveways for Lot’s that have driveways in compliance with laws and ordinances of local government agency(s).
 - Allows alternative use of a garage if the occupants of the home possess fewer vehicles than allowed parking locations on their Lot.
 - Removes existing designation of all common area parking as Guest parking, allows for homeowner usage of the common area parking.
 - Reduces guest parking to the minimum required 33 spaces per code and local government agency(s) to allow for maximum availability to homeowners.
 - Allows Association discretion in the enforcement of guest parking, to render current parking use compliant under the CC&R.
- ❖ Electric Vehicle Energy Systems (“EV Chargers”)
 - Allows for installations of EV Chargers outside the enclosed garage in specific areas, including Exclusive Use Parking Spaces and Conforming Driveways.
 - Installation requests are subject to make and model, with design and location approval by the Design Review Committee.
- ❖ Other Minor Updates
 - General provision updates by the community’s counsel to reflect relevant changes in law.
 - General provision updates to reflect real and actual operations of the community, such as:
 - Removal of timing requirement (24 hours) for removal of graffiti due to impracticality, however the requirement to remove graffiti remains.
 - Allows for window films with Architectural Committee approval.
 - Reduces the requirement for future changes to the CC&R from 67% of owners to 51% of owners.

VOTING REQUIREMENTS

A minimum of 67% (88 Votes) of the Association Members must approve the amendments in order for the CC&R amendment to pass.

RECORDING REQUESTED BY:

FIRST AMERICAN TITLE COMPANY

WHEN RECORDED, MAIL TO:

JACKSON TIDUS (ADC)
2030 Main Street, Suite 1200
Irvine, CA 92614

(Space Above for Recorder's Use)

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS

AND RESERVATION OF EASEMENTS

FOR

RIVERDALE

NOTE: CERTAIN DISPUTES ARISING UNDER THIS DECLARATION, INCLUDING DISPUTES CONCERNING THE DESIGN OR CONSTRUCTION OF THE COMMUNITY, SHALL BE SUBMITTED TO JUDICIAL REFERENCE OR BINDING ARBITRATION, FORMS OF ALTERNATIVE DISPUTE RESOLUTION, IN ACCORDANCE WITH SECTION 12.4.

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in Government Code Section 12955(p), or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Government Code Section 12956.2. 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.

TABLE OF CONTENTS

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR RIVERDALE

	Page
ARTICLE 1	DEFINITIONS AND INTERPRETATION 2
1.1	Definitions..... 2
1.2	Interpretation 11
ARTICLE 2	MAINTENANCE COVENANTS AND USE RESTRICTIONS 13 ¹⁴
2.1	Repair and Maintenance..... 13
2.2	Single-Family Dwelling 19
2.3	Further Subdivision 19
2.4	Leasing and Rental 19
2.5	Resale 20 ¹⁹
2.6	Business and Commercial Activities 20
2.7	Nuisances 21
2.8	Signs 23 ²²
2.9	Parking and Vehicular Restrictions..... 24 ²³
2.10	Animal Regulations..... 26 ²⁵
2.11	Antenna and Satellite Dish Restrictions..... 27 ²⁶
2.12	Waste Container Placement and Parking Restriction Plan 28 ²⁷
2.13	Owner-Installed Improvements..... 29 ²⁸
2.14	Mechanics' Liens 30 ²⁹
2.15	Drainage 31 ³⁰
2.16	Water Supply System..... 32 ³¹
2.17	View Obstructions..... 32 ³¹
2.18	Solar Energy Systems 32 ³¹
2.19	Rights of Disabled..... 32 ³¹
2.20	Temporary Buildings 32 ³¹
2.21	Prohibited Residential Uses 32 ³¹
2.22	Barbed Wire Prohibited..... 32 ³¹
2.23	Graffiti Removal 33 ³¹
2.24	Common Property 33 ³¹
2.25	Mineral Exploration and Extraction..... 33 ³¹
2.26	Post-Tension Concrete Slabs..... 33 ³²
2.27	Easements..... 33 ³²
ARTICLE 3	DISCLOSURES 33 ³²
3.1	No Representations or Warranties 34 ³²
3.2	Access Facilities..... 34 ³³
3.3	Security and Privacy Disclaimer 34 ³³
3.4	Soil Conditions..... 34 ³³
3.5	Electric Power Lines 35 ³⁴

TABLE OF CONTENTS
(continued)

		Page
3.6	Property Lines	<u>3635</u>
3.7	Utility Improvements	<u>3635</u>
3.8	Mold	<u>3735</u>
3.9	Masonry Retaining Walls.....	<u>3736</u>
3.10	Change in Plans.....	<u>3836</u>
3.11	No Enhanced Protection Agreement.....	<u>3836</u>
3.12	Additional Provisions; Future Enforceability	<u>3837</u>
ARTICLE 4	THE ASSOCIATION	<u>3837</u>
4.1	General Duties and Powers	<u>3837</u>
4.2	Specific Duties and Powers.....	<u>3837</u>
4.3	Standard of Care, Non-Liability.....	<u>4443</u>
4.4	Membership	<u>4645</u>
4.5	Voting Rights	<u>4746</u>
ARTICLE 5	DESIGN REVIEW COMMITTEE.....	<u>4847</u>
5.1	Members of Committee.....	<u>4847</u>
5.2	Powers and Duties.....	<u>4948</u>
5.3	Review of Plans and Specifications	<u>4948</u>
5.4	Meetings and Actions of the Design Review Committee	<u>5251</u>
5.5	No Waiver of Future Approvals.....	<u>5352</u>
5.6	Compensation of Members	<u>5352</u>
5.7	Inspection of Work.....	<u>5352</u>
5.8	Variances.....	<u>5453</u>
5.9	Pre-Approvals	<u>5453</u>
5.10	Appeals.....	<u>5453</u>
ARTICLE 6	PROPERTY EASEMENTS AND RIGHTS.....	<u>5453</u>
6.1	Easements.....	<u>5453</u>
6.2	Additional Easements.....	<u>5756</u>
6.3	Delegation of Use.....	<u>5756</u>
6.4	Right of Entry.....	<u>5756</u>
6.5	Sidyard Easements	<u>5857</u>
6.6	Access Over Screen Tree Lots	<u>6059</u>
6.7	Exclusive Use Parking Spaces	<u>6159</u>
ARTICLE 7	ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS	<u>6160</u>
7.1	Personal Obligation to Pay Assessments	<u>6160</u>
7.2	Association Maintenance Funds	<u>6160</u>
7.3	Purpose of Assessments	<u>6160</u>
7.4	Waiver of Use	<u>6260</u>
7.5	Limits on Annual Assessment Increases.....	<u>6260</u>
7.6	Annual Assessments	<u>6362</u>
7.7	Capital Improvement Assessments	<u>6463</u>

TABLE OF CONTENTS
(continued)

		Page
ARTICLE 8	INSURANCE.....	<u>6463</u>
8.1	Duty to Obtain Insurance; Types	<u>6463</u>
8.2	Waiver of Claim Against Association.....	<u>6564</u>
8.3	Right and Duty of Owners to Insure	<u>6664</u>
8.4	Notice of Expiration Requirements.....	<u>6664</u>
8.5	Trustee for Policies	<u>6665</u>
8.6	Actions as Trustee	<u>6665</u>
8.7	Annual Insurance Review	<u>6765</u>
8.8	Required Waiver	<u>6765</u>
ARTICLE 9	DESTRUCTION OF IMPROVEMENTS	<u>6766</u>
9.1	Restoration of the Community	<u>6766</u>
9.2	Damage to Residences-Reconstruction.....	<u>6867</u>
9.3	Interior Damage	<u>6867</u>
9.4	Notice to Owners and First Mortgagees	<u>6867</u>
ARTICLE 10	EMINENT DOMAIN	<u>6967</u>
10.1	Condemnation of Common Area	<u>6967</u>
10.2	Condemnation of Lots.....	<u>6967</u>
10.3	Condemnation of Exclusive Use Parking Spaces	<u>6968</u>
10.4	Notice to Owners and First Mortgagees	<u>6968</u>
ARTICLE 11	RIGHTS OF MORTGAGEES	<u>6968</u>
11.1	General Protections	<u>6968</u>
11.2	Additional Rights	<u>6968</u>
ARTICLE 12	ENFORCEMENT AND DISPUTE RESOLUTION	<u>7169</u>
12.1	Enforcement of Governing Documents	<u>7169</u>
12.2	Delinquent Assessments	<u>7271</u>
12.3	Enforcement of Bonded Obligations.....	<u>7776</u>
12.4	Disputes with Declarant Parties	<u>7876</u>
12.5	Limitation Upon Amendments.....	<u>8583</u>
ARTICLE 13	DURATION AND AMENDMENT	<u>8584</u>
13.1	Duration.....	<u>8584</u>
13.2	Termination and Amendment	<u>8584</u>
ARTICLE 14	GENERAL PROVISIONS	<u>8786</u>
14.1	Mergers or Consolidations	<u>8786</u>
14.2	No Public Right or Dedication.....	<u>8886</u>
14.3	Notices.....	<u>8886</u>
14.4	Constructive Notice and Acceptance	<u>8887</u>
ARTICLE 15	DECLARANT’S RIGHTS AND RESERVATIONS.....	<u>8887</u>
15.1	Construction Rights.....	<u>8887</u>
15.2	Sales and Marketing Rights	<u>8987</u>
15.3	Creating Additional Easements.....	<u>8988</u>

