

**AMENDED DECLARATION
OF
COVENANTS, CONDITIONS
AND
RESTRICTIONS
SANTA ROSA WEST
PROPERTY OWNERS ASSOCIATION
DATED MAY 8, 2000
And Including
January 12, 2004 Amendments**

**AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION**

TABLE OF CONTENTS

Recitals

Article I Definitions

- 1.1 Architectural Committee
- 1.2 Articles
- 1.3 Assessment
- 1.4 Association
- 1.5 Association Rules
- 1.6 Board of Directors or Board
- 1.7 By-laws
- 1.8 Common Area
- 1.9 Common Expense
- 1.10 Common Facilities
- 1.11 County
- 1.12 Declarant
- 1.13 Declaration
- 1.14 Governing Documents
- 1.15 Improvement
- 1.16 Lot
- 1.17 Member

- 1.18 Mortgage
- 1.19 Owner
- 1.20 Owner of Record and Member of the Association
- 1.21 Property
- 1.22 Regular Assessment
- 1.23 Residence
- 1.24 Single Family Residential Use
- 1.25 Special Assessment
- 1.26 Special Individual Assessment

Article II Property Rights and Obligations of Owners

- 2.1 Planned Development
- 2.2 Owners' Nonexclusive Easements of Enjoyment
- 2.3 Persons Subject to Governing Documents
- 2.4 Delegation of Use
- 2.5 Obligations of Owners

Article III Homeowners Association

- 3.1 Association Membership
- 3.2 One Class of Membership
- 3.3 Voting Rights of Members
- 3.4 Assessments
- 3.5 Transfer of Memberships
- 3.6 Powers and Authority of the Association
- 3.7 Association Rules
- 3.8 Breach of Rules or Restrictions

3.9 Limitation on Liability of the Association's Directors
and Officers

Article IV Assessments

4.1 Assessments Generally

4.2 Regular Assessments

4.3 Special Assessments

4.4 Special Individual Assessments

4.5 Purposes and Reasonableness of Assessments

4.6 Notices and Procedure for Member Approval Pursuant to
Sections 2 and 3

4.7 Maintenance of Assessment Funds

4.8 Collections of Assessments; Enforcement of Liens

4.9 Transfer of Lot by Sale or Foreclosure

4.10 Priorities

4.11 Unallocated Taxes

4.12 Waiver of Exemptions

Article V Architectural Control

5.1 Architectural Committee Approval of Improvements

5.2 Committee Membership

5.3 Duties of Committee

5.4 Meetings

5.5 Architectural Rules

5.6 Basis for Approval of Improvements

5.7 Procedures for Obtaining Architectural Committee
Approval of Plans and Specifications

5.8 Time Limits for Approval or Rejection

- 5.9 Employment of Architect or Engineer
- 5.10 Proceeding With Work
- 5.11 Failure to Complete Work
- 5.12 Inspection of Work by Architectural Committee
- 5.13 Enforcement
- 5.14 Variances
- 5.15 Nonconforming Use of Property
- 5.16 Estoppel Certificate
- 5.17 Limitation on Liability
- 5.18 Compliance With Governmental Regulations
- 5.19 Appeals

Article VI Minimum Construction Standards

- 6.1 Building Location
- 6.2 Licensed Contractor
- 6.3 Approval by Architectural Committee
- 6.4 Maximum Height
- 6.5 Minimum Square Footage Requirements
- 6.6 Set-back and Location of Structure
- 6.7 Utility Lines
- 6.8 No Used Materials
- 6.9 Solar Heating Systems
- 6.10 Colors and Exterior Finishes
- 6.11 Prohibition on A-Frame and Geodesic Dome Structures
- 6.12 Roofing Materials

- 6.13 Roofs
- 6.14 Siding Materials
- 6.15 Drainage
- 6.16 Modular and Prefabricated Housing; Mobile Homes
- 6.17 Metal Buildings
- 6.18 Exterior Lighting and Fixtures
- 6.19 Glass
- 6.20 Patios, Walkways and Driveways
- 6.21 Water Systems, Septic Systems and Pools
- 6.22 Garages
- 6.23 Fences
- 6.24 Excavation
- 6.25 Landscaping

Article VII Use of Property and Restrictions

- 7.1 Use of Lots
- 7.2 Common Areas
- 7.3 Temporary Structures
- 7.4 Household Pets
- 7.5 Garbage
- 7.6 Antennas and Similar Devices
- 7.7 Burning
- 7.8 Diseases and Pests
- 7.9 Parking and Vehicles
- 7.10 Children

- 7.11 Activities Affecting Insurance
- 7.12 Restriction on Further Subdivision and Severability
- 7.13 Variances
- 7.14 Enforcement of Property Use Restrictions

Article VIII Maintenance Responsibilities

- 8.1 Common Area
- 8.2 Owner Maintenance Responsibilities
- 8.3 Recovery of Costs of Certain Repairs and Maintenance
- 8.4 Drainage Structures, Ditches and Swales

Article IX Easements and Right of Entry

- 9.1 Road and Utility Easements
- 9.2 Maintenance Right of Entry
- 9.3 Other Easements
- 9.4 Equestrian Easements

Article X Insurance

- 10.1 Types of Insurance Coverage

Article XI Damage or Destruction

- 11.1 Common Facilities; Bids and Determination of Available Insurance Proceeds
- 11.2 Common Facilities; Sufficient Insurance Proceeds
- 11.3 Common Facilities; Insurance Proceeds Insufficient in an Amount Exceeding \$5,000
- 11.4 Damage or Destruction of Residences

Article XII Condemnation

- 12.1 Association as Trustee for Owner

Article XIII Breach and Default

13.1 Remedy at Law Inadequate

13.2 Nuisance

13.3 Costs and Attorney's Fees

13.4 Cumulative Remedies

13.5 Failure Not a Waiver

13.6 Rights and Remedies of the Association

13.7 Covenants Committee

13.8 Court Actions; Alternative Dispute Resolution Rules

Article XIV Notices

14.1 Mailing Addresses

14.2 Personal Service Upon Co-Owners and Others

14.3 Deposit in United States Mail

Article XV No Public Rights in the Property

15.1 No Public Rights

Article XVI Amendment of Declaration

16.1 Amendment in General

16.2 Effective Date of Amendment

16.3 Reliance on Amendments

Article XVII General Provisions

17.1 Term

17.2 Construction of Declaration

1 **AMENDED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**
2 **FOR SANTA ROSA WEST ASSOCIATION**

3
4 This AMENDED DECLARATION ("Declaration") is made this 8TH day
5 of MAY 2000 by the Santa Rosa West Association, a non-profit
6 corporation, ("Declarant").
7

8 **RECITALS**

9
10 A. Santa Rosa Ranches, a partnership, was the original owner
11 of that certain real property ("Property") located in the County
12 of Riverside, State of California, which is more particularly
13 described in Exhibit "A" attached hereto and incorporated herein
14 by reference.
15

16 B. Santa Rosa Ranches divided the Property into Lots (as
17 defined below) and conveyed the Lots, subject to certain
18 easements, protective covenants, conditions, restrictions,
19 reservations, liens and charges as set forth in the Declaration
20 of Covenants, Conditions and Restrictions (CC&R's) recorded on
21 December 30, 1968, as Instrument No. 126373 in the Riverside
22 County Recorder's Office ("Original Declaration") which was
23 amended by the Amended Declaration of Covenants, Conditions and
24 Restrictions recorded on January 23, 1985 as Instrument No. 14269
25 in the Riverside County Recorder's Office ("First Amended
26 Declaration") and the Second Amended Declaration of Covenants,
27 Conditions and Restrictions recorded on December 6, 1989 as
28 Instrument No. 427279 in the Riverside County Recorder's Office
29 ("Second Amended Declaration"). (The Original Declaration, First
30 Amended Declaration and Second Amended Declaration are sometimes
31 hereinafter collectively referred to as the "Amended Original
32 Declaration".)
33

34 C. The Amended Original Declaration was, and this Declaration
35 is, for the purpose of enhancing and protecting the value,
36 desirability and attractiveness of Property and Lots therein.
37 The Amended Original Declaration and this Declaration shall run
38 with the Property and be binding on all parties having or
39 acquiring any right, title or interest in the Property, or any
40 part thereof, including any Lot, their heirs, successors and
41 assigns, and shall inure to the benefit of each Owner (as defined
42 below) thereof.
43

44 D. On _____, 2000, the Owners by _____ percent of the
45 voting power of the Association voted by written ballot to amend
46 and restate the Original Amended Declaration, all in accordance
47 with the procedures for amendment set forth in the Original
48 Amended Declaration. It was the intention of said Owners to

1 replace the Original Amended Declaration, in its entirety, with
2 the recordation of this Declaration. The Owners' action to amend
3 and restate the Original Amended Declaration as set forth herein
4 and the fact that the requisite percentage of affirmative votes
5 required in the Original Amended Declaration was achieved, is
6 attested by the execution of this First Restated Declaration by
7 duly authorized officers of the Association, as required by
8 California Civil Code Section 1355(a). As so amended and
9 restated, the easements, covenants, restrictions, conditions and
10 other matters set forth herein shall run with the Property and
11 shall be binding upon all parties having or acquiring any right,
12 title or interest in the Property or any portion thereof,
13 including any Lot, and shall inure to the benefit of each Owner
14 thereof. The CC&R's are enforceable by members, the Association
15 or both.
16

17 NOW THEREFORE, the Original Amended Declaration is replaced
18 and restated in its entirety with this Declaration.
19

20 **ARTICLE I**

21 Definitions

22
23
24 1.1 "Architectural Committee" means the committee created in
25 accordance with Article V of this Declaration.
26

27 1.2 "Articles" means the Articles of Incorporation of Santa
28 Rosa West Association, which are filed in the Office of the
29 California Secretary of State as such Articles, may be amended
30 from time to time.
31

32 1.3 "Assessment" means any Regular, Special or Special
33 Individual Assessment made or assessed by the Association against
34 an Owner and his or her Lot in accordance with the provisions of
35 Article IV of this Declaration.
36

37 1.4 "Association" means Santa Rosa West Association, a
38 California nonprofit corporation (formed pursuant to the Non
39 profit Mutual Benefit Corporation Law of the State of
40 California), its successors and assigns. The Association is an
41 "Association" as defined in California Civil Code Section
42 1351(a).
43

44 1.5 "Association Rules" means the rules, regulations and
45 policies adopted by the Board of Directors of the Association,
46 pursuant to Article III, Section 7 of this Declaration, as the
47 same may be in effect from time to time.
48

1 1.6 "Board of Directors" or "Board" means the Board of
2 Directors of the Association.

3
4 1.7 "By-laws" means the By-laws of the Association as such
5 By-laws may be amended from time to time.

6
7 1.8 "Common Area" means all real property within the Property
8 upon which there exists mutual or reciprocal easement rights
9 appurtenant to the Lots for the beneficial use and enjoyment of
10 Owners.

11 Unless the context clearly indicates a contrary intent, any
12 reference herein to the "Common Area" shall also include any
13 Common Facilities located thereon.