TABLE OF CONTENTS

(continued)

	Page
15.4 Architectural Rights	<u>9088</u>
15.5 Declarant Exemption.....	<u>9089</u>
15.6 Assignment of Rights.....	<u>9089</u>
15.7 Amendment.....	<u>9089</u>
15.8 Power of Attorney	<u>9089</u>
15.9 Participation in Association	<u>9189</u>
15.10 Declarant Approval of Actions	<u>9190</u>
15.11 Marketing Name.....	<u>9290</u>
ARTICLE 16 ANNEXATION OF ADDITIONAL PROPERTY	<u>9290</u>
16.1 Additions by Declarant	<u>9291</u>
16.2 Other Additions.....	<u>9291</u>
16.3 Rights and Obligations-Added Territory	<u>9291</u>
16.4 Notice of Addition.....	<u>9291</u>
16.5 De-Annexation and Amendment.....	<u>9391</u>

SUBORDINATION

EXHIBIT A LEGAL DESCRIPTION OF ANNEXABLE TERRITORY

EXHIBIT B ARTICLES OF INCORPORATION OF THE ASSOCIATION

EXHIBIT C BYLAWS OF THE ASSOCIATION

EXHIBIT D APPROXIMATE LOCATIONS OF ASSOCIATION MAINTENANCE
AREAS IN PHASE 1

EXHIBIT E APPROXIMATE LOCATIONS OF COMMUNITY WALLS IN PHASE 1

EXHIBIT F APPROXIMATE LOCATION OF SHARED DRIVE ASSOCIATION
MAINTENANCE AREAS IN PHASE 1

EXHIBIT G APPROXIMATE LOCATIONS OF SIDEYARD
EASEMENTS IN PHASE 1

EXHIBIT H APPROVED WASTE CONTAINER COLLECTION LOCATIONS AND
RESTRICTED GUEST PARKING SPACES IN PHASE 1

EXHIBIT I EXCLUSIVE USE PARKING SPACES IN PHASE 1

1.1.19 **Common Expenses.** Common Expenses means those expenses for which the Association is responsible under this Declaration. Common Expenses include the actual and estimated costs of and reserves for maintaining, managing and operating the Common Property (including amounts incurred for maintenance imposed on the Association by this Declaration), including:

(a) The cost of services benefitting the Common Area and Improvements thereon, including landscape and irrigation system maintenance, street sweeping, janitorial services, and pool and spa maintenance;

(b) The cost of services benefitting the Association Maintenance Areas, including landscaping service, street sweeping, irrigation system maintenance, and brush clearance;

(c) Replacement, maintenance and operation of street lights within the Community;

(d) The cost of all utilities (including water, sewer and electricity) and mechanical and electrical equipment serving the Common Property, and trash collection and removal from central receptacles;

(e) The costs associated with graffiti removal from all Community Walls ~~within twenty four (24) hours of discovery;~~

(f) The costs and fees attributable to managing and administering the Association, compensating the Manager, accountants, attorneys and employees, all insurance covering the Community and the Directors, officers and agents of the Association, and bonding the members of the Board;

(g) The cost to repair damage to public utility Improvements if caused by the Association during installation, maintenance or repair of private utility Improvements;

(h) The cost of performing and maintaining BMPs in the Common Property;

(i) Unpaid Special Assessments, Reconstruction Assessments and Capital Improvement Assessments;

(j) Taxes paid by the Association;

(k) Amounts paid by the Association for discharge of any lien or encumbrance levied against the Community; and

(l) All other expenses incurred by the Association for the Community, for the common benefit of the Owners.

1.1.20 **Common Property.** Common Property means the Common Area, the Association Maintenance Areas and the Improvements constructed thereon. Any references to the Common Property are references to the Common Property as a whole and to portions thereof.

1.1.21 **Community.** Community means (a) Phase 1, and (b) each Phase described in a Notice of Addition. The Community is a “common interest development” and a “planned development” as defined in the CID Act. Any references in this Declaration to the Community are references to the Community as a whole and to portions thereof. The Community is planned to consist of one hundred and thirty-one (131) individual Lots for single family dwellings.

1.1.22 **Community Wall.** Community Wall means any wall, retaining wall, or other fence in the Community that is maintained entirely or partially by the Association. Party Walls and other fences or walls that are maintained entirely by the Owners are not Community Walls. The Community Walls in Phase 1 are depicted on *Exhibit D*; however, the obligation to maintain the Community Walls in a particular Phase will not arise until the commencement of Annual Assessments in that Phase or as otherwise directed in this Declaration, or in a Notice of Addition or Supplemental Declaration. Declarant may designate additional Community Walls in a Notice of Addition or Supplemental Declaration. Community Walls in the Community in general (a) are constructed on or along a tract boundary; or (b) separate a Lot from Common Area or public property; or (c) are constructed entirely within Common Area; or (d) are designated as a Community Wall by Declarant in this Declaration, or in a Notice of Addition or Supplemental Declaration. Party Walls are not Community Walls.

1.1.23 **Conforming Driveway.** Conforming driveway shall mean, the driveways of Lot #31, #35, #82, #98 and those driveways within the Common Area of the Community that are in compliance with the laws and ordinances of Local Government Agency(s) governing the definition of a driveway.

1.1.231.1.24 **County.** County means Los Angeles County, California, and its various departments, divisions, employees and representatives.

1.1.241.1.25 **Declarant.** Declarant means RIVERWALK 131 GROUP, LLC, a Delaware limited liability company, its successors and any Person to which it shall have assigned any of its rights by an express written assignment. As used in this Section, “successor” means a Person who acquires Declarant or substantially all of Declarant’s assets by sale, merger, reverse merger, consolidation, sale of stock or assets, operation of law or otherwise. Declarant shall determine in its sole discretion the time, place and manner in which it discharges its obligations and exercises the rights reserved to it under this Declaration. Declarant is a “builder” as described in California Civil Code Section 6000.

1.1.251.1.26 **Declaration.** Declaration means this instrument as currently in effect.

1.1.261.1.27 **Design Guidelines.** Design Guidelines mean the rules or guidelines setting forth procedures and standards for submission of plans for Design Review Committee approval.

1.1.271.1.28 **Design Review Committee or Committee.** Design Review Committee or Committee means the Design Review Committee created in accordance with Article 5.

1.1.281.1.29 **Exclusive Use Parking Space.** Exclusive Use Parking Space means those portions of the Shared Drives over which exclusive easements are reserved for the benefit of specified Owners for parking purposes. The Exclusive Use Parking Spaces which are appurtenant to Lots in Phase 1 are assigned and their approximate locations depicted in *Exhibit I*; however, the as-built location of the Improvements constituting the Exclusive Use Parking Spaces shall control. Declarant may designate additional Exclusive Use Parking Spaces in a Notice of Addition or Supplemental Declaration.

1.1.291.1.30 **Family.** Family means natural individuals, related or not, who live as a single household in a Residence.

1.1.301.1.31 **Fannie Mae.** Fannie Mae means the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968 and its successors.

1.1.311.1.32 **FHA.** FHA means the Federal Housing Administration of the United States Department of Housing and Urban Development and its successors.

1.1.321.1.33 **FHFA.** FHFA means the Federal Housing Finance Agency, established pursuant to the Housing and Economic Recovery Act of 2008.

1.1.331.1.34 **First Mortgage.** First Mortgage means a Mortgage with first priority over other Mortgages on a Lot.

1.1.341.1.35 **First Mortgagee.** First Mortgagee means the Mortgagee of a First Mortgage.

1.1.351.1.36 **Fiscal Year.** Fiscal Year means the fiscal accounting and reporting period of the Association.

1.1.361.1.37 **Freddie Mac.** Freddie Mac means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970 and its successors.

1.1.371.1.38 **Ginnie Mae.** Ginnie Mae means the Government National Mortgage Association administered by the United States Department of Housing and Urban Development and its successors.

1.1.381.1.39 **Governing Documents.** Governing Documents means this Declaration, the Articles of Incorporation, Bylaws, Design Guidelines, Rules and Regulations, Supplemental Declarations and Notices of Addition.

1.1.391.1.40 **Improvement.** Improvement means any structure and any appurtenance thereto. The Design Review Committee may identify additional items that are Improvements.

1.1.401.1.41 **Include, Including.** Whether capitalized or not, include and including means “includes without limitation” and “including without limitation,” respectively.

1.1.411.1.42 **Local Government Agency.** Local Government Agency means the City, County, a public school district, a public water district, and any other local or municipal governmental entity or agency, including any special assessment district, maintenance district or community facilities district.

1.1.421.1.43 **Lot.** Lot means any residential Lot or parcel of land shown on any Recorded subdivision map or Recorded parcel map of the Community, except the Common Area owned in fee simple by the Association.

1.1.431.1.44 **Maintain, Maintenance.** Whether capitalized or not, maintain and maintenance mean “maintain, repair and replace” and “maintenance, repair and replacement,” respectively; provided however, that maintain or maintenance shall not include repair and replace(ment) where the context or specific language of this Declaration provides another meaning.

1.1.441.1.45 **Maintenance Guidelines.** Maintenance Guidelines means any current written guidelines, setting forth procedures and standards for the maintenance and operation of Common Property or the Lots. Maintenance Guidelines may be provided by Declarant, by the Association, or by any governmental agency. Maintenance Guidelines include any maintenance manual initially prepared at Declarant’s direction and containing recommended frequency of inspections and maintenance activities for components of the Common Property or pertaining to a Residence or Lot.

1.1.451.1.46 **Manager.** Manager means the Person retained by the Association to perform management functions of the Association as limited by the Governing Documents and the terms of the agreement between the Association and the Person.

1.1.461.1.47 **Map.** Map means the final subdivision map for Tract No. 72608, as described in Paragraph A of the Preamble of this Declaration.

1.1.471.1.48 **Membership.** Membership means the voting and other rights, privileges, and duties established in the Governing Documents for members of the Association.

1.1.481.1.49 **Mortgage.** Mortgage means any Recorded document, including a deed of trust, by which a Lot, Lots, or Common Area is hypothecated to secure performance of an obligation.

1.1.491.1.50 **Mortgagee.** Mortgagee means a Person to whom a Mortgage is made, or the assignee of the Mortgagee’s rights under the Mortgage by a recorded instrument. For purposes of this Declaration, the term Mortgagee shall include a beneficiary under a deed of trust.

1.501.1.51 **Mortgagor.** Mortgagor means a person who has mortgaged his property. For purposes of this Declaration, the term Mortgagor shall include a trustor under a deed of trust.

1.511.1.52 **Notice and Hearing.** Notice and Hearing means written notice and a hearing before the Board as provided in the Bylaws.

1.521.1.53 **Notice of Addition.** Notice of Addition means an instrument Recorded pursuant to Article 16 to annex additional real property to the Community.

1.531.1.54 **Official Records.** Official Records means the Official Records of the County.

1.541.1.55 **Operating Fund.** Operating Fund means that portion of the Common Expenses allocated for the daily operation of the Association.

1.551.1.56 **Owner.** Owner means the Person or Persons, including Declarant, holding fee simple interest to a Lot. The term “Owner” includes sellers under executory contracts of sale but excludes Mortgagees. The term “Owner” may be expanded in a Supplemental Declaration to include other Persons.

1.561.1.57 **Party Wall.** Party Wall means any wall or fence that is constructed by Declarant to separate adjacent Lots (whether or not constructed on the legal property boundary). Party Walls are not Community Walls.

1.571.1.58 **Person.** Person means a natural individual or any legal entity recognized under California law. When the word “person” is not capitalized, the word refers only to natural persons.

1.581.1.59 **Phase.** Phase means each of the following: (a) Phase 1, (b) all the real property covered by a Notice of Addition for which a Public Report has been issued by the BRE, and (c) real property consisting solely of Common Area as described in a Notice of Addition. Declarant may otherwise define the term “Phase” in a Notice of Addition or Supplemental Declaration.

1.591.1.60 **Phase 1.** Phase 1 means all of the real property described in Paragraph A of the Preamble of this Declaration.

1.601.1.61 **Public Report.** Public Report means a Final Subdivision Public Report issued by the BRE.

1.611.1.62 **Reconstruction Assessment.** Reconstruction Assessment means a charge levied against the Owners and their Lots representing their share of the Association’s extraordinary expense to repair or reconstruct Common Property as provided in California Civil Code Section 5610. Such charge shall be levied among all Owners and their Lots in the same proportions as Annual Assessments. Reconstruction Assessments are “special assessments” as described in California Civil Code Section 5605(b).

1.1.621.1.63 **Record or File.** Record or File means, with respect to any document, the entry of such document in Official Records.

1.1.631.1.64 **Reserve Fund.** Reserve Fund means that portion of the Common Expenses allocated for the future repair and replacement of, or additions to, structural elements, mechanical equipment and other major components of Association-maintained Improvements.

1.1.641.1.65 **Residence.** Residence means the dwelling unit constructed on a Lot, excluding the garage area, which is designed and intended for use and occupancy as a residence by a single Family.

1.1.651.1.66 **Right to Repair Law.** Right to Repair Law means Division 2, Part 2, Title 7 (commencing with Section 895) of the California Civil Code.

1.1.661.1.67 **Right to Repair Law Claim.** Right to Repair Law Claim means any claim brought by one or more Owners or by the Association against one or more Declarant Parties (as defined in Section 12.4) on any design or construction defect matters that are governed by the Right to Repair Law.

1.1.671.1.68 **Rules and Regulations.** Rules and Regulations or “Rules” means the current rules and regulations for the Community.

1.1.681.1.69 **Screen Trees.** Screen Trees means the Declarant installed screen trees located within Association Maintenance Areas as well as the Declarant installed screen trees located within the fenced yards of the Screen Tree Lots, which Screen Trees are located along the northern perimeter of the Community and screen the Community from the adjacent residential areas located to the north of the Community.

1.1.691.1.70 **Screen Tree Lots.** Screen Tree Lots means Lots 62, 63, 68, 69, 74, 75, and 78 to 81, inclusive, of Tract No. 72608, as shown on the Map.

1.1.701.1.71 **Shared Drives.** Shared Drives mean the asphalt, concrete pavers, enhanced pavers, and other street Improvements located within portions of Lots in the Community. Shared Drives include the main arterial loop road as well as the drives shown and described as “Private Access” on the Map. The actual locations and dimensions of the Shared Drives shall be defined by the physical locations of the Improvements as built by Declarant or rebuilt substantially in accordance with the original plans (if available).

1.1.711.1.72 **Sidyard Affected Lot.** Sidyard Affected Lot means a Lot on which a Sidyard Easement has been reserved by Declarant for the benefit of a Sidyard Benefited Lot.

1.1.721.1.73 **Sidyard Benefited Lot.** Sidyard Benefited Lot means a Lot that is benefited by an appurtenant Sidyard Easement reserved by Declarant over a Sidyard Affected Lot.

1.1.731.1.74 **Sidyard Easement.** Sidyard Easement means a portion of a Sidyard Affected Lot over which Declarant has reserved nonexclusive easements for sidyard

purposes (as further described in Section 6.5) for the benefit of and appurtenant to an adjacent Sideyard Benefited Lot. The Sideyard Easements in Phase 1 are reserved in this Declaration and their approximate locations are shown for reference purposes on *Exhibit G*. The Sideyard Easements in future Phases, if any, shall be depicted on an Exhibit attached to the applicable Notice of Addition or Supplemental Declaration. The actual locations and dimensions of the Sideyard Easements shall be defined by the physical locations of the Improvements as built by Declarant or rebuilt substantially in accordance with the original plans (if available).

1.1.741.1.75 **Special Assessment.** Special Assessment means (a) a reasonable monetary penalty imposed against an Owner and the Owner's Lot as a disciplinary measure for the failure of an Owner to comply with the Governing Documents in accordance with California Civil Code Section 5725(b); or (b) a monetary charge imposed against an Owner and the Owner's Lot to recover costs incurred by the Association in the repair of damage to Common Property caused by the Owner or the Owner's Family, contractors, residents, tenants or guests in accordance with California Civil Code Section 5725(a), all as further described in the CID Act and this Declaration; or (c) a Capital Improvement Assessment; or (d) an Assessment imposed to pay an extraordinary expense as defined in California Civil Code Section 5610.

1.1.751.1.76 **Supplemental Declaration.** Supplemental Declaration means an instrument Recorded by Declarant against all or a portion of the Community in order to supplement, modify, or clarify conditions, covenants, restrictions or easements established under this Declaration. A Supplemental Declaration may affect one or more Lots and Common Area, and it may annex additional real property to the coverage of the Declaration so long as it satisfies the requirements of a Notice of Addition in Article 16. A Supplemental Declaration may modify this Declaration only as it applies to the property encumbered by the Supplemental Declaration.