14
15 1.9 "Common Expense" means any use of Common Funds authorized
16 by Article IV hereof and Article VI of the By-laws and includes,
17 without limitation: (a) all expenses or charges incurred by or on
18 behalf of the Association for the management, maintenance,
19 administration, insurance, operation, repairs, additions,
20 alterations or reconstruction of the Common Area and Common
21 Facilities, (b) all expenses or charges reasonably incurred to
22 procure insurance for the protection of the Association and its
23 Board of Directors, (c) any amounts reasonably necessary for
24 reserves for maintenance, repair and replacement of the Common
25 Areas and Common Facilities that the Association is obligated to
26 maintain or replace, and for nonpayment of any Assessments, and
27 (d) the use of such funds to defray the costs and expenses
28 incurred by the Association in the performance of its functions
29 or in the proper discharge of the responsibilities of the Board
30 as provided in the Governing Documents.

31
32 1.10 "Common Facilities" means the equestrian trails and
33 roads (except roads and cul-de-sacs built by private property
34 owners) and other facilities constructed or installed, or to be
35 constructed or installed, or currently located within the Common
36 Area.

37
38 1.11 "County" means the County of Riverside, State of
39 California, and its various departments, divisions, employees and
40 representatives. If any portion of the Property becomes a
41 portion of an incorporated city, then the term "County" shall be
42 deemed to include the city in which that portion of the Property
43 is located.

44
45 1.12 "Declarant" means the Association.

46
47 1.13 "Declaration" means this instrument, as it may be
48 amended from time to time. The "Original Amended Declaration"

1 means and refers to the documents referenced in Recital B to this
2 Declaration.

3
4 1.14 "Governing Documents" is a collective term that means
5 and refers to this Declaration and to the Articles, the By-laws,
6 and the Association Rules.

7
8 1.15 "Improvement" includes, without limitation, the
9 construction, installation, alteration, or remodeling of any
10 buildings, walls, driveways, decks, fences, swimming pools,
11 corrals, bridges, landscaping, landscape structures, solar
12 heating equipment, satellite dishes, spas, tennis courts,
13 antennas, utility lines, or any structure of any kind.

14
15 In no event shall the term "Improvement" be interpreted to
16 include projects restricted to the interior of any Residence.

17
18 1.16 "Lot" means any parcel of real property designated by a
19 number on the Subdivision Map for any portion of the Property.
20 When appropriate within the context of this Declaration, the term
21 "Lot" shall also include the Residence and other Improvements
22 constructed or to be constructed on a Lot.

23
24 1.17 "Member" means every person or entity who holds a
25 membership in the Association and whose rights as a Member are
26 not suspended pursuant to Article XIII, Section 6 hereof.

27
28 1.18 "Mortgage" means any security device, including any deed
29 of trust, encumbering all or any portion of the Property,
30 including any Lot. "Mortgage" shall refer to a beneficiary under
31 a deed of trust as well as to a Mortgage in the conventional
32 sense.

33
34 1.19 "Owner" means any Person, Firm, Corporation,
35 Partnership, Limited Liability Company, Trust, Estate or other
36 entity that owns a fee simple interest in any Lot. The term
37 "Owner" shall include, except where the context otherwise
38 requires, the family, guests, tenants and invitees of an Owner.

39
40 1.20 "Owner of Record" and "Member of the Association"
41 includes an Owner and means any Person, Firm, Corporation,
42 Partnership, Limited Liability Company, Trust, Estate or other
43 Entity in which title to a Lot is vested as shown by the official
44 records of the Office of the County Recorder.

45
46 1.21 "Property" means the real property described in Recital
47 A to this Declaration, including all Lots therein, together with
48 all buildings, structures, utilities, Common Facilities, and

1 other improvements now located or hereafter constructed or
2 installed thereon, and all appurtenances thereto.

3
4 1.22 Regular Assessment" means an Assessment levied on an
5 Owner and his or her Lot in accordance with Article IV, Section 2
6 hereof.

7
8 1.23 Special Assessment" means an Assessment levied on an
9 Owner and his or her Lot in accordance with Article IV, Section 3
10 hereof.

11
12 1.24 Residence" means a private, single family dwelling on a
13 Lot.

14
15 1.25 Single Family Residential Use" means occupation and use
16 of a Residence for single family dwelling purposes in conformity
17 with this Declaration and the requirements imposed by applicable
18 zoning or other applicable laws or governmental regulations
19 limiting the number of persons who may occupy single family
20 residential dwellings.

21
22 1.26 Special Individual Assessment" means an Assessment made
23 against an Owner and his or her Lot in accordance with Article
24 IV, Section 4 hereof.

25
26 **ARTICLE II**

27
28 Property Rights and Obligations of Owners

29
30 2.1 Planned Development. The Property is a "Planned
31 Development" as that term is defined in Section 1351(k) of the
32 California Code of Civil Procedure.

33
34 2.2 Owner's Nonexclusive Easements of Enjoyment.
35 All the Owners of the Lots upon which the Common Area is located
36 own the real property consisting of the Common Area. All Owners
37 possess appurtenant rights to the beneficial use and enjoyment of
38 the Common Area. As such, every Owner shall have a nonexclusive
39 right and easement of enjoyment in and to the Common Areas within
40 the Property, which shall be appurtenant to and shall pass with
41 the title to every Lot, subject to the following rights and
42 restrictions:

43
44 (a) The right of the Association to adopt Association Rules as
45 provided in Article III, Section 7 hereof, regulating the use and
46 enjoyment of the Lots for the benefit and well-being of the
47 Owners in common, and, in the event of the breach of such Rules
48 or any provision of any Governing Document by any Owner or

1 tenant, to temporarily suspend the voting rights and/or right to
2 use the Common Facilities, other than roads, by any Owner and/or
3 the Owner's tenants and guests, subject to compliance with the
4 due process requirements of Article XIII, Section 6 hereof.
5

6 (b) The right of the Association and Owners (or their
7 representatives) of adjoining Lots of entry upon and access to
8 slopes and drainage ways located upon a Lot when such access is
9 essential for the maintenance or stabilization of slopes or
10 drainage, or both, on such adjoining Lots, provided requests for
11 entry are made in advance and that entry is at a time convenient
12 to the Owner whose Lot is being entered upon. In case of
13 emergency the right of entry shall be immediate.
14

15 2.3 Persons Subject to Governing Documents. All present and
16 future Owners, tenants and occupants of Lots within the Property
17 shall be subject to, and shall comply with, each and every
18 provision of the Governing Documents, as the same or any of them
19 shall be amended from time to time, unless a particular provision
20 is specifically restricted in its application to one or more of
21 such classes of persons (i.e., Owners, Tenant, Invitees, etc).
22 The acceptance of a deed to any Lot, the entering into a lease,
23 sublease or contract of sale with respect to any Lot, or the
24 occupancy of any Residence shall constitute the consent and
25 agreement of such Owner, tenant or occupant that each and all of
26 the provisions of this Declaration, as the same or any of them
27 may be amended from time to time, shall be binding upon said
28 person and that said person will observe and comply with the
29 Governing Documents.
30

31 2.4 Delegation of Use. 32

33 (a) Delegation of Use and Leasing of Residences. Any Owner may
34 delegate the Owner's rights to use and enjoy the Common Area and
35 Common Facilities to members of the Owner's family or to the
36 Owner's tenants, lessees or contract purchasers who reside in the
37 Owner's Residence, provided that any rental or lease may only be
38 to a single family for Single Family Residential Use and for a
39 term not less than 90 days.
40

41 Any rental or lease of a Residence shall be subject to the
42 provisions of the Governing Documents, all of which shall be
43 deemed incorporated by reference in the lease or rental
44 agreement. Each Owner-Lessor shall provide any tenant or lessee
45 with a current copy of all Governing Documents and shall be
46 responsible for compliance by the Owner's tenant or lessee with
47 all of the provisions of the Governing Documents during the
48 tenant's/lessee's occupancy and use of the Residence.

1 (b) Recoverable Costs and Expenses. In the event of (i) damage
2 to, or destruction of, Common Areas or Common Facilities by a
3 tenant or lessee or the Owner of a leased Residence; (ii) the
4 imposition of a fine or penalty against an Owner-Lessor as a
5 result of any act or omission of the Owner's tenant or lessee; or
6 (iii) expenses incurred by the Association in the successful
7 prosecution of an eviction proceeding pursuant to subparagraph
8 (b), above, the Association shall be entitled to apply the
9 security deposit to the recoverable costs and expenses. The
10 Owner-Lessor shall thereupon immediately reimburse the security
11 deposit fund in an amount equal to the sums thus applied. Upon
12 termination of the lease and notification to the Association of
13 such termination, the security deposit, or the balance thereof,
14 shall be refunded to the Owner without interest. As a condition
15 to the Association's right to apply security deposit funds in the
16 manner provided above, the Association must give the Owner-Lessor
17 the notice and hearing rights specified in subparagraph (c)
18 above.

19
20 2.5 Obligations of Owners. Owners of Lots within the Property
21 shall be subject to the following:

22
23 (a) Contract Purchasers. A contract seller of a Lot must
24 delegate his or her voting rights as a Member of the Association
25 and seller's right to use and enjoy the Common Area and Common
26 Facilities to any contract purchaser in possession of the
27 property subject to the contract of sale. Notwithstanding the
28 foregoing, the contract seller shall remain liable for any
29 default in the payment of Assessments by the contract purchaser
30 until title to the property sold has been transferred to the
31 purchaser.

32
33 (b) Notification Regarding Governing Documents.

34
35 (i) As more particularly provided in the California Civil
36 Code Section 1368, as soon as practicable before transfer of
37 title or the execution of a real property sales contract with
38 respect to any Lot, the Owner thereof must give the prospective
39 purchaser (A) a current copy of the Governing Documents; (B) the
40 Association's most current financial statement; (C) a true
41 statement in writing from the Association ("delinquency
42 statement") as to the amount of any delinquent Assessments,
43 together with information relating to late charges, attorneys'
44 fees, interest, and reasonable costs of collection which, as of
45 the date the statement is issued, are or may become a lien on the
46 Lot being sold; (D) a true statement in writing from an
47 authorized representative of the Association as to the amount of
48 the Association's current Regular and Special Assessments (if

1 any) and fees; and (E) a notice of any change in the
2 Association's current Regular or Special Assessments and fees
3 that have been approved by the Board but that have not become due
4 and payable as of the date that the information is provided.
5

6 (ii) The Association shall, within 10 days of the mailing or
7 delivery of a request for the information described in
8 subparagraph (i) C, above, provide the Owner with a copy of the
9 current Governing Documents, together with the delinquency
10 statement referred to in the immediately preceding paragraph. The
11 Association shall be entitled to impose a fee for providing the
12 Governing Documents and statements equal to (but not more than)
13 the reasonable cost of preparing and reproducing the requested
14 materials. In addition, the Association may impose a reasonable
15 fee to cover its actual costs incurred to change its records in
16 connection with a change of ownership of Lot.
17

18 (c) Payment of Assessments and Compliance With Rules. Each
19 Owner shall pay when due each Regular, Special and Special
20 Individual Assessment levied against the Owner and his or her Lot
21 and shall observe, comply with and abide by any and all rules and
22 regulations set forth in, or promulgated by the Association
23 pursuant to, any Governing Document for the purpose of protecting
24 the interests of all Owners or protecting the Common Area and
25 Common Facilities.
26

27 (d) Discharge of Assessment Liens. Each Owner shall promptly
28 discharge any Assessment lien that may hereafter become a charge
29 against his or her Lot.
30

31 (e) Joint Ownership of Lots. In the event of joint ownership
32 of any Lot, the obligations and liabilities of the multiple
33 Owners under the Governing Documents shall be joint and several.
34 Without limiting the foregoing, this subparagraph (e) shall apply
35 to all obligations, duties and responsibilities of Owners as set
36 forth in this Declaration, including, without limitation, the
37 payment of all Assessments.
38