1.1.761.1.77 **Telecommunications Facilities.** Telecommunications Facilities means Improvements constructed in the Community, including cables, conduits, ducts, vaults, connecting hardware, wires, poles, transmitters, towers, antennae and other devices now existing or that may be developed in the future to provide Telecommunication Services to the Community.

1.1.771.1.78 **Telecommunications Services.** Telecommunications Services means the reception, distribution or transmission of video, audio, data, telephony, all related vertical services, and any other similar services now existing or that may be developed in the future. Declarant may expand this definition in any Supplemental Declaration.

1.1.781.1.79 **VA.** VA means the Department of Veterans Affairs of the United States of America and any department or agency of the United States government which succeeds to the VA's function of issuing guarantees of notes secured by Mortgages on residential real estate.

1.2 INTERPRETATION.

1.2.1 **General Rules.** This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for subdividing, maintaining, improving and selling the Community. As used in this Declaration, the singular includes the plural and the

maintenance of such Screen Trees on the Owner's behalf and, after Notice and Hearing, levy a Special Assessment against such Owner for the costs associated with maintaining such Screen Trees.

(viii) Exterior Street Lights. The Residences in the Community are equipped with an outdoor light (or lights) on an automatic (photocell-activated) timer for the purpose of illuminating the adjacent Shared Drive and other exterior areas of the Community (each an ***“Exterior Light”***). Each Owner must maintain the Exterior Light in good condition and repair, including without limitation the replacement of lights bulbs and maintenance of the automatic timer and all related equipment. Any replacement of the Exterior Light by an Owner must be in compliance with the Design Guidelines of the Association. The Association has the right, but not the obligation, to enter the Lot of any Owner who fails to properly maintain their Exterior Light to perform required maintenance and, after Notice and Hearing, may charge the Owner a Special Assessment for the cost of such maintenance. In furtherance thereof, Declarant reserves and grants for the benefit of the Association a nonexclusive easement over each Lot in the Community for access, ingress and egress, maintenance, repair and replacement of the Exterior Light(s) on any Residence.

(ix) Exclusive Use Parking Spaces. Each Exclusive Use Parking Space shall be held as an exclusive use easement appurtenant to the Lot to which it is assigned and it will run with the Lot for the benefit of the Owner and the future Owners of the Lot. The Owner of an Exclusive Use Parking Space shall maintain the Exclusive Use Parking Space in a neat and clean condition and, other than the parking of an Authorized Vehicle, shall not store any person property within the Exclusive Use Parking Space. No Person may install or construct any Improvement within an Exclusive Use Parking Space that would impede or prohibit the parking of an Authorized Vehicle in an Exclusive Use Parking Space.

(x) Other Responsibilities.

(1) Each Owner shall regularly inspect the Improvements on the Lot for wood-destroying pests, and if such pests are found, the Owner shall be responsible for the costs of eradication and future prevention.

(2) Each Owner shall be solely responsible for replacement of the key and locking mechanism on the Owner's mailbox within the Community mailbox cluster.

(3) Each Owner whose Lot utilizes a sewer system lateral is responsible for the maintenance and repair of the portion of the lateral lying in the boundaries of the Lot.

~~(3)(4) Each Owner whose Lot utilizes a sewer system lateral is responsible for the maintenance and repair of the portion of the lateral lying in the boundaries of the Lot.~~ Each Conforming Driveway shall be held as an exclusive use easement appurtenant to the Lot which it resides on and it will run with the Lot for the benefit of the Owner and the future Owners of the Lot. The Owner of a Conforming Driveway shall maintain

the Conforming Driveway in a neat and clean condition and, other than parking of an Authorized Vehicle, shall not store any personal property within the Conforming Driveway. No Person may install or construct any Improvement within an Exclusive Use Parking Space that would impede or prohibit the parking of an Authorized Vehicle in a Conforming Driveway.

2.1.2 **By Association.** The Association shall maintain everything it is obligated to maintain in a clean, sanitary and attractive condition reasonably consistent with the level and frequency of maintenance reflected in the current adopted Budget; provided, however, that the Association shall at all times at least perform the level and frequency of maintenance specified in the applicable Maintenance Guidelines.

(a) ***Commencement of Obligations.*** The Association's obligation to maintain the Common Property in a Phase composed solely of Common Property shall commence on conveyance of such Common Property to the Association either in fee or by maintenance easement, unless the terms of the Notice of Addition or Supplemental Declaration applicable to the Common Property provide otherwise. The Association's obligation to maintain the Common Property in any Phase that includes Lots commences on the date on which Annual Assessments commence on the Lots in the Phase, unless the terms of the Notice of Addition or Supplemental Declaration applicable to the Common Property provide otherwise. Until the Association is responsible for maintaining the Common Property, Declarant shall maintain such Common Property.

(b) ***Acceptance of Common Property.*** The Association must accept ownership of and/or maintenance responsibility for each portion of Common Property when title and/or maintenance responsibility are tendered by Declarant, whether in fee simple, by easement or otherwise, and the Association shall execute each deed and any accompanying escrow instructions if requested to do so by Declarant, and it shall execute any bond exonerations when presented if the bonded obligations are satisfied. No Owner shall interfere with the exercise of the foregoing obligations by the Association, or with the rights or obligations of Declarant.

(c) ***Maintenance Requirements for Certain Improvements.*** Unless specifically provided in any Maintenance Guidelines, the Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Property. The Association shall be responsible for maintaining the Common Property and for all other maintenance not provided by the Owners pursuant to Section 2.1.1 above or by a Local Government Agency.

(i) **Landscaping.** All Association-maintained landscaping that is visible from Lots or from the Common Area shall be properly maintained, evenly cut, evenly edged, free of bare or brown spots, debris and weeds above the level of the lawn. All trees and shrubs shall be trimmed so they do not impede pedestrian traffic along the walkways. All trees shall also be root-pruned to eliminate exposed surface roots and damage to sidewalks, driveways and structures.

(ii) **Community Wall.** The Association is responsible for maintaining the Association Maintenance Area portions of the Community Walls described in

Association's insurance or for which no claim has been made, and (c) the amount of the increase in premiums payable by the Association, to the extent the increase is directly caused by damage that was attributed to the Owner or the Owner's Family, tenants or invitees. In accordance with the CID Act, the Association shall have the power to impose a lien for the foregoing Special Assessment. If a Lot is jointly owned, the liability of its Owners for damage to Common Property is joint and several, except to the extent that the Association and the joint Owners have otherwise agreed in writing.

2.1.6 Stormwater Pollutant Control. The Community is subject to all federal, state and local requirements of the National Pollutant Discharge Elimination System ("**NPDES**"), adopted in accordance with the Federal Clean Water Act. In 1999, the California State Water Resources Control Board ("**SWRCB**") enacted a new statewide General Permit for Storm Water Discharges Associated with Construction Activity ("**General Permit**"). The General Permit imposes a comprehensive series of requirements on developers and builders to file a Storm Water Pollution Prevention Plan ("**SWPPP**") with the Regional Water Quality Control Board. The SWPPP includes BMPs that are intended to mitigate runoff of silt and pollutants from the Community into storm drains. Some BMPs apply to activities undertaken by the Association and Owners, and the Association and the Owners are required to comply with the applicable BMPs. The SWPPP includes specific maintenance schedules for post-construction operation of the BMPs that may impose long-term maintenance obligations on the Association and each Owner in the Community. No Owner whose Lot contains any drainage Improvements shall permit interference with or damage to same, and neither the Association nor any Owner shall do any act which shall contribute to the introduction of pollutants into the drainage Improvements, including, but not limited to, soil, sand, sediment, oil, gasoline or other hydrocarbons, paint, fertilizers, pool chemicals, and other household chemicals. The BMPs are in addition to any local ordinances established by the City and County and any Rules and Regulations imposed by the Association with regard to discharge of non-storm water into storm drains.

2.2 SINGLE-FAMILY DWELLING. The Residence shall be used as a residential dwelling for a single Family and for no other purpose.

2.3 FURTHER SUBDIVISION. Except as otherwise provided in this Declaration, no Owner may physically or legally subdivide the Owner's Lot in any manner, including, [without limitation](#), dividing such Owner's Lot into [multiple Lots](#), time-share estates or time-share uses. This provision does not limit the right of an Owner to rent or lease the Lot pursuant to Section 2.4 below.

2.4 LEASING AND RENTAL.

2.4.1 Leasing or Rental to Declarant. Nothing in this Declaration shall be deemed to prevent an Owner from leasing or renting the Lot to Declarant for use as sales offices, model home, parking area or for other residential or non-residential purposes. Declarant may not lease any portion of the Common Area to the Owners or the Association.

2.4.2 Leasing or Rental to Non-Declarant Parties. Nothing in this Declaration shall be deemed to prevent an Owner from leasing or renting the Lot for residential

(e) The provision of family home child care services as defined in California Health and Safety Code Section 1597.40, *et seq.*, so long as such services comply with all applicable state and local laws, including licensing, inspection and zoning requirements. Provided, however, that the Association has the power to limit or prohibit use of recreational facilities and other common amenities in the Common Area by clientele of the business;

(f) Small home-based service businesses that comply with all of the following:

(i) The operator of the business lives in the Residence on a permanent, full-time basis;

(ii) When conducted in the Community, business activities take place solely inside the Residence;

(iii) The business does not generate in-person visits by suppliers or clientele;

(iv) The business complies with all laws, regulations and ordinances applicable to the Community, including zoning, health and licensing requirements;

(v) The business otherwise complies with the Declaration and is consistent with the residential character of the Community;

(vi) The operator of the business posts no business-related signage anywhere in the Community;

(vii) There is no visible evidence in the Community of the business;

(viii) The business does not generate noise or odors that are apparent outside the Residence; and

(ix) The business does not increase the Association's liability or casualty insurance obligation or premium.

(g) Other activities that have been determined by governmental authorities to be consistent with the single-family residential uses in the Community, including, for example, residential care facilities that are operated in accordance with California Health and Safety Code Section 1566.5.

2.7 **NUISANCES.** Noxious or offensive activities are prohibited in the Community and on any street abutting or visible from the Community. The Board, [in its sole and exclusive discretion, exercising prudent business judgement](#), is entitled to determine if any device, noise, odor, or activity constitutes a nuisance.

2.9 PARKING AND VEHICULAR RESTRICTIONS.

2.9.1 **Definitions.** The following definitions shall apply to parking and vehicular restrictions set forth in this Declaration:

2.9.2 **Authorized Vehicle.** An “Authorized Vehicle” is an automobile, a passenger van designed to accommodate ten (10) or fewer people, a motorcycle, or a pickup truck having a manufacturer’s rating or payload capacity of one (1) ton or less. The Association has the power to identify additional vehicles as Authorized Vehicles in the Rules and Regulations in order to adapt this restriction to other types of vehicles that are not listed above.

2.9.3 **Restricted Vehicles.** The following vehicles are “Restricted Vehicles:” (a) large commercial-type vehicles (for example, stake bed trucks, tank trucks, dump trucks, step vans, and concrete trucks), (b) buses, limousines or vans designed to accommodate more than ten (10) people, (c) inoperable vehicles or parts of vehicles, (d) aircraft, (e) boats, jet skis and other water craft, (f) trailers (for example, trailers designed for horses, boats, motorcycles or other equipment or materials), (g) motor homes and recreational vehicles (for example, fifth-wheels, folding camping trailers, travel trailers, but not including van conversions and truck campers), (h) any vehicle or vehicular equipment deemed a nuisance by the Association, and (i) any other vehicle that is not classified as an Authorized Vehicle. If a vehicle qualifies as both an Authorized Vehicle and a Restricted Vehicle, then the vehicle is presumed to be a Restricted Vehicle, unless the vehicle is expressly authorized in writing by the Association. The Association has the power to identify additional vehicles as Restricted Vehicles in the Rules and Regulations to adapt this restriction to other types of vehicles that are not listed above.

2.9.4 **Parking Restrictions.**

(a) **Restricted Vehicles.** No Restricted Vehicle may be parked, stored or kept in the Community except for periods of two (2) hours or less in any 24-hour period during loading, unloading, or emergency repairs. However, a resident may park a Restricted Vehicle in a garage so long as the garage is kept closed and the presence of the Restricted Vehicle does not prevent at least one (1) Authorized Vehicle from being parked in the garage at the same time.

(b) **No Driveway Parking.** No Person shall park any vehicle in the driveway of a Residence except for the Owner, and each Owner’s Family, tenants and invitees of Lot possessing a Conforming Driveway.

(c) **Garage Parking.** A minimum of two (2) garage parking spaces shall be permanently maintained as parking facilities for each Residence in the Community. Each Owner shall at all times ensure that the garage physically accommodates at least the number of Authorized Vehicles for which it was originally constructed by Declarant. The garages shall be used for parking of vehicles and storage of personal property only. A garage may only accommodate less than the number of Authorized Vehicles for which it was originally constructed by Declarant, if the Owner, and each Owner’s Family and tenants possess less than or equal to the number of Authorized Vehicles that can be parked, as defined within the Governing Documents, within a Lot taking into consideration the reduction in garage

accommodation. No garage may be used for any dwelling, commercial, recreational, or other purpose. Garage doors must be kept closed except as necessary for entry or exit of vehicles or Persons. Parking spaces within the garage are to be used exclusively by the residents of the single family Residence located on the Lot, and may not be leased, subleased, rented or sold to third-parties.

2.9.5 **Repair, Maintenance and Restoration.** No Person may repair, maintain or restore any vehicle in the Community, unless the work is conducted in the garage with the garage door closed. However, no Person may carry on in any portion of the Community any vehicle repair, maintenance or restoration business.

2.9.6 **Enforcement.** The Board has the right and power to enforce all parking and vehicle use regulations applicable to the Community, including the removal of violating vehicles from the Shared Drives, Common Area streets and other portions of the Community in accordance with California Vehicle Code Section 22658 or other applicable laws. The City may, but is not required to, enforce such restrictions, rules and regulations, in addition to applicable laws and ordinances.

2.9.7 **Regulation and Restriction by Board.** The Board has the power to: (a) establish additional rules and regulations concerning parking in the Shared Drives and Common Area streets, including designating “parking,” “guest parking,” and “no parking” areas; (b) prohibit any vehicle parking, operation, repair, maintenance or restoration activity in the Community if it determines in its sole discretion that the activity is a nuisance; and (c) promulgate rules and regulations concerning vehicles and parking in the Community as it deems necessary and desirable.

2.9.8 **Shared Drives.** The Lots in the Community are served by Shared Drives which traverse portions of adjacent Lots. Each Lot shall have an appurtenant, reciprocal, nonexclusive easement over the other Lots encumbered by the Shared Drives for pedestrian and vehicular access over the Shared Drives as necessary for access, ingress and egress purposes. By acceptance of a deed to a Lot in the Community, each Owner understands and acknowledges that the Shared Drives in the Community are to be used for access to and from Residences and guest parking. No Shared Drive in the Community may be used for storage of personal property. No Owner shall unreasonably interfere with another Owner’s exercise of a Shared Drive easement, and no Owner shall impede or cause to be impeded any other Owner’s use of the Shared Drives pursuant to this Section.

2.9.9 **Guest Parking Spaces.** Guest parking spaces located within the Shared Drives and Common Area streets (collectively, “**Guest Parking Spaces**”) are for temporary, short-term use by invitees of residents only. A minimum of forty (40) The lessor of thirty-three (33), or the requirements of any local Government Agency, Guest Parking Spaces shall be maintained at all times within the portion of the Shared Drive designated as “Private Driveway and Fire Access Lane” on the Map, and these Guest Parking Spaces shall at all times be reserved solely for visitors and shall not be used by residents of the Community. Guest Parking Spaces are ~~unreserved and unassigned, and they are~~ available on a strict first-come-first-

served basis. However, the spaces shall not be used for long-term parking (more than 72 hours in any seven day period) or for the long-term or permanent storage of any vehicle or other personal property without prior written Board approval. The Board may, but is not required to, administrate Guest Parking Spaces in it's sole and exclusive discretion, exercising prudent business judgement. The Board may, but is not required to, impose additional restrictions on the Guest Parking Spaces within the Community.

2.9.10 Exclusive Use Parking Space Restrictions. The right to use an Exclusive Use Parking Space is exclusive to the Owner of the Lot to which the Exclusive Use Parking Space is assigned. No other Person may use an Exclusive Use Parking Space without the permission of the Owner of the Exclusive Use Parking Space. Furthermore, Exclusive Use Parking Spaces are for parking of Authorized Vehicles only. No vehicle repair (except in emergencies) or other activities may be undertaken in any Exclusive Use Parking Space. Each Owner of an Exclusive Use Parking Space shall keep the interior area of the Exclusive Use Parking Space clean and in good order. No Person may store in any Exclusive Use Parking Space any explosives or other hazardous materials (including any materials listed in Title 42 U.S.C. Section 9601, *et seq.*, Title 49 U.S.C. 1801, *et seq.*, Title 15 U.S.C. Section 2601, *et seq.*, or in the regulations adopted pursuant to applicable law). The Association shall have the power and the duty to monitor and approve or disapprove the use and enjoyment of the Exclusive Use Parking Spaces as necessary to the enforcement of this covenant.