39 (f) Prohibition on Avoidance of Obligations. No Owner, by
40 non-use of the Common Area or Common Facilities, abandonment of
41 the Owner's Lot or otherwise may avoid the burdens and
42 obligations imposed on such Owner by the Governing Documents,
43 including, without limitation, the payment of Assessments levied
44 against the Owner and his or her Lot pursuant to this
45 Declaration.
46

47 (g) Termination of Obligations. Upon the conveyance, sale,
48 assignment or other transfer of a Lot to a new Owner, the

1 transferor-owner shall not be liable for any Assessments levied
2 with respect to such Lot which become due after the date of
3 recording of the deed evidencing said transfer and, upon such
4 recording, all Association membership rights possessed by the
5 transferor by virtue of the ownership of said Lot shall cease.
6

7 **ARTICLE III**

8 Homeowners Association

9
10
11 3.1 Association Membership. Every Owner of a Lot shall be a
12 Member of the Association. Each Owner shall hold one membership
13 in the Association for each Lot owned and the membership shall be
14 appurtenant to such Lot. Ownership of a Lot or interest in it
15 shall be the sole qualification for membership in the
16 Association. Each Owner shall remain a Member of the Association
17 until his or her ownership in all Lots in the Property ceases, at
18 which time, his or her membership in the Association shall
19 automatically cease. Persons or entities who hold an interest in
20 a Lot merely as security for performance of an obligation are not
21 Members until such time as the security holder comes into title
22 to the Lot through foreclosure or deed in lieu thereof.
23

24 3.2 One Class of Membership. The Association shall have one
25 class of membership and the rights, duties, obligations and
26 privileges of the Members shall be as set forth in the Governing
27 Documents.
28

29 3.3 Voting Rights of Members. Each Member of the Association
30 shall be entitled to one vote for each whole acre in the Property
31 owned by said Member. When more than one person holds an interest
32 in any Lot, all such persons shall be Members, although in no
33 event shall more than one vote per whole acre be cast with
34 respect to any Lot. Voting rights may be temporarily suspended
35 under those circumstances described in Article XIII, Section 6
36 hereof.
37

38 3.4 Assessments. The Association shall have the power to
39 establish, fix and levy Assessments against the Owners of Lots
40 within the Property and to enforce payment of such Assessments in
41 accordance with Article IV of this Declaration. Any Assessments
42 levied by the Association on its Members shall be levied in
43 accordance with and pursuant to the provisions of this
44 Declaration.
45

46 3.5 Transfer of Memberships. Membership in the Association
47 shall not be transferred, encumbered, pledged or alienated in any
48 way, except upon the sale or encumbrance of the Lot to which it

1 is appurtenant and then only to the purchaser. In the case of a
2 sale, membership passes automatically to the purchaser upon
3 recording of a deed evidencing transfer of title to the Lot. In
4 the case of an encumbrance of such Lot, a Mortgage does not have
5 membership rights until he or she becomes an Owner by foreclosure
6 or deed in lieu thereof. Tenants who are delegated rights of use
7 pursuant to Article II, Section 3 hereof do not thereby become
8 Members, although the tenant and members of the tenant's family
9 shall, at all times, be subject to the provisions of all
10 Governing Documents. Any attempt to make a prohibited transfer is
11 void. In the event the Owner of any Lot should fail or refuse to
12 transfer the membership registered in the Owner's name to the
13 purchaser of his or her Lot, the Association shall have the right
14 to record the transfer upon its books and thereupon any other
15 membership outstanding in the name of the seller shall be null
16 and void.

17

18 3.6 Powers and Authority of the Association.

19

20 (a) Powers Generally. The Association, registered as the Santa
21 Rosa West Association, A California Non-Profit Corporation, shall
22 have the responsibility of managing and maintaining the Common
23 Areas, Roads and the Architectural integrity within the
24 properties, also discharging the other duties and
25 responsibilities imposed on the Association by the Governing
26 Documents. In the discharge of such responsibilities and duties,
27 the Association shall have all of the powers of a nonprofit
28 mutual benefit corporation organized under the laws of the State
29 of California in the ownership and management of its Property and
30 the discharge of its responsibilities hereunder for the benefit
31 of its Members, subject only to such limitations upon the
32 exercise of such powers as are expressly set forth in the
33 Governing Documents. The Association and its Board of Directors
34 shall have the power to do any and all lawful things which may be
35 authorized, required or permitted to be done under, and by virtue
36 of, the Governing Documents or the Davis-Stirling Common Interest
37 Development Act, or any comparable superseding statute, and to do
38 and perform any and all acts which may be necessary or proper
39 for, or incidental to, the exercise of any of the express powers
40 of the Association for the peace, health, comfort, safety or
41 general welfare of the Owners. The specific powers of the Board
42 and the limitations thereon shall be as set forth in Article VII
43 of the By-laws.

44

45 (b) Association's Limited Right of Entry. The Association,
46 and/or its agents shall have the right, when necessary, to enter
47 any Lot to perform the Association's obligations under this
48 Declaration, including (i) exterior maintenance or repair

1 obligations; (ii) obligations to enforce the architectural,
2 minimum construction standards, and land use restrictions of
3 Article VI and Article VII hereof; (iii) any obligations with
4 respect to construction, maintenance and repair of adjacent
5 Common Facilities; or (iv) to make necessary repairs that an
6 Owner has failed to perform which, if left undone, will pose a
7 threat to, or cause an unreasonable interference with,
8 Association property or the Owners in common.
9

10 The Association's rights of entry under this subparagraph (b)
11 shall be immediate in case of an emergency originating in or
12 threatening the Lot where entry is required, or any Adjoining
13 Lots or Common Area, and the Association's work may be performed
14 under such circumstances whether or not the Owner or his/her
15 lessee is present. In all non-emergency situations, the
16 Association or its agents shall furnish the Owner or his or her
17 lessee with at least 24 hours' written notice, notice to be hand-
18 delivered or by telephone to the Owner, of its intent to enter
19 the Lot, specifying the purpose and scheduled time of such entry
20 and shall make every reasonable effort to perform its work and
21 schedule its entry in a manner that respects the privacy of the
22 persons residing within the Residence located on the Lot.
23

24 In no event shall the Association's right of entry, as
25 conferred hereunder, be construed to permit the Association or
26 its agents to enter any Residence without the Owner's prior
27 permission.
28
29

30 3.7 Association Rules.

31
32 (a) Rule-Making Power. The Board may, from time to time and
33 subject to the provisions of this Declaration, propose, enact and
34 amend rules and regulations of general application to the Owners
35 of Lots within the Property. Such rules may concern, but need not
36 be limited to (i) matters pertaining to the maintenance, repair,
37 management and use of the Common Area and Common Facilities by
38 Owners, their tenants, guests and invitees, or any other
39 person(s) who have rights of use and enjoyment of such Common
40 Area and Common Facilities; (ii) architectural control and the
41 rules of the Architectural Committee under Article V, Section 5
42 hereof; (iii) the conduct of disciplinary proceedings in
43 accordance with Article XIII, Section 6 hereof; (iv) matters
44 subject to regulation and restriction under Article VII hereof;
45 (v) collection and disposal of refuse; (vi) minimum standards for
46 the maintenance of landscaping or other improvements on any Lot;
47 (vii) procedures for alternative dispute resolution proceedings;

1 and, (viii) any other subject or matter within the jurisdiction
2 of the Association as provided in the Governing Documents.

3
4 Notwithstanding the foregoing grant of authority, the
5 Association Rules shall not be inconsistent with or materially
6 alter any provision of the other Governing Documents or the
7 rights, preferences and privileges of Members hereunder. In the
8 event of any material conflict between any Association Rule and
9 any provision of the other Governing Documents, the conflicting
10 provisions contained in the other Governing Documents shall be
11 deemed to prevail.

12
13 (b) Distribution of Rules. A copy of the Association Rules, as
14 they may from time to time be adopted, amended or repealed, shall
15 be mailed or otherwise delivered to each Owner. A copy of the
16 Association Rules shall also be available and open for inspection
17 during normal business hours at the principal office of the
18 Association.

19
20 (c) Adoption and Amendment of Rules. Association Rules may be
21 adopted or amended from time to time by majority vote of the
22 Board, provided, however, that no Association Rules or Amendments
23 thereto shall be adopted by the Board until at least 30 days
24 after the proposed rule or rule amendment has been (i) published
25 in the Association newsletter, if any, or otherwise communicated
26 to the Owners in writing and (ii) posted in a prominent place
27 within the Property. The notice describing the proposed rule or
28 amendment shall also set forth the date, time and location of the
29 Board meeting at which action on the proposal is scheduled to be
30 taken.

31
32 Any duly adopted rule or amendment to the Rules shall become
33 effective immediately following the date of adoption thereof by
34 the Board, or at such later date as the Board may deem
35 appropriate. Any duly adopted rule or rule amendment shall be
36 distributed to the Owners by mail.

37
38 3.8 Breach of Rules or Restrictions.

39
40 Any breach of the Association Rules or of any other Governing
41 Document provision shall give rise to the rights and remedies set
42 forth in Article XIII hereof.

43
44 3.9 Limitation on Liability of Association's Directors and
45 Officers.

46
47 (a) Claims Regarding Breach of Duty. No director or officer of
48 the Association (collectively and individually referred to as the

1 "Released Party") shall be personally liable to any of the
2 Association's Members, or to any other person, for any error or
3 omission in the discharge of their duties and responsibilities or
4 for their failure to provide any service required hereunder or
5 under the By-laws, provided that such Released Party has, upon
6 the basis of such information as may be possessed by the Released
7 Party, acted in good faith, in a manner that such person believes
8 to be in the best interests of the Association and with such
9 care, including reasonable inquiry, as an ordinarily prudent
10 person in a like position would use under similar circumstances.
11

12 Without limiting the generality of the foregoing, this
13 standard of care and limitation of liability shall extend to such
14 matters as the establishment of the Association's annual
15 financial budget, the funding of Association capital replacement
16 and reserve accounts, repair and maintenance of Common Areas and
17 Common Facilities and enforcement of the Governing Documents.
18

19 (b) Other Claims Involving Tortuous Acts and Property Damage.
20 No person who suffers bodily injury (including, without
21 limitation, emotional distress or wrongful death) as a result of
22 the tortuous act or omission of a volunteer member of the Board
23 or volunteer officer of the Association shall recover damages
24 from such Board member or office if all of the following
25 conditions are satisfied:
26

27 (i) The Board member or officer is an Owner of no more than
28 two Lots:
29

30 (ii) The act or omission was performed within the scope of the
31 volunteer Board Member's or Officer's Association duties;
32

33 (iii) The act or omission was performed in good faith:
34

35 (iv) The act or omission was not willful, wanton, or grossly
36 negligent;
37

38 (v) The Association maintained and had in effect at the time
39 the act or omission occurred and at the time a claim was made,
40 one or more policies of insurance that include coverage for
41 general liability of the Association and individual liability of
42 the officers and directors of the Association for negligent acts
43 or omissions in their official capacities, with minimum coverage
44 for both types of insurance being not less than \$500,000.
45

46 The payment of actual expenses incurred by a Board member or
47 officer in the execution of that person's Association duties
48 shall not affect that person's status as a volunteer Board member

1 or officer for the purposes of this Section. However, any
2 director or officer who receives direct or indirect compensation
3 from the Declarant or from a financial institution that acquired
4 a Lot within the Property as the result of a judicial or Non-
5 judicial foreclosure proceeding is not a volunteer.
6

7 The provisions of this subparagraph (b) are intended to
8 reflect the protections accorded to volunteer directors and
9 officers of community associations under Civil Code §1365.7. In
10 the event that Civil Code Section is amended or superseded by
11 another, similar provision of the California statutes, this
12 subparagraph (b) shall be deemed amended, without the necessity
13 of further Member approval, to correspond to the amended or
14 successor Civil Code provision.
15

16 **ARTICLE IV**

17 Assessments

18 4.1 Assessments Generally.

19
20 (a) Covenant to Pay Assessments. Each Owner of one or more
21 Lots by acceptance of a deed or other conveyance therefore
22 (whether or not it shall be so expressed in such deed or
23 conveyance), covenants and agrees to pay to the Association (i)
24 Regular Assessments, (ii) Special Assessments, and (iii) Special
25 Individual Assessments. Each such Assessment shall be established
26 and collected as hereinafter provided.
27
28
29

30 (b) Extent of Owner's Personal Obligation for Assessments. All
31 Assessments, together with late charges, interest, and reasonable
32 costs (including reasonable attorneys' fees) for the collection
33 thereof, shall be a debt and a personal obligation of the Person
34 who was the Owner of the Lot at the time the Assessment was
35 levied. Each Owner who acquires title to a Lot (whether at
36 judicial sale, trustee's sale or otherwise) shall be personally
37 liable only for Assessments attributable to the Lot so purchased
38 which become due and payable after the date of such sale, and
39 shall not be personally liable for delinquent Assessments of
40 prior Owners unless the new Owner expressly assumes the personal
41 liability.
42

43 (c) Creation of Assessment Lien. All Assessments, together
44 with late charges, interest, and reasonable costs (including
45 reasonable attorneys' fees) for the collection thereof, shall be
46 a charge on the Lot and shall be a continuing lien upon the Lot
47 against which such Assessment is made. Any lien for unpaid
48 Assessments created pursuant to the provisions of this Article

1 may be subject to foreclosure as provided in Article IV, Section
2 8(b) hereof.

3
4 (d) No Avoidance of Assessment Obligations. No Owner may
5 exempt himself or herself from personal liability for Assessments
6 duly levied by the Association, nor release the Lot or other
7 property owned by him or her from the liens and charges hereof,
8 by waiver of the use and enjoyment of the Common Area or any
9 facilities thereon or by abandonment or non-use of his or her Lot
10 or any other portion of the Property.

11
12 4.2 Regular Assessments.

13
14 Preparation of Annual Budget:

15
16 (1) Not less than 45 days nor more than 90 days prior to the
17 Association's Fiscal year, the Board shall estimate that total
18 amount required to fund the Association's anticipated Common
19 Expenses for the next succeeding fiscal year, including the
20 following:

21 (a) A budget prepared on an accrual basis. The Board may
22 distribute only a summary of the items required by Civil
23 Code Section, but the members **must be given a notice**, in
24 at least 10-point **bold** type face on the front page of the
25 summary of the budget, that the budget is available at the
26 Association's business office and that copies will be
27 provided upon request and at the expense of the
28 Association. This **must be delivered** within five (5) days.

29 (b) Must include a summary of the Association's reserve in
30 **bold type**.

31 (c) Must include a statement of whether the board has
32 determined a need to levy one or more special assessments
33 to repair, replace, or restore any major component or
34 provide adequate reserves for doing so.

35 (d) Must include a general statement addressing the
36 procedures used to calculate and establish reserves.

37 (e) Must include notice to members of their right to
38 obtain copies of minutes within 30 days upon written
39 request and payment of the copying costs.

40 (f) Must include at least a summary of Civil Code Section
41 1354 (Alternative Dispute Resolution) with the specified
42 language required by Civil Code Section 1354.

43 (g) If the Board fails to distribute the budget for any
44 fiscal year within the time period provided for in this
45 Section, the Board shall not be permitted to increase
46 Regular Assessments for that fiscal year unless the Board
47 first obtains the approval of the Owners, constituting a
48 quorum, casting a majority of the votes at a meeting or

1 election of the Association conducted in accordance with
2 the By-laws.

3
4 2. The Association must send to members, within 60 days
5 prior to the new fiscal year, a summary of the Association's
6 property and general liability insurance, listing the carrier's
7 name, type of insurance, policy limits for each type and the
8 deductibles. The Association must include the exact disclaimer
9 language specified by the statute. The Association must also give
10 members immediate notice of any lapse, non-renewal or
11 cancellation of coverage.

12
13 3. The Board must notify members (of incorporated
14 associations) annually of the right to obtain an annual report,
15 within 120 days after the fiscal year ends, upon written request.
16 This report is similar to the audit or review required by Civil
17 Code Section 1365(b), but it applies to corporations that have at
18 least \$10,000.00 in gross annual receipts. However, any
19 incorporated association which had at least \$10,000.00 in gross
20 revenue must make available a balance sheet, income statement and
21 statement of changes in financial position which is (a)
22 accompanied by a report from a CPA or (b) an officer's
23 certificate that its balance sheet was prepared without audit.

24
25 4. During the sixty-day (60) period before the new fiscal
26 year begins, the Association must deliver a statement to all
27 members describing the Association's Policies and Practices in
28 enforcing lien rights "Collection Policy". This can be sent with
29 the annual budget between 45 and 60 days before the beginning of
30 the fiscal year.

31
32 5. The Board must distribute to all members any fine schedule
33 adopted by the Board to discipline members.

34
35 6. The Association must file annually a "Statement of
36 Domestic Non-Stock Corporation"

37
38 7. The Board must schedule a quarterly review of the
39 Association's operating and reserve accounts.

40
41 8. Every three years, a reasonably detailed visual inspection
42 of the assessable components the Association must maintain must
43 be conducted as part of a study of the Association's Reserve
44 Account requirements.

45
46 (b) Establishment of Regular Assessment by Board or Membership
47 Approval Requirements. The total annual expenses estimated in the
48 Association's budget (less projected income from sources other

1 than assessments) shall become the aggregate Regular Assessment
2 for the next succeeding fiscal year, provided that, except as
3 provided in subparagraph (a) above, and subparagraph (c) below,
4 the Board of Directors may not impose a Regular Assessment that
5 is more than 20 percent greater than the Regular Assessment for
6 the Association's immediately preceding fiscal year without the
7 vote or written assent of Members, constituting a quorum, casting
8 a majority of the votes at a meeting or election of the
9 Association (see Article IV, Section 6, below).

10
11 (c) Assessments to Address Emergency Situations. The
12 requirement of a membership vote to approve Regular Assessment
13 increases in excess of 20 percent of the previous year's Regular
14 Assessment shall not apply to assessment increases necessary to
15 address emergency situations. For purposes of this subparagraph
16 (c), an emergency situation is any of the following:

17
18 (i) An extraordinary expense required by an order of a
19 court.

20 (ii) An extraordinary expense necessary to repair or
21 maintain the Common Areas, Common Facilities or any portion of
22 the separate interests which the Association is obligated to
23 maintain where a threat to personal safety is discovered.

24
25 (iii) An extraordinary expense necessary to repair or
26 maintain the Common Areas, Common Facilities or any portion of
27 the separate interests which the Association is obligated to
28 maintain that could not have been reasonably foreseen by the
29 Board in preparing and distributing the budget pursuant to
30 subparagraph (a) above, provided that, prior to the imposition or
31 collection of an assessment under this paragraph (iii), the Board
32 shall pass a resolution containing written findings as to the
33 necessity of the extraordinary expense involved and why the
34 expense was not or could not have been reasonably foreseen in the
35 budgeting process. The Board's resolution shall be distributed to
36 the Members together with the notice of assessment.

37
38 (d) Allocation of Regular Assessment. The total estimated
39 Common Expenses, determined in accordance with subparagraph (a),
40 above, shall be allocated among, assessed against, and charged to
41 each Owner according to the ratio of the number of acres within
42 the Property owned by the assessed Owner to the total number of
43 acres subject to Assessments so that each acre bears an equal
44 share of the total Regular Assessment.

45
46 (e) Assessment Roll. That portion of the estimated Common
47 Expenses assessed against and charged to each Owner shall be set
48 forth and recorded in an Assessment roll which shall be

1 maintained and available with the records of the Association and
2 shall be open for inspection at all reasonable times by each
3 Owner or his or her authorized representative for any purpose
4 reasonably related to the Owner's interest as a property Owner or
5 as a Member of the Association. The Assessment roll (which may be
6 maintained in the form of a computer printout) shall show for
7 each Lot the name and address of the Owner of Record, all
8 Regular, Special and Special Individual Assessments levied
9 against each Owner and his or her Lot, and the amount of such
10 Assessments which have been paid or remain unpaid. The
11 delinquency statement required by Article II, Section 5(c) hereof
12 shall be conclusive upon the Association and the Owner of such
13 Lot as to the amount of such indebtedness appearing on the
14 Association's Assessment roll as of the date of such statement,
15 in favor of all persons who rely thereon in good faith.

16
17 (f) Mailing Notice of Assessment. The Board of Directors shall
18 mail to each Owner at the street address of the Owner's Lot, or
19 at such other address as the Owner may from time to time
20 designate in writing to the Association, a statement of the
21 amount of the Regular Assessment for the next succeeding fiscal
22 year no less than 45 days prior to the beginning of the next
23 fiscal year.

24
25 (g) Failure to Make Estimate. If, for any reason, the Board of
26 Directors fails to make an estimate of the Common Expenses for
27 any fiscal year, then the Regular Assessment made for the
28 preceding fiscal year, together with any Special Assessment made
29 pursuant to Article IV, Section 3(a)(i) for that year, shall be
30 assessed against each Owner and his or her Lot on account of the
31 then current fiscal year, and payment thereof based upon such
32 automatic Assessment shall be payable on the regular payment
33 dates established by the Association.

34
35 (h) Payment of Assessment. The total Regular Assessment levied
36 against each Owner and his or her Lot shall be all due and
37 payable to the Association on or before January 1st of each year.
38 Assessments are delinquent thirty days after stated due date.

39
40 (i) Pro-Rations of Assessments. Assessments commence on the
41 first day following the recording of title to such owners, or the
42 granting of possession thereof to him or her, whichever occurs
43 first. All costs shall be assessed and pro-rated against the
44 owner of such parcel.

45
46
47
48

1 4.3 Special Assessments.
2

3 (a) Purposes for Which Special Assessments May Be Levied.
4 Subject to the membership approval requirements set forth in
5 subparagraph (b) below, the Board of Directors shall have the
6 authority to levy Special Assessments against the Owners and
7 their Lots for the following purposes:
8

9 (i) Regular Assessment Insufficient in Amount. If, at any
10 time, the Regular Assessment for any fiscal year is insufficient
11 in amount due to extraordinary expenses not contemplated in the
12 budget prepared for said fiscal year, then, except as prohibited
13 by Article IV, Section 2(a), the Board of Directors shall levy
14 and collect a Special Assessment, applicable to the remainder of
15 such year only, for the purpose of defraying, in whole or in
16 part, any deficit which the Association may incur in the
17 performance of its duties and the discharge of its obligations
18 hereunder. The Board's assessment authority pursuant to this
19 Section 3 subparagraph (a) shall be subject to membership
20 approval requirements under the circumstances described in
21 Article IV, Section 2(a).