2.9.11 Conforming Driveway Restrictions. The right to use a Conforming Driveway is exclusive to the Owner of the Lot to which the Conforming Driveway is located. No other Person may use a Conforming Driveway without the permission of the Owner of the Conforming Driveway. Furthermore, a Conforming Driveway is for parking of Authorized Vehicles only. No vehicle repair (except in emergencies) or other activities may be undertaken in a Conforming Driveway. Each Owner of a Conforming Driveway shall keep the interior area of the Conforming Driveway clean and in good order. No Person may store in any Conforming Driveway any explosives or other hazardous materials (including any materials listed in Title 42 U.S.C. Section 9601, *et seq.*, Title 49 U.S.C. 1801, *et seq.*, Title 15 U.S.C. Section 2601, *et seq.*, or in the regulations adopted pursuant to applicable law). The Association shall have the power and the duty to monitor and approve or disapprove the use and enjoyment of the Conforming Driveway as necessary to the enforcement of this covenant.

2.9.10

2.10 ANIMAL REGULATIONS.

2.10.1 General Restrictions on Numbers and Types of Animals. No commercial or farm livestock, including poultry, may be kept in the Community. Subject to local ordinances and such rules and regulations as may be adopted by the Board, no person may keep more than two (2) dogs or two (2) cats or one (1) dog and one (1) cat on any Lot. In addition to dogs and cats, but subject to local ordinances and such Rules and Regulations as may be adopted by the Board, residents may keep in the Residence reasonable numbers of small household pets that live in containers or cages, including fish and birds, so long as there is no external evidence of their presence in the Community. Notwithstanding the foregoing, no person may bring or keep in the Community any dog that satisfies the definition of "vicious dog" under

“*Waste Container Collection Areas*”) for a reasonable period of time on waste collection days (not to exceed twelve (12) hours before and after scheduled waste collection hours). At all other times, waste containers must be stored in the garage or in a fenced yard area, out of sight of other Lots and Common Area, until scheduled collection times. Declarant may designate additional curbside areas for waste containers in a Notice of Addition or Supplemental Declaration.

2.12.2 **Guest Parking Restrictions.** On designated waste collection days, no Person may park any vehicle in any ~~guest~~-parking space designated as a restricted parking space on *Exhibit H* and/or designated a restricted parking space by any signage maintained by the Association. Any vehicle parked in a restricted ~~guest~~-parking space on waste collection days may be immediately towed without notice. Declarant may designate additional restricted parking spaces in a Notice of Addition or Supplemental Declaration

2.13 OWNER-INSTALLED IMPROVEMENTS.

2.13.1 **Outdoors.** No Person shall install any permanent outdoor Improvements on a Lot if the Improvements are visible from other Lots or the Common Area, without the prior written approval of the Design Review Committee obtained in accordance with Article 5 and the Rules and Regulations. Examples of outdoor Improvements that require prior Committee approval include the following:

(a) Roof-mounted equipment, including heating, ventilation and air conditioning equipment, vents or ducts;

(b) Screening structures that are intended to hide roof-mounted Improvements (such Improvements may be hidden from view only by extension of the main structure);

(c) Modifications to the building exteriors including room additions, second-story additions or other cosmetic or structural changes in the architectural elements of the Residence;

(d) Permanently installed athletic equipment, including freestanding basketball standards, backboards attached to a Residence or any other Improvement on a Lot, soccer goals, hockey goals, skate ramps or other such Improvements. However, portable athletic equipment (such as movable basketball standards, soccer goals, hockey goals and skate ramps) may be used in yards or driveways, but when not in use they must be brought indoors or stored out of the view of streets, other Lots and Common Area;

(e) Sunshades, awnings or patio covers, if visible from other Lots or Common Area;

(f) Accessory structures such as sheds, barns and casitas;

(g) Paint or other surface finishes (unless the paint or finish used is the same as originally used by Declarant on the Improvement or the same as previously approved in writing by the Committee);

(h) Front yard or parkway landscaping and hardscape, including flatwork, fences or walls, or statuary, if visible from other Lots or Common Area; and

(i) Rear yard landscaping and hardscape, including flatwork and fences or walls.

The foregoing list is provided for guidance but it is not intended to be an exhaustive list. The Committee has the power to require prior review and approval of other Improvements that are not listed above. Outdoor patio or lounge furniture, potted plants and portable barbecue equipment may be kept pursuant to the Rules and Regulations.

Persons who intend to install or construct outdoor Improvements on their Lots must consult the Design Review Committee prior to installation to determine if prior review and approval are required. This Section shall not apply to any Improvements installed by Declarant or by the Association, nor shall it apply to maintenance, repair, replacement or reconstruction of existing Improvements by Declarant or by the Association.

2.13.2 Installation of Rear Yard Landscaping. Each Owner shall complete the installation of landscaping on the rear yard of the Lot in accordance with a plan approved by the Design Review Committee no later than six (6) months after the Close of Escrow. Each Owner shall obtain all permits necessary and shall comply with all requirements of the City.

2.13.3 Windows. No Owner or other resident of the Community may apply paint, foil, film, or other reflective material to the glass portion of any window in the Residence, without prior written approval by the Architectural Committee or Board of Directors. This Section shall not be interpreted to prohibit the installation of blinds, shutters, curtains and other similar window coverings. Pending installation of permanent window coverings, Owners may cover windows with white sheets up to thirty (30) days following the Close of Escrow.

2.13.4 Clotheslines and Drying Racks. Clotheslines and drying racks meeting the definitions in California Civil Code Sections 4750.10(a) and (b) may be placed in the fenced rear yard of the Lot. The Association has the power to establish Design Guidelines to minimize the visibility of the clotheslines and drying racks from the Common Area and other Lots so long as they do not effectively prohibit or unreasonably restrict the Owner's ability to use the clothesline or drying rack, and do not significantly increase its cost to use.

2.13.5 Prohibition on Secondary Dwelling Units^[JB1]. To the extent allowed by law, no Owner may install on a Lot, or convert any portion of a Residence into, a secondary or accessory dwelling unit (commonly referred to as a "mother-in-law" unit or "granny flat").

2.13.6 No Liability. Neither the Declarant nor the Association shall be liable or responsible for any damage that results from Improvements installed, constructed or modified by or at the direction of an Owner. Owners are advised to consult and use qualified consultants and contractors when installing, constructing or modifying Improvements on the Owner's Lot.

2.14 MECHANICS' LIENS. No Owner may cause or permit any mechanic's lien to be filed against the Common Property or another Owner's Lot for labor or materials alleged to have been furnished or delivered to such Owner. Any Owner who permits a mechanics' lien to

2.16 **WATER SUPPLY SYSTEM.** No individual water supply, sewage disposal or water softener system is permitted on any Lot unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water district having jurisdiction, the City, County, the Design Review Committee and all other applicable Local Government Agencies with jurisdiction.

2.17 **VIEW OBSTRUCTIONS.** Each Owner acknowledges that (a) there are no protected views in the Community, and no Lot is assured the existence or unobstructed continuation of any particular view, and (b) any construction, landscaping (including the growth of landscaping) or other installation of Improvements by Declarant or other Owners may impair the view from any Lot, and each Owner hereby consents to such view impairment.

2.18 **SOLAR ENERGY SYSTEMS.** In accordance with Civil Code Sections 714 and 714.1, each Owner may install a solar energy system (as defined in California Civil Code Section 801.5), on the Owner's Lot to serve the Owner's domestic needs, so long as (a) the design and location of the solar energy system meet the requirements of all applicable governmental ordinances, and (b) the design and location receive the prior written approval of the Design Review Committee.

2.19 **ELECTRIC VEHICLE ENERGY SYSTEMS.** In accordance with Civil Code Sections _____, each Owner may install an electric vehicle charging station (as defined in California Civil Code Section _____), on the Owner's Lot to serve the Owner's Exclusive Use Parking Space, Conforming Driveway and garage so long as (a) the make/model, design and location of the electric vehicle charging station meet the requirements of all applicable governmental ordinances, and (b) the make/model, design and location receive the prior written approval of the Design Review Committee when serving an Exclusive Use Parking Space or Conforming Driveway. The electric vehicle charging station shall serve the Owner's domestic needs and are to be used exclusively by the residents of the single-family Residence located on the Lot, and may not be leased, subleased, rented or sold to third-parties.

2.192.20 **RIGHTS OF DISABLED.** Subject to Article 5, each Owner may modify such Owner's Residence and the route over the Lot leading to the front door of his Residence, at his sole expense to facilitate access to his Residence by persons who are blind, visually impaired, deaf or physically disabled, or to alter conditions which could be hazardous to such persons, in accordance with California Civil Code Section 4760 or any other applicable law.