22 (ii) Capital Improvements. The Board may also levy Special
23 Assessments for additional capital improvements within the Common
24 Area (i.e., improvements not in existence on the date of this
25 Declaration that are unrelated to repairs for damage to, or
26 destruction of, the existing Common Facilities). The Special
27 Assessment power conferred hereunder is not intended to diminish
28 the Board's obligation to plan and budget for normal maintenance,
29 and replacement repair of the Common Area or existing Common
30 Facilities through Regular Assessments (including the funding of
31 reasonable reserves) and to maintain adequate insurance on the
32 Common Area and existing Common Facilities in accordance with
33 Article X hereof.
34

35 (b) Special Assessments Requiring Membership Approval. No
36 Special Assessments described in (i) Section 3(a) hereof, which
37 in the aggregate exceed 5 percent of the budgeted gross expenses
38 of the Association for the fiscal year in which the Special
39 Assessment(s) is levied; or (ii) in the last sentence of Article
40 IV, Section 2(a), shall be made without the vote or written
41 assent of Members, constituting a quorum, casting a majority of
42 the votes at a meeting or election of the Association, provided
43 that this membership approval requirement shall not apply to any
44 Special Assessment levied to address "emergency situations" as
45 defined in this Article IV, Section 2(c).
46

47 (c) Allocation and Payment of Special Assessments. When levied
48 by the Board or approved by the Members as provided above, the

1 Special Assessment shall be divided among, assessed against and
2 charged to each Owner and his or her Lot in the same manner
3 prescribed for the allocation of Regular Assessments pursuant to
4 Article IV, Section 2(d), above. The Special Assessment so levied
5 shall be recorded on the Association's Assessment roll and notice
6 thereof shall be mailed to each Owner.

7
8 Special Assessments for purposes described in this Section 3
9 shall be due as a separate debt of the Owner and a lien against
10 his or her Lot, and shall be payable in full to the Association
11 within 30 days after the mailing of such notice or within such
12 extended period as the Board shall determine to be appropriate
13 under the circumstances giving rise to the Special Assessment.

14
15 4.4 Special Individual Assessments.

16
17 (a) Circumstances Giving Rise to Special Individual
18 Assessments. In addition to the Special Assessments levied
19 against all Owners in accordance with Section 3, above, the Board
20 of Directors may impose Special Individual Assessments against an
21 Owner in any of the circumstances described in subparagraphs (i)
22 through (iii) below, provided that no Special Individual
23 Assessments may be imposed against an Owner pursuant to this
24 Section 4 until the Owner has been afforded the notice and
25 hearing rights to which the Owner is entitled pursuant to Article
26 XIII, Section 6 hereof, and, if appropriate as determined by the
27 Board in its sole discretion, has been given a reasonable
28 opportunity to comply voluntarily with the Association's
29 Governing Documents. Subject to the foregoing, the acts and
30 circumstances giving rise to liability for Special Individual
31 Assessments include the following:

32
33 (i) Damage to Common Area or Common Facilities. In the event
34 that any damage to, or destruction of, any portion of the Common
35 Area or the Common Facilities, is caused by the willful
36 misconduct or negligent act or omission of any Owner, any member
37 of his or her family, or any of his or her tenants, guests,
38 servants, employees, licensees or invitees, the Board shall cause
39 the same to be repaired or replaced, and all costs and expenses
40 incurred in connection therewith (to the extent not compensated
41 by insurance proceeds) shall be assessed and charged solely to
42 and against such Owner as a Special Individual Assessment.

43
44 (ii) Expenses Incurred in Gaining Member Compliance. In the
45 event that the Association incurs any costs or expenses, to
46 accomplish (A) the payment of delinquent Assessments, (B) any
47 repair, maintenance or replacement to any portion of the Property
48 that the Owner is responsible to maintain under the Governing

1 Documents but has failed to undertake or complete in a timely
2 fashion, or (C) to otherwise bring the Owner and/or his or her
3 Lot into compliance with any provision of the Governing
4 Documents, the amount incurred by the Association (including
5 reasonable fines and penalties duly imposed hereunder, title
6 company fees, accounting fees, court costs and reasonable
7 attorneys' fees) shall be assessed and charged solely to and
8 against such Owner as a Special Individual Assessment.
9

10 (iii) Required Maintenance on Lots. As more particularly
11 provided in Article III, Section 6(b) (and without limiting the
12 generality of that subparagraph), if any Lot is maintained so as
13 to become a nuisance, fire or safety hazard for any reason,
14 including without limitation, the accumulation of trash, junk
15 automobiles, or improper weed or vegetation control, the
16 Association shall have the right to enter said Lot, correct the
17 offensive or hazardous condition and recover the cost of such
18 action through imposition of a Special Individual Assessment
19 against the offending Owner.
20

21 (b) Levy of Special Individual Assessment and Payment. Once a
22 Special Individual Assessment has been levied against an Owner
23 for any reason described, and subject to the conditions imposed,
24 in this Section 4(a), such Special Individual Assessment shall be
25 recorded on the Association's Assessment roll, notice thereof
26 shall be mailed to the affected Owner and the Special Individual
27 Assessment shall thereafter be due as a separate debt of the
28 Owner payable in full to the Association within 30 days after the
29 mailing of notice of the Assessment. Special Individual
30 Assessments imposed to recover monetary penalties for failure of
31 a Member to comply with the Governing Documents may only become a
32 lien against the Member's Lot that is subject to foreclosure if
33 such lien and foreclosure remedies are subsequently permitted by
34 law. Currently Civil Code Section 1367 prohibits such liens.
35 However, except as specifically prohibited by law, it is the
36 intent of this Declaration that Special Individual Assessments
37 (including without limitation those imposed to recover late
38 payment penalties or to reimburse the association for the cost of
39 repairing damage to the Common Areas or Common Facilities for
40 which the assessed Member is responsible), if not paid prior to
41 delinquency, may be collected either in an action at law or by
42 resort to the lien and foreclosure remedies set forth in Section
43 9(b), below.
44

45 4.5 Purposes and Reasonableness of Assessments. Each
46 Assessment made in accordance with the provisions of this
47 Declaration is hereby declared and agreed to be for use
48 exclusively (a) to promote the recreation, health, safety and

1 welfare of individuals residing within the Property; (b) to
2 promote the enjoyment and use of the Property by the Owners and
3 their families, tenants, invitees, licensees, guests and
4 employees; and (c) to provide for the repair, maintenance,
5 replacement and protection of the Common Area and Common
6 Facilities. Each and every Assessment levied hereunder is further
7 declared and agreed to be a reasonable Assessment, and to
8 constitute a separate, distinct and personal obligation (with
9 respect to which a separate lien may be created hereby) of the
10 Owner of the Lot against which the Assessment is imposed that
11 shall be binding on the Owner's heirs, successors and assigns,
12 provided that the personal obligation of each Owner for
13 delinquent Assessments shall not pass to the Owner's successors
14 in title unless expressly assumed by them.

15
16 4.6 Notices and Procedure for Member Approval Pursuant to
17 Sections 2 and 3. In the event that Member approval is required
18 in connection with any increase or imposition of Assessments
19 pursuant to Sections 2 and 3 of this Article IV, approval of the
20 requisite percentage of the Members shall be solicited either by
21 written ballot conducted in accordance with Corporations Code
22 Section 7513 and Article V, of the By-laws or at a meeting of the
23 Members called for that purpose, duly noticed in accordance with
24 Article V, Section 4 of the By-laws. The quorum required for such
25 membership action shall be a majority of the Members.

26
27 4.7 Maintenance of Assessment Funds.

28
29 (a) Bank Accounts. All sums received or collected by the
30 Association from Assessments, together with any interest or late
31 charges thereon, shall be promptly deposited in one or more
32 insured checking, savings or money market accounts in a bank or
33 savings and loan association selected by the Board of Directors
34 which has offices located within the State of California, County
35 of Riverside. Said Account shall be designated "Santa Rosa West
36 Association Maintenance Fund Account". In addition, the Board
37 shall be entitled to make prudent investment of reserve funds in
38 insured certificates of deposit, money market funds or similar
39 investments consistent with the investment standards that an
40 ordinarily prudent person in a like position would use under
41 similar circumstances. The Board, and such officers or agents of
42 the Association as the Board shall designate, shall have
43 exclusive control of said account(s) and investments and shall be
44 responsible to the Owners for the maintenance at all times of
45 accurate records thereof. The books and records shall be kept at
46 the office of the Association and shall be open for inspection,
47 by appointment, by any Owner with prior written notice during
48 normal business hours. The withdrawal of funds from Association

1 accounts shall be subject to the minimum signature requirements
2 imposed by California Civil Code Section 1365.5 and Article VI,
3 Section 7 (b) of the By-laws.
4

5 To preclude a multiplicity of bank accounts, the proceeds of
6 all Assessments may be commingled in one or more accounts and
7 need not be deposited in separate accounts so long as the
8 separate accounting records described herein are maintained. Any
9 interest received on such deposits shall be credited
10 proportionately to the balances of the various Assessment fund
11 accounts maintained on the books of the Association as provided
12 in subparagraph (b), below.
13

14 (b) Separate Accounts: Commingling of Funds. Except as
15 provided below, the proceeds of each Assessment shall be used
16 only for the purpose for which such Assessment was made, and such
17 funds shall be received and held in trust by the Association for
18 such purpose. Notwithstanding the foregoing, the Board, in its
19 discretion, may make appropriate adjustments among the various
20 line items in the Board's approved general operating budget if
21 the Board determines that it is prudent and in the best interest
22 of the Association and its Members to make such adjustments. If
23 the proceeds of any Special Assessment exceed the amount required
24 to accomplish the purpose for which such Assessment was levied,
25 such surplus may, in the Board's discretion, be returned
26 proportionately to the contributors thereof, reallocated among
27 the Association's reserve accounts if any such account is, in the
28 Board's opinion, under-funded or credited proportionately on
29 account of the Owners' future Regular Assessment obligations.
30

31 For purposes of accounting, but without requiring any physical
32 segregation of assets, the Association shall maintain a separate
33 accounting of all funds received by it in payment of each
34 Assessment and of all disbursements made there from, provided
35 that receipts and disbursements of Special Assessments made
36 pursuant to this Article IV, Section 3(a)(i) shall be accounted
37 for together with the receipts and disbursements of Regular
38 Assessments; and separate liability accounts shall be maintained
39 for each capital improvement for which reserve funds for
40 replacement are allocated.
41

42 Unless the Association is exempt from federal or state taxes,
43 all sums allocated to capital replacement funds shall be
44 accounted for as contributions to the capital of the Association
45 and as trust funds segregated from the regular income of the
46 Association or in any other manner authorized by law or
47 regulations of the Internal Revenue Service and the California

1 Franchise Tax Board that will prevent such funds from being taxed
2 as income of the Association.

3
4 4.8 Collection of Assessments; Enforcement of Liens.

5
6 (a) Delinquent Assessments. If any lump sum payment of a
7 Regular Assessment or lump sum or installment payment of any
8 Special Assessment or Special Individual Assessment assessed to
9 any Owner is not paid within 15 days after the same becomes due,
10 such payment shall be delinquent and the amount thereof may, at
11 the Board's election, bear interest at the maximum rate allowed
12 by law beginning 30 days after the due date until the same is
13 paid. In addition to the accrual of interest, the Board of
14 Directors is authorized and empowered to promulgate a schedule of
15 reasonable late charges for any delinquent Assessments, subject
16 to the limitations imposed by California Civil Code Sections 1366
17 and 1366.1 or comparable superseding statutes.

18
19 (b) Effect of Nonpayment of Assessments.

20
21 (i) Creation and Imposition of a Lien for Delinquent
22 Assessments. As more particularly provided in California Civil
23 Code Section 1367 or comparable superseding statute, before the
24 Association may place a lien upon the Lot of an Owner to collect
25 the amount of the Assessment, together with any late charges,
26 interest and costs (including reasonable attorneys' fees)
27 attributable thereto or incurred in the collection thereof, the
28 Association shall notify the Owner in writing by certified mail
29 of the fee and penalty procedures of the Association, provide an
30 itemized statement of the charges owed by the Owner, including
31 items on the statement which indicate the principal owed, any
32 late charges and the method of calculation, any attorneys' fees,
33 and the collection practices of the Association, including the
34 right of the Association to the reasonable costs of collection.
35 The Notice of delinquent assessment shall not be filed for record
36 until the Association has delivered to the defaulting owner, not
37 less than fifteen (15) days prior to recordation of such notice,
38 a written notice of default and demand to cure the default within
39 fifteen (15) days.

40
41 As more particularly provided in California Civil Code Section
42 1367 or comparable superseding statute, the amount of any
43 delinquent Regular or Special, or Special Individual Assessment,
44 together with any late charges, interest and costs (including
45 reasonable attorneys' fees) attributable thereto or incurred in
46 the collection thereof, shall become a lien upon the Lot of the
47 Owner so assessed only when the Association causes to be recorded
48 in the Office of the County Recorder of the County, a Notice of

1 Delinquent Assessment executed by an authorized representative of
2 the Association, setting forth (A) the amount of the delinquent
3 Assessment(s) and other sums duly imposed pursuant to this
4 Article IV and California Civil Code Section 1366, (B) the legal
5 description of the Owner's Lot against which the Assessments and
6 other sums are levied, (C) the name of the Owner of Record of
7 such Lot, (D) the name and address of the Association, and (E)
8 the name and address of the trustee authorized by the Association
9 to enforce the lien by sale. Upon payment in full of the sums
10 specified in the Notice of Delinquent Assessment, the Association
11 shall cause to be recorded a further notice stating the
12 satisfaction and release of the lien thereof.
13 The Association's right to impose a lien for Special Individual
14 Assessments shall be subject to the limitations imposed by this
15 Article IV, Section 4(c).

16
17 (ii) Remedies Available to the Association to Collect
18 Assessments. The Association may initiate a legal action against
19 the Owner personally obligated to pay the delinquent Assessment,
20 foreclose its lien against the Owner's Lot or accept a deed in
21 lieu of foreclosure. Foreclosure by the Association of its lien
22 may be by judicial foreclosure or by Non Judicial foreclosure by
23 the trustee designated in the Notice of Delinquent Assessment or
24 by a trustee substituted pursuant to California Civil Code
25 Section 2924a. Any sale of a Lot by a trustee acting pursuant to
26 this Section 9 shall be conducted in accordance with California
27 Civil Code Sections 2924, 2924b and 2924c applicable to the
28 exercise of powers of sale in mortgages or deeds of trust.

29
30 (iii) Non-Judicial Foreclosure. Non-Judicial foreclosure
31 shall be commenced by the Association by recording in the Office
32 of the County Recorder a Notice of Default, which notice shall
33 state all amounts which have become delinquent with respect to
34 the Owner's Lot and the costs (including attorneys' fees),
35 penalties and interest that have accrued thereon, the amount of
36 any Assessment which is due and payable although not delinquent,
37 a legal description of the property with respect to which the
38 delinquent Assessment is owed, and the name of the Owner of
39 Record or reputed Owner thereof. The Notice of Default shall
40 state the election of the Association to sell the Lot or other
41 property to which the amounts relate and shall otherwise conform
42 to the requirements for a notice of default under California
43 Civil Code Section 2924c, or comparable superseding statute.

44
45 The Association shall have the rights conferred by California
46 Civil Code Section 2924a to assign its rights and obligations as
47 trustee in any Non-Judicial foreclosure proceedings to the same
48 extent as a trustee designated under a deed of trust and for

1 purposes of said Section 2924a, the Association shall be deemed
2 to be the sole beneficiary of the delinquent Assessment
3 obligation. Furthermore, in lieu of an assignment of trusteeship,
4 the Association shall be entitled to employ the services of a
5 title insurance company or other responsible company authorized
6 to serve as a trustee in Non-Judicial foreclosure proceedings to
7 act as an agent on behalf of the Association in commencing and
8 prosecuting any Non-Judicial foreclosure hereunder. The
9 Association or its assignee shall mail a copy of the Notice of
10 Default to the Owner or reputed Owner of the subject Lot at the
11 Owner's last address appearing on the books or records of the
12 Association, and to any person to whom the giving of a notice of
13 default is required by applicable provisions of California Civil
14 Code Section 2924b. Following receipt of the Association's
15 notice, the Owner and junior encumbrances shall have
16 reinstatement rights identical to those provided by law for
17 Trustors or Mortgagors, which rights must be exercised during the
18 period specified by law for reinstatement of obligations secured
19 by deeds of trust.

20
21 After the lapse of such time as may then be required by law
22 following the recording of a Notice of Default under a deed of
23 trust, the Association or its assignee may give Notice of Sale in
24 the manner and for the period required in the case of deeds of
25 trust. After the giving of the Notice of Sale, the Association,
26 or its assignee, without demand on the Owner, may sell the Lot at
27 the time and place fixed in the Notice of Sale, at public auction
28 to the highest bidder. At the Trustee's sale, the Trustee shall
29 have the right to require every bidder to show evidence of his or
30 her ability to deposit with the Trustee the full amount of his or
31 her final bid in cash or a bank or savings and loan certified
32 check and to require the last and highest bidder to deposit the
33 full amount of his or her final bid in cash or a bank or savings
34 and loan association certified check. The Association or its
35 assignee may postpone the noticed sale by public announcement at
36 such time and place of sale, and from time to time thereafter may
37 postpone such sale by public announcement at the time fixed by
38 the preceding postponement.

39
40 The Association shall deliver to the purchaser at such
41 foreclosure sale the Association's deed conveying the Lot so
42 sold, but without covenant or warranty, express or implied. The
43 recitals in such deeds shall be conclusive proof of the
44 truthfulness thereof. Any person, including the Association, may
45 bid on the subject property and purchase the same at such sale.

46
47 After deducting from the sale proceeds all costs, fees, and
48 expenses incurred by the Association, the net proceeds shall be

1 applied to the payment of all sums secured by the Association's
2 lien at the time of sale, including interest, costs and
3 attorneys' fees, and the remainder, if any, shall be disbursed to
4 the person or persons legally entitled thereto.
5

6 (iv) Actions for Money Judgment. In the event of a default
7 in payment of any Assessment, the Association, in its name but
8 acting for and on behalf of all other Owners, may initiate legal
9 action, in addition to any other remedy provided herein or by
10 law, to recover a money judgment or judgments for unpaid
11 Assessments, costs and attorneys' fees without foreclosure or
12 waiver of the lien securing same.
13

14 4.9 Transfer of Lot by Sale or Foreclosure. The following rules
15 shall govern the Association's rights to enforce its Assessment
16 collection remedies following the sale or foreclosure of a Lot.
17

18 (a) Except as provided in paragraph (b), below, the sale or
19 transfer of any Lot shall not affect any Assessment lien duly
20 recorded with respect to that Lot before the sale or transfer,
21 and the Association can continue to foreclose its lien in spite
22 of the change in ownership.
23

24 (b) The Association's assessment lien shall be extinguished as
25 to all delinquent sums, late charges, interest, and costs of
26 collection incurred before the sale or transfer of a Lot under a
27 foreclosure or exercise of a power of sale by the holder of a
28 prior encumbrance (but not under a deed-in-lieu of foreclosure).
29 A "prior encumbrance" means any first Mortgage or other Mortgage
30 or lien recorded before the Association's assessment lien.
31

32 (c) No sale or transfer of a Lot as the result of foreclosure,
33 exercise of a power of sale, or otherwise, shall relieve the new
34 Owner of that Lot (whether it be the former beneficiary of the
35 first Mortgage or other prior encumbrance, or a third party
36 acquiring an interest in the Lot) from liability for any
37 assessments due from the lien(s) thereof.
38

39 (d) Any Assessments, late charges, interest, and associated
40 costs of collection that are lost as a result of a sale or
41 transfer covered by paragraph (b), above, shall, at the election
42 of the Board of Directors, be deemed to be a Common Expense
43 collectible from the Owners of all of the Lots, including the
44 person who acquires the Lot and his or her successors and
45 assigns.
46

47 (e) No sale or transfer of a Lot as the result of foreclosure,
48 exercise of a power of sale, or otherwise, shall affect the

1 Association's right to maintain an action against the foreclosed
2 previous Owner of the Lot personally to collect the delinquent
3 assessments, late charges, interest, and associated costs of
4 collection incurred by that prior Owner prior to the sale or
5 transfer.
6

7 (f) Section 10 and the following Section 11 are intended to
8 reflect the California law concerning community association
9 assessment lien priority in effect as of the effective date of
10 this Declaration. In the event that the applicable California
11 laws are revised and the statute(s) addressing assessment lien
12 priority apply to the Association, this Section and Section 11
13 may be revised by action of the Board to conform to the new
14 statutory provisions concerning this subject.
15

16 4.10 Priorities. When a Notice of Delinquent Assessment has
17 been recorded, such notice shall constitute a lien on the Lot
18 prior and superior to all other liens or encumbrances recorded
19 subsequent thereto, except (a) all taxes, bonds, assessments and
20 other levies which, by law, would be superior thereto, and (b)
21 the lien or charge of any first Mortgage of record (meaning any
22 recorded Mortgage or deed of trust with first priority over other
23 Mortgages or deeds of trust) made in good faith and for value,
24 provided that such subordination shall apply only to the
25 Assessments which have become due and payable prior to the
26 transfer of such property pursuant to the exercise of a power of
27 sale or a judicial foreclosure involving a default under such
28 first Mortgage or deed of trust, or other prior encumbrance.
29

30 4.11 Unallocated Taxes. In the event that any taxes are
31 assessed against the Common Area, or the personal property of the
32 Association, rather than being assessed to the Lots, such taxes
33 shall be included in the Regular Assessments imposed pursuant to
34 this Article IV, Section 2 and, if necessary, a Special
35 Assessment may be levied against the Lots in an amount equal to
36 such taxes to be paid in two installments, sixty days prior to
37 the due date of each tax installment.
38

39 4.12 Waiver of Exemptions. Each Owner, to the extent
40 permitted by law, waives, to the extent of any liens created
41 pursuant to this Article IV, the benefit of any homestead or
42 exemption law of California in effect at the time any Assessment
43 or installment thereof becomes delinquent or any lien is imposed
44 against the Owner's Lot.
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ARTICLE V

Architectural Control

5.1 Architectural Committee Approval of Improvements.

(a) Approval Generally. Before commencing construction or installation of any Improvement (as defined in Article I, Section 15) on any lot within the Property, the Owner planning such improvement must submit to the Association's Architectural Committee a written request for approval. The Owner's request shall include structural plans, specifications and plot plans satisfying the requirements of this Article V, Section 6. Unless the Committee's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Architectural Committee shall base its decision to approve, disapprove or conditionally approve the proposed improvement on the criteria described in this Article V, Section 6.