2.202.21 **TEMPORARY BUILDINGS.** No outbuilding, tent, shack, shed or other temporary building or Improvement may be placed upon any portion of the Community, either temporarily or permanently, without the prior written consent of the Design Review Committee.

2.212.22 **PROHIBITED RESIDENTIAL USES.** No garage, carport, trailer, camper, motor home, recreational vehicle or other vehicle may be used as a residence in the Community, either temporarily or permanently.

2.222.23 **BARBED WIRE PROHIBITED.** No Person may install any form or barbed wire or razor wire on any Improvement or place such wire anywhere within the Community.

2.23**2.24** **GRAFFITI REMOVAL.** Graffiti shall be removed from any Improvement in the Community by the part responsible for maintaining such Improvement as soon as reasonably practicable~~JB2~~ ~~within twenty four hours of its discovery.~~

2.24**2.25** **COMMON PROPERTY.** The Common Property may not be altered without the Board's prior written consent.

2.25**2.26** **MINERAL EXPLORATION AND EXTRACTION.** No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind may be conducted on the Community, nor are oil wells, tanks, tunnels or mineral excavations or shafts permitted upon the surface of any Lot or within five hundred (500) feet of the surface of the Community. No derrick or other structure designed for use in boring for water, oil, geothermal heat or natural gas may be erected, maintained or permitted on any Lot.

2.26**2.27** **POST-TENSION CONCRETE SLABS.** Concrete slabs for Residences constructed in the Community may be reinforced with a grid of steel cable installed in the concrete slab and then tightened to create extremely high tension. This type of slab is commonly known as a "Post-Tension Slab." Cutting into a Post-Tension Slab for any reason (*e.g.*, to install a floor safe, to remodel plumbing, etc.) is very hazardous and may result in serious damage to the Residence, personal injury, or both. Each Owner shall determine if his Residence has been constructed with a Post-Tension Slab and, if so agrees: (a) Owner shall not cut into or otherwise tamper with the Post-Tension Slab; (b) Owner shall not permit or allow any other Person to cut into or tamper with the Post-Tension Slab so long as Owner owns any interest in the Residence; (c) Owner shall disclose the existence of the Post-Tension Slab to any Person who rents, leases or purchases the Residence from Owner; and (d) Owner shall indemnify and hold Declarant and Declarant's agents, free and harmless from and against any and all claims, damages, losses or other liability (including attorneys' fees and costs of court) arising from any breach of this covenant by Owner.

2.27**2.28** **EASEMENTS.** The ownership interests in the Lots and Common Area are subject to the easements granted and reserved in this Declaration. Each of the easements reserved or granted herein shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Owners, the Association and the Declarant, and each of their respective properties, superior to all other encumbrances applied against or in favor of any portion of the Community. Individual grant deeds to Lots and Common Property may, but shall not be required to, set forth the easements specified in this Article or elsewhere in this Declaration.

ARTICLE 3 DISCLOSURES

This Article discloses information that was obtained from third-party sources such as consultants, government and public records. No Person should rely on the ongoing accuracy or completeness of the information discussed in this Article because many of the matters discussed below are outside the control of Declarant and the Association. Accordingly, Declarant does not make any guarantee as to the accuracy or completeness of the matters disclosed below.

(vi) The Rule complies with the requirements of California Civil Code Section 4350.

(b) **Areas of Regulation.** The Rules and Regulations may concern use of the Community, signs, parking restrictions, minimum standards of property maintenance, and any other matter under the Association's jurisdiction.

(c) **Limits on Regulation.** The Rules and Regulations must apply uniformly to all Owners and must comply with this Declaration and all applicable state and local laws. The rights of Owners to display in or on their Residences religious, holiday and political signs, symbols and decorations of the kinds normally displayed in single family residential neighborhoods shall not be abridged. However, the Association may adopt time, place and manner restrictions for such displays if they are visible outside the Residence. No modification to the Rules and Regulations may require an Owner to dispose of personal property that was in compliance with all rules previously in force; however, this exemption shall apply only during the period of such Owner's ownership of the Lot and it shall not apply to: (i) subsequent Owners who take title to a Lot after the modification is adopted; or (ii) clarifications to the Rules and Regulations.

(d) **Procedure for Adoption, Amendment and Repeal.** Rules or procedures concerning (1) the use of Common Property, (2) the use of a Lot, including any aesthetic standards or Design Guidelines that affect Lots, (3) Owner discipline, including any schedule of monetary penalties for violation of the Governing Documents, (4) any procedure for the imposition of penalties, (5) any standards for delinquent assessment payment plans, (6) any procedures adopted by the Association for resolution of assessment disputes, (7) any procedures for reviewing and approving or disapproving a proposed physical change to a Lot or to the Common Area, and (8) procedures for elections (each, a "**Covered Rule**") may only be adopted, amended or repealed (each, a "**Rule Change**") in accordance with the following procedure:

(i) The Board must provide written notice ("**Notice**") of a proposed Rule Change to the members at least ~~twenty-eight~~^{thirty} (28~~30~~³¹) days before making the Rule Change, except for an Emergency Rule Change (defined below). The Notice must include the text of the proposed Rule Change and a description of the purpose and effect of the proposed Rule Change;

(ii) The decision on a proposed Rule Change shall be made at a Board meeting after consideration of comments made by the members of the Association;

(iii) The Board shall deliver Notice of the Rule Change to every member of the Association within fifteen (15) days of adoption. If the change was an Emergency Rule Change, the Notice shall include the text of the Emergency Rule Change, and the date on which the Emergency Rule Change expires;

(iv) If the Board determines that an immediate Rule Change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the Association, it may make the change on an emergency basis

appoint and remove a majority of the members of the Design Review Committee and fill any vacancy of such majority, until the earlier to occur of (a) Close of Escrow for the sale of ninety percent (90%) of all the Lots in the Community and the Annexable Territory, or (b) the fifth (5th) anniversary of the original issuance of the Public Report for Phase 1, after which the Board may appoint and remove all members of the Design Review Committee. Design Review Committee members appointed by the Board must be Owners, but Design Review Committee members appointed by Declarant need not be Owners. Members of the Board of Directors may serve as Design Review Committee members.

5.2 POWERS AND DUTIES.

5.2.1 **General Powers and Duties.** The Design Review Committee shall consider and act upon all plans and specifications submitted for its approval, including inspection of work in progress to assure conformity with plans approved by the Design Review Committee, and shall perform such other duties as the Board assigns to it.

5.2.2 **Issuance of Standards.** The Design Review Committee shall **annually** issue and update its Design Guidelines and provide notice of any requirements for Committee approval of proposed Improvements. The notice shall describe the types of proposed Improvements that require Committee approval, and it shall include a copy of the procedure used to review and approve or disapprove such proposed Improvements. The Design Guidelines may require a fee to accompany each application for approval, and may identify additional factors which the Design Review Committee will consider in reviewing submissions. The Design Review Committee may provide that fees it imposes be uniform, or that fees be determined in any other reasonable manner. The Design Review Committee may require such detail in plans and specifications submitted for its review as it deems proper, including landscape plans, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors.

5.2.3 **Retaining Consultants.** The Design Review Committee has the power, but not the duty, to retain licensed architects, contractors and other professionals to advise its members in connection with decisions.

5.3 REVIEW OF PLANS AND SPECIFICATIONS.

5.3.1 **Improvements Requiring Approval.** No construction, reconstruction, installation, removal or alteration of any outdoor Improvement on a Lot, including landscaping, Screen Trees, grading, excavation, filling or other alteration to the grade or level of the land, may be commenced by any Owner without prior Design Review Committee approval. However, a Residence may be repainted or refinished without prior Design Review Committee approval so long as the Residence is repainted or refinished with materials that are identical to the materials originally used by Declarant or last applied to the Improvement with Committee approval (as applicable). The provisions of this Article apply to construction, installation and alteration of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Sections 714 and 714.1, the applicable Building Code, zoning regulations, and other laws.

within a period of not more than forty-five (45) days after the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Association may, but is not required to, record a Notice of Noncompliance (if allowed by law), ~~JB4]~~ correct the Noncompliance and charge the Owner for the Association's costs, impose internal disciplinary action (e.g., levy fines, suspend Common Area use privileges, etc. after Notice and Hearing), or commence an action for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

5.8 **VARIANCES.** The Design Review Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or the Design Guidelines including restrictions on height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration require. Variances must be evidenced in writing, must be signed by a majority of the Committee, and become effective on Recordation. After Declarant's right to appoint a majority of the Design Review Committee's members expires, the Board must approve any variance recommended by the Design Review Committee before any such variance becomes effective. If variances are granted, no violation of the covenants, conditions and restrictions in this Declaration shall be deemed to have occurred with respect to the matter for which the variances were granted. The granting of a variance does not waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision of this Declaration covered by the variance, nor does it affect the Owner's obligation to comply with all laws affecting the use of the Owner's Lot. The Committee's written variance shall be Recorded against the Applicant's Lot in the Official Records. The cost of Recording the variance shall be borne solely by the Applicant. No variance shall conflict with local ordinances or any specific plan for the Community without the prior written approval of the City.