(b) Modifications to Approved Plans Must Also Be Approved. Once a work of improvement has been duly approved by the Architectural Committee, no material modifications shall be made in the approved plans and specifications therefore and no subsequent alteration, relocation, addition or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Committee. If the proposed modification will have, or is likely to have, a material effect on other aspects or components of the work, the Architectural Committee, in its discretion, may order the Owner, his or her contractors and agents to cease working not only on the modified component of the Improvement, but also on any other affected component.

In the event that it comes to the knowledge and attention of the Association, its Architectural Committee, or the agents or employees of either that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Association shall be entitled to exercise the enforcement remedies specified in Section 13 of this Article V, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement until such time as proper Architectural Committee review and approval is obtained.

5.2 Committee Membership. The Architectural Committee shall be composed of a maximum of three Members of the Association appointed by the Board. In selecting Members for the Architectural Committee, the Board of Directors may consider selecting individuals whose occupations or education will provide

1 technical knowledge and expertise relevant to matters within the
2 Committee's jurisdiction. Committee members shall serve for
3 two-year terms subject to the Board's power to remove any
4 Committee member and to appoint his or her successor. Neither the
5 members of the Architectural Committee nor its designated
6 representatives shall be entitled to any compensation for
7 services performed pursuant hereto.

8
9 5.3 Duties of Committee. It shall be the duty of the
10 Architectural Committee to consider and act upon the proposals
11 and plans submitted to it pursuant to this Declaration, to adopt
12 Architectural Rules pursuant to this Article V, Section 5, to
13 perform other duties delegated to it by the Board of Directors
14 and to carry out all other duties imposed upon it by this
15 Declaration. The Committee need not necessarily be bound by the
16 approval of previous designs or Architectural details of existing
17 structures.

18
19 5.4 Meetings. The Architectural Committee shall meet from
20 time to time as necessary to properly perform its duties
21 hereunder. The vote or written consent of a majority of the
22 Committee members shall constitute the action of the Committee
23 and the Committee shall keep and maintain a written record of all
24 actions taken.

25
26 The Owner-Applicant shall be entitled to appear at any meeting
27 of the Architectural Committee at which the Owner's proposal has
28 been scheduled for review and consideration. The Owner shall be
29 entitled to be heard on the matter and may be accompanied by his
30 or her architect, engineer and/or contractor. Reasonable notice
31 of the time, place and proposed agenda for Architectural
32 Committee meetings shall be communicated before the date of the
33 meeting to any Owner-Applicant whose application scheduled to be
34 heard.

35
36 Other Owners whose property may be affected by the proposed
37 Improvement in terms of the view, solar access, noise or other
38 considerations shall also be entitled to attend the meeting. The
39 Architectural Committee may (but shall not be obligated to)
40 notify the Owners of other such potentially affected Lots of the
41 Owner-Applicant's submittal and of Architectural Committee
42 meetings at which the same is scheduled to be heard.

43
44 5.5 Architectural Rules. The Architectural Committee may,
45 from time to time and with approval of the Board of Directors,
46 adopt, amend and repeal rules and regulations to be known as
47 "Architectural Rules." Said Rules shall interpret and implement
48 the provisions hereof by setting forth (a) the standards and

1 procedures for Architectural Committee review; (b) guidelines for
2 architectural design, placement of any work of Improvement or
3 color schemes, exterior finishes, introduce new products and
4 materials and similar features which are recommended or required
5 for use within the Property; and (c) the criteria and procedures
6 for requesting variances from any property use restrictions that
7 would otherwise apply to the proposed improvement under the
8 Governing Documents (see this Article V, Section 15 below).
9 Notwithstanding the foregoing, no Architectural Rule shall be in
10 derogation of the minimum standards required by this Declaration.
11 In the event of any conflict between the Architectural Rules and
12 this Declaration, the provisions of the Declaration shall
13 prevail.
14

15 5.6 Basis for Approval of Improvements. When a proposed
16 Improvement is submitted to the Architectural Committee for
17 review, the Committee shall grant the requested approval only if
18 the Committee, in its sole discretion, finds that all of the
19 following provisions have been satisfied:
20

21 (a) The Owner has complied with the provisions of Section 7
22 below:

23 (b) The Owner's plans and specifications (i) conform to this
24 Declaration and to the Architectural Rules in effect at the time
25 such plans are submitted to the Committee, if any; (ii) will
26 result in the construction of an Improvement that is in harmony
27 with the external design of other structures and/or landscaping
28 within the Property; and (iii) will not interfere with the
29 reasonable enjoyment of any other Owner of his or her Lot,
30 including, without limitation, the other Owner's rights to scenic
31 and solar access free of unreasonable obstructions; and
32

33 (c) The proposed Improvement(s), if approved, will otherwise
34 be consistent with the architectural and aesthetic standards
35 prevailing within the Property and with the overall plan and
36 scheme of development and the purposes of this Declaration.
37

38 The Committee shall be entitled to determine that a proposed
39 Improvement or component thereof is unacceptable when proposed on
40 a particular Lot, even if the same or a similar improvement or
41 component has previously been approved for use at another
42 location within the Property if factors such as drainage,
43 topography or visibility from roads, Common Areas or other Lots
44 or prior adverse experience with the product or components used
45 in construction of the Improvement, design of the Improvement or
46 its use at other locations within the Property mitigate against
47 erection of the Improvement or use of a particular component
48 thereof on the Lot involved in the Owner's submittal.

1 Though it is recognized that the Committee's determination to
2 approve or disapprove an improvement will, of necessity, be
3 subjective to some degree, the members of the Committee shall act
4 reasonably and in good faith. Factors commonly considered by the
5 Committee in reviewing proposed improvements include the quality
6 of workmanship and materials proposed for the improvement
7 project; the harmony of the proposed improvement's exterior
8 design, finish materials, and color with that of the existing
9 structures; and the proposed location of the improvement in
10 relation to existing topography, finished grade elevations,
11 roads, Common Areas, and other structures.
12

13 5.7 Procedures for Obtaining Architectural Committee Approval
14 of Plans and Specifications.
15

16 (a) Application for Preliminary Approval. In order to afford
17 an Owner who is proposing to make substantial Improvements an
18 opportunity to obtain guidance and comment from the Architectural
19 Committee prior to the expenditure of substantial sums on
20 complete plans and specifications, any Owner may apply to the
21 Committee for preliminary approval of the proposed Improvement
22 project. Applications for preliminary approval shall be
23 considered and processed as follows:
24

25 (i) Any application for preliminary approval shall be in
26 writing and shall present sufficient detail to apprise the
27 Architectural Committee of the general nature, location,
28 dimensions and contemplated exterior colors and finishes of the
29 proposed Improvement.
30

31 (ii) In no event shall any preliminary approval of a
32 proposed Improvement be deemed to constitute final approval
33 authorizing construction of the Improvement. The purpose of the
34 preliminary review procedure is to give the Owner a measure of
35 security in proceeding with the proposed Improvement project and
36 committing funds thereto. Final approval shall be based on a
37 complete submittal conforming to the requirements of
38 subparagraphs (b) and (c), below, provided that the Committee
39 may, in its preliminary approval, waive any requirements of
40 subparagraph (c) Which do not pertain to the proposed Improvement
41 project.
42

43 (b) Application for Final Approval.
44

45 Regardless of whether an Owner elects to seek preliminary
46 approval of a proposed Improvement in accordance with
47 subparagraph (a), all Owners who desire to undertake any work of

1 Improvement must apply to the Architectural Committee and receive
2 its prior approval. The application shall be in writing and shall
3 contain all information that is necessary to reasonably evaluate
4 the nature, design, location and extent of the proposed
5 Improvement, including, at a minimum, two complete set of plans
6 and specifications for the Improvement project (satisfying the
7 requirements set forth in subparagraph (c) below) and such
8 additional information as the Committee may reasonably request,
9 either by Architectural Rule or while the project is under
10 review.
11
12

13 (c) Content of Plans and Specifications. In order to be
14 complete, the plans and specifications for the proposed
15 Improvement shall include:
16

17 (i) A professionally prepared plot plan, which indicates (A)
18 the size of the Lot and location of all buildings, set backs,
19 barns, stables, outbuildings and cellars including the Residence,
20 (B) Lot contour lines, (C) the location of all driveways, fences,
21 pools, spas, trash bins, portage corrals, wind screens, hot
22 walkers, arenas, bridges, hay storage, tack room, satellite
23 dishes, outbuildings, tennis courts, equipment storage and any
24 other existing improvements, (D) cut and fill proposals with the
25 estimated yardage of import and export (balancing is preferred);
26 (E) elevation of pads, (F) setbacks from Lot lines of all
27 existing and proposed Improvements, (G) existing drainage and the
28 proposed drainage plan for the Lot, as improved, (H) the location
29 of all trees (6" trunk or over and vegetation which are to be
30 removed as part of the construction plan, (I) the location of all
31 proposed utility, water, electrical, septic tank and leach field
32 installations, (J) ponds and lakes, (K) flood hazard areas, (L)
33 road and road setbacks, (M) road and equestrian trail easements,
34 and (N) other items the Architectural Committee reasonably
35 requires.
36

37 (ii) A professionally prepared (prepared by an architect or
38 licensed building designer) set of plans showing all (A)
39 elevations (including foundation, roof pitches, and height
40 measurements), (B) floor plans including out-buildings and
41 garages, (C) location of all heating and/or cooling equipment,
42 and solar equipment (D) decking, balconies, porches, gazebos,
43 trellises, awnings, lawns and atriums (E) screening devices, (F)
44 retaining walls, and (G) other items the Architectural Committee
45 reasonably requires.
46

47 (iii) Description of exterior materials (if not included
48 with above plans) including roofing materials (with a sample) and

1 siding materials (with color samples), and windows, doors and
2 skylights.

3
4 (iv) A complete landscape plan that includes the names,
5 location, and sizes of all proposed trees, shrubbery, and lawn
6 area(s), identifies any trees scheduled for removal and describes
7 the Owner's plans for replanting trees and vegetation and for
8 stabilizing slopes during and after construction.

9
10 (v) The Owner's proposed construction schedule. If the
11 contemplated Improvement project is of a nature that does not
12 merit extensive plans and specifications, the Architectural
13 Committee may (but shall not be obligated to) waive or modify any
14 of the above plan and specification requirements upon receipt of
15 a written request from the applicant to do so. Said request can
16 be made as part of a preliminary approval submittal pursuant to
17 subparagraph (a), above.

18
19 (d) Inspection Fee and Deposits. The Architectural Rules may
20 require submission of plans and specifications be accompanied by
21 a reasonable fee. The Architectural Rules may also provide for a
22 cash deposit procedure to help ensure proper and timely
23 completion of Improvement projects in accordance with approved
24 plans and specifications and to reimburse the Association for
25 damage to roadways and other Common Facilities resulting from the
26 Owner's construction project.

27
28 The Association may (but shall not be obligated to) place
29 unused deposit funds in an interest-bearing account. In that
30 event, the Association shall have no responsibility or liability
31 to the Owner for its selection of a particular type of
32 interest-bearing account. Once construction and all clean up are
33 complete, the Association shall refund the unused portion of the
34 deposit, plus interest earned thereon, if any, to the Owner.

35
36 (e) Delivery of Plans and Specifications. Plans and
37 specifications shall be submitted to the Architectural Committee
38 by personal delivery or first-class mail addressed to the
39 Secretary of the Association or the Chairman of the Architectural
40 Committee at the Association's principal office.

41
42 5.8 Time Limits for Approval or Rejection. If no written
43 notice of approval or disapproval is provided to the Owner
44 applicant within 60 days after the Owner's plans and
45 specifications (or revisions thereto) are submitted to the
46 Committee, the plans are deemed approved as submitted.