5.9 **PRE-APPROVALS.** The Design Review Committee may authorize pre-approval of specified types of construction activities if, in the exercise of the Design Review Committee's judgment, a pre-approval is appropriate to carry out the purposes of the Governing Documents.

5.10 **APPEALS.** If a proposed Improvement is disapproved, the Applicant is entitled to reconsideration by the Board of Directors at an open meeting that satisfies the requirements of Civil Code Section 4900, *et seq.* This paragraph does not require reconsideration of a decision that is made by the Board, or the Design Review Committee if the Committee has the same membership as the Board.

ARTICLE 6 PROPERTY EASEMENTS AND RIGHTS

6.1 EASEMENTS.

6.1.1 **Maintenance and Repair.** Declarant reserves for the benefit of the Association and all Association agents, officers and employees, nonexclusive easements over the Community as necessary to fulfill the obligations and perform the duties of the Association.

6.7 **EXCLUSIVE USE PARKING SPACES.** Declarant reserves for the benefit of specified Owners exclusive easements over the Exclusive Use Parking Spaces for use and enjoyment of such Exclusive Use Parking Spaces pursuant to the terms of this Declaration. The Exclusive Use Parking Spaces shown and assigned to certain Lots in Phase 1 in *Exhibit I* are hereby reserved and granted to the respective Owners of such Lots, in accordance with the assignments described in *Exhibit I*. The foregoing easements shall be subject to the right of the Association and its representatives to enter the Exclusive Use Parking Spaces to carry out Association maintenance and other obligations as further described in the Governing Documents.

6.8 **CONFORMING DRIVEWAY.** Declarant reserves for the benefit of specified Owners of a Lot possessing a Conforming Driveway an exclusive easement over the Conforming Driveway for use and enjoyment of such Conforming Driveway pursuant to terms of this Declaration. The Conforming Driveway of certain Lots in are hereby reserved and granted to the respective Owners of such Lots. The foregoing easements shall be subject to the right of the Association and its representatives to enter the Conforming Driveway to carry out Association maintenance and other obligations as further described in the Governing Documents.

ARTICLE 7 ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

7.1 **PERSONAL OBLIGATION TO PAY ASSESSMENTS.** Each Owner shall pay to the Association all Assessments established and collected pursuant to this Declaration. The Association shall not levy or collect any Assessment that exceeds the amount necessary for the purpose for which it is levied. All Assessments, together with late payment penalties, interest, costs, and reasonable attorney fees for the collection thereof, are a charge and a continuing lien on the Lot against which such Assessment is made. Each Assessment, together with late payment penalties, interest, costs and reasonable attorney fees, is also the personal obligation of the Person who was the Owner of the Lot when the Assessment accrued. The personal obligation for delinquent Assessments may not pass to any new Owner ("**Purchaser**") unless expressly assumed by the Purchaser or unless the Purchaser has actual or constructive knowledge of such delinquent Assessments, whether by virtue of the Recordation of a Notice of Delinquent Assessment or receipt from the Association of a certificate pursuant to California Civil Code Section 4525.

7.2 **ASSOCIATION MAINTENANCE FUNDS.** The Association shall establish no fewer than two (2) separate Association Maintenance Fund accounts into which shall be deposited all money paid to the Association and from which disbursements shall be made, as provided in this Declaration. The Association Maintenance Funds may be established as trust accounts at a banking or savings institution and shall include: (a) an Operating Fund for current Common Expenses; (b) an adequate Reserve Fund for the portion of Common Expenses allocated to reserves for Improvements which the Board does not expect to repair or replace on an annual or more frequent basis; (c) any other funds which the Association may elect to establish; and (d) any other funds which the Association may elect to establish.

7.3 **PURPOSE OF ASSESSMENTS.** The Assessments shall be used exclusively to (a) promote the Owners' recreation and welfare, (b) operate, improve and maintain the Common

award, then the proceeds of the award shall be first applied to the remediation of the condition that gave rise to the Dispute.

12.5 **LIMITATION UPON AMENDMENTS.** No amendment of this Declaration shall modify, alter or delete any portion of Section 12.4 or this Section 12.5 of this Declaration without the written consent of the Declarant attached to and recorded with such amendment, regardless of whether Declarant continues to maintain an ownership interest in any Lot or membership in the Association

ARTICLE 13 DURATION AND AMENDMENT

13.1 **DURATION.** This Declaration shall continue in full force unless a declaration of termination satisfying the requirements of an amendment to this Declaration established in Section 13.2 is Recorded.

13.2 TERMINATION AND AMENDMENT.

13.2.1 **Amendment Approval.** Notice of the subject matter of a proposed amendment to this Declaration, a Notice of Addition or a Supplemental Declaration in reasonably detailed form must be included in the notice of any Association meeting or election at which a proposed amendment is to be considered. To be effective, a proposed amendment (other than amendment or termination by Declarant as described in Section 13.2.7(a) or minor corrections by Declarant or by the Board, as described in Sections 13.2.7(b) or 13.2.8 respectively) must be adopted by the vote, in person or by secret ballot or proxy, or written consent of Owners representing not less than (a) ~~fifty-onesixty-seven~~ percent (~~5167~~%) of the voting power of each Class of the Association and (b) ~~fifty-onesixty-seven~~ percent (~~5167~~%) of the Association's voting power represented by Owners other than Declarant. If, however, the provision being considered for amendment requires amendment approval by a higher percentage of the voting power than that specified in this Section, then the proposed amendment shall not be adopted unless approved by such higher percentage of the voting power. So long as Declarant has the right to appoint a majority of the members of the Board, and the VA or FHA is making or insuring a Mortgage in the Community, the prior approval of the VA or FHA (whichever is making or insuring a Mortgage) is required for any amendment to the Declaration for the purpose of terminating the Declaration, dissolving the Association (except pursuant to merger or consolidation) or conveying all of the Common Area.

13.2.2 **Mortgagee Consent.** In addition to the consents required by Section 13.2.1, the Mortgagees of fifty-one percent (51%) of the First Mortgages on all the Lots in the Community who have requested the Association notify them of proposed action requiring the consent of a specified percentage of First Mortgagees must approve any amendment which is of a material nature, as follows:

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Mortgagees, insurers or guarantors of First Mortgages.

(b) Any amendment which would require a Mortgagee after it has acquired a Lot through foreclosure to pay more than its proportionate share of any unpaid Assessment or Assessments accruing before such foreclosure.

(c) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Lot not being separately assessed for tax purposes.

(d) Any amendment relating to (i) the insurance provisions in Article 8, (ii) the application of insurance proceeds in Article 9, or (iii) the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which would restrict an Owner's right to sell or transfer his or her Lot.

(f) Any amendment which would subject any Owner to a right of first refusal or other such restriction, if such Lot is proposed to be transferred.

13.2.3 Amendment of Right to Repair Law Provisions. Except for any amendment made by Declarant as authorized in Section 13.2.7, neither this Section 13.2.3 nor Sections ~~1.1.45~~ 1.1.44, 1.1.65, 1.1.66, 2.1.1, 2.1.2, 2.1.3, 3.9, 4.2.7, 4.5, 12.1.7, 12.4, 13.2.7, 13.2.8 or 15.6 may be amended without the prior written approval of Declarant until the expiration of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the Right to Repair Law (including tolling periods).

13.2.4 Termination Approval. Termination of this Declaration requires approval of the Owners as provided in Section 13.2.1, and until the expiration of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the Right to Repair Law (including tolling periods), the prior written approval of Declarant.

13.2.5 Notice to Mortgagees. Each Mortgagee of a First Mortgage on a Lot in the Community which receives proper written notice of a proposed amendment or termination of this Declaration, any Notice of Addition or any Supplemental Declaration with a return receipt requested is deemed to have approved the amendment or termination if the Mortgagee fails to submit a response to the notice within sixty (60) days after the Mortgagee receives the notice.

13.2.6 Certificate. A copy of each amendment must be certified by at least two (2) Association officers. The amendment becomes effective when a Certificate of Amendment is Recorded. The certificate, signed and sworn to by two (2) Association officers that the requisite number of Owners and Mortgagees have approved the amendment, when Recorded, is conclusive evidence of that fact. The Association shall keep in its files for at least four (4) years the record of all such approvals. The certificate reflecting any termination or amendment which requires the written consent of any of the Mortgagees of First Mortgages must include a certification that the requisite approval of such First Mortgagees was obtained.