1 In approving a request for construction of an Improvement, the
2 Architectural Committee may condition approval upon the adoption
3 of modifications in the plans and specifications or observance of
4 restrictions as to location, noise abatement, color or materials
5 modifications or similar mitigating conditions.
6

7 5.9 Employment of Architect or Engineer. If at any time the
8 Architectural Committee determines that it would be in the best
9 interests of the Association and its Members for an applicant to
10 employ an architect, licensed building designer or engineer to
11 design or review any proposed Improvements or component thereof,
12 the Committee shall advise the applicant in writing of its
13 determination whereupon all plans and specifications so
14 designated by the Architectural Committee must thereafter bear
15 appropriate evidence of such preparation or review.
16

17 5.10 Proceeding With Work. Upon receipt of approval of an
18 Improvement from the Architectural Committee, the Owner shall, as
19 soon as practicable, satisfy all conditions thereof and
20 diligently proceed with the commencement of construction and
21 excavation, if required, pursuant to said approval. In all cases,
22 work on an Improvement project shall commence within one year
23 from the date of such approval. If the Owner fails to comply with
24 this paragraph, any approval given pursuant to this Article V
25 shall be deemed revoked unless the Architectural Committee, upon
26 written request of the Owner prior to the expiration of the
27 initial one-year period, extends the time for commencement or
28 completion. No such extension shall be granted except upon a
29 finding by the Architectural Committee that there has been no
30 change in the circumstances upon which the original approval was
31 granted and that the Owner has a bona fide intention and ability
32 to complete the Improvement project within the time specified in
33 the extension request.
34

35 5.11 Failure to Complete Work. Unless the Owner has been
36 granted an extension of time to complete the project by the
37 Architectural Committee, construction, reconstruction,
38 refinishing or alteration of any such Improvement must be
39 complete within one year after construction has commenced, except
40 and for so long as such completion is rendered impossible or
41 would result in great hardship to the Owner because of strikes,
42 fires, national emergencies, natural calamities or other
43 supervening forces beyond the control of the Owner or his or her
44 agents. In the case of building Improvements, the requirements
45 of this Section 11 shall be deemed to have been met if, within
46 the one-year construction period, the Owner has completed
47 construction of the building's foundation and all exterior
48 surfaces (including the roof, exterior walls, windows and doors).

1 If the Owner fails to comply with this Section, the Board and the
2 Architectural Committee shall have the enforcement rights and
3 remedies set forth in Section 13 below as though the failure to
4 complete the Improvement was a noncompliance with approved plans.
5

6 5.12 Inspection of Work by Architectural Committee.

7 Inspection of the work relating to any approved Improvement and
8 correction of defects therein shall proceed as follows:
9

10 (a) During the course of construction, representatives of the
11 Architectural Committee shall have the right to inspect the job
12 site to confirm that the Improvement project is proceeding in
13 accordance with the approved plans and specifications.
14

15 (b) Upon the completion of any work of Improvements for which
16 Architectural Committee approval is required under this Article
17 V, the Owner shall give the Architectural Committee a written
18 notice of completion.
19

20 (c) Within 30 days thereafter, the Architectural Committee, or
21 its duly authorized representative, may inspect the Improvement
22 to determine whether it was constructed, reconstructed, altered
23 or refinished in substantial compliance with the approval plans.
24 If the Architectural Committee finds that the Improvement was not
25 erected, constructed or installed in substantial compliance with
26 the Owner's approved plans, then within the 30-day inspection
27 period the Committee shall give the Owner a written notice of
28 noncompliance detailing those aspects of the Improvement project
29 that must be modified, completed or corrected. If the violation
30 or nonconforming work is not corrected, the Board and the
31 Architectural Committee shall have the enforcement rights and
32 remedies set forth in Section 13, below.
33

34 (d) If for any reason the Architectural Committee fails to
35 notify the Owner of any noncompliance within 30 days after
36 receipt of the Owner's notice of completion, the Improvement
37 shall be deemed to have been constructed in accordance with the
38 approved plans for the project, unless it can be demonstrated
39 that the Owner knew of the non-compliance and intentionally
40 mislead the Committee with respect thereto.
41

42 5.13 Enforcement.
43

44 (a) In addition to other enforcement remedies set forth in
45 this Declaration, the Board of Directors and the Architectural
46 Committee shall have enforcement rights with respect to any
47 matters required to be submitted to and approved hereunder, and
48 may enforce such architectural control by any proceeding at law

1 or in equity. In addition, the Board and the Architectural
2 Committee shall have the authority to order an abatement of any
3 construction, alteration or other matter for which approval is
4 required, to the extent that it has not been approved by the
5 Architectural Committee or if it does not conform to the plans
6 and specifications submitted to the Architectural Committee. No
7 work for which approval is required shall be deemed to be
8 approved simply because it has been completed without a
9 complaint, notice of violation, or commencement of a suit to
10 enjoin such work. If any legal proceeding is initiated to enforce
11 any of the provisions hereof, the prevailing party shall be
12 entitled to recover reasonable attorneys' fees in addition to the
13 costs of such proceeding.

14
15 (b) If the Owner fails to remedy any noticed noncompliance
16 within 30 days from the date of such notification, the
17 Architectural Committee shall notify the Board in writing of such
18 failure. The Board shall then set a date on which a hearing
19 before the Board shall be held regarding the alleged
20 noncompliance. The hearing date shall not be more than 30 days
21 nor less than 15 days after the notice of the noncompliance is
22 issued by the Board to the Owner, to the Architectural Committee
23 and, in the discretion of the Board, to any other interested
24 party.

25
26 (c) At the hearing, the Owner, a representative(s) of the
27 Architectural Committee and, in the Board's discretion, any other
28 interested person may present information relevant to the
29 question of the alleged noncompliance. After considering all such
30 information, the Board shall determine whether there is a
31 noncompliance and, if so, the nature thereof and the estimated
32 cost of correcting or removing the same. If a noncompliance is
33 determined to exist, the Board shall require the Owner to remedy
34 or remove the same within such period or within any extension of
35 such period as the Board, at its discretion, may grant. If the
36 Owner fails to take corrective action after having a reasonable
37 opportunity to do so, the Board, at its option, may either remove
38 the non-complying Improvement or remedy the noncompliance and the
39 Owner shall reimburse the Association for all expenses incurred
40 in connection therewith upon demand. If said expenses are not
41 properly re-paid by the Owner to the Association, the Board shall
42 recover such expenses through the levy of a Special Individual
43 Assessment against such Owner. If the Association adopts a policy
44 to levy a monetary penalty for ACC violations, it must submit to
45 the members a copy of the fee schedule. (Civil code Section 1363)

46
47 5.14 Variances. The Board of Directors, in its sole
48 discretion, shall be entitled to allow reasonable variances in

1 any procedures specified in this Article V, the minimum
2 construction standards specified in Article VI, or in any land
3 use restrictions specified in Article VII to overcome practical
4 difficulties, avoid unnecessary expense or prevent unnecessary
5 hardship to Owner-applicants, provided that all of the following
6 conditions are met:

7
8 (a) If the requested variance will necessitate deviation from,
9 or modification of, a property use restriction that would
10 otherwise be applicable under this Declaration, the Board of
11 Directors must conduct a public hearing on the proposed variance
12 after giving prior written notice to the Architectural Committee
13 and to all Owners of Lots within 1000 feet of the subject Lot.
14 Said notice shall also be posted in a prominent place within the
15 Property. The notice shall be posted and mailed to the interested
16 Owners at least 10 days prior to the date when the Board of
17 Directors is scheduled to act on the requested variance. No
18 decision shall be made with respect to the proposed variance
19 until the 10-day comment period has elapsed.

20
21 (b) The Board of Directors must make a good faith written
22 determination that the variance is consistent with one or more of
23 the following criteria: (i) that the requested variance will not
24 constitute a material deviation from any restriction contained
25 herein or that the proposal allows the objectives of the violated
26 requirement(s) to be substantially achieved despite
27 noncompliance; or (ii) that the variance relates to a land use
28 restriction or minimum construction standard otherwise applicable
29 hereunder that is unnecessary or burdensome under the
30 circumstances; or (iii) that the variance, if granted, will not
31 result in a material detriment, or create an unreasonable
32 nuisance with respect, to any other Lot or Common Area within the
33 Property.

34
35 5.15 Nonconforming Use of Property.

36
37 (a) Establishment of Nonconforming Use: Notice Requirements.
38 In addition to its jurisdiction over the review and approval of
39 new Improvements and regulation of the timely and proper
40 completion of such Improvements, the Architectural Committee
41 shall also be vested with authority and responsibility to
42 regulate continued compliance on Lots with the provisions of this
43 Article V, Section 15, and Article VI (Minimum Construction
44 Standards) and VII (Property Use Restrictions) of this
45 Declaration. To this end, the Architectural Committee may (but
46 shall have no obligation to) appoint a compliance officer who
47 shall periodically tour the Property from time to time and report
48 to the Committee any apparent violations of said Articles

1 ("architectural/land use violations"). If the Architectural
2 Committee agrees that it or the compliance officer has identified
3 an architectural or a land use violation on any Lot, the
4 Committee shall so notify the Owner, in writing. The notice shall
5 detail the nature of the alleged violation and advise the Owner
6 of his or her right to be heard on the matter in accordance with
7 this Article V. If the Owner fails to make a timely request for a
8 hearing, the Architectural Committee shall be entitled to make
9 its own determination of whether a violation exists at the next
10 Architectural Committee meeting following expiration of the
11 notice period.
12

13 If an architectural/land use violation is determined to exist,
14 the Association shall be entitled to pursue either of two courses
15 of action. First, the Association may pursue immediate
16 enforcement remedies under Article XIII, Section 6, below. In the
17 alternative, if the Association determines that the violation has
18 existed for a substantial period of time, thus making current
19 enforcement inequitable under the circumstances, or if the Board
20 determines that other mitigating factors make immediate
21 correction of the violation inequitable or unreasonable, the
22 Board may designate the violation as a "nonconforming use" and
23 record against the subject Lot a Notice of Noncompliance With
24 Recorded Use Restrictions ("Notice of Noncompliance") that shall
25 identify the subject Lot, describe the nonconforming use, and
26 specify the Article and Section number of the Governing Document
27 that is being violated. Following recordation of a Notice of
28 Noncompliance, the provisions of paragraphs (b) and (c), below,
29 shall apply.
30

31 Any use or improvement that was permitted under the Original
32 Amended Declaration and that is nonconforming only by virtue of
33 the adoption of this First Restated Declaration shall not be
34 considered as a violation of this Declaration giving rise to
35 immediate enforcement remedies in the Association. Instead, any
36 such previously authorized use or improvement may be treated only
37 as a nonconforming use that shall be addressed in accordance with
38 subparagraph(s) (b) and (c) (as applicable), below.
39

40 (b) Vacant Lots.

41
42 (i) Continuation of Use. Except as provided in subparagraph
43 (ii) below, the nonconforming use of any vacant Lot may be
44 continued, provided that (A) such use shall not be expanded or
45 extended in any way either on the same or any adjoining land; (B)
46 such use shall not be changed, except to a use which conforms to
47 the Association's Governing Documents and Architectural Rules;

1 and (C) if such use is discontinued for a period of 12 months or
2 more it shall not thereafter be reestablished.

3
4 (ii) Limitation. The nonconforming use of any vacant Lot
5 shall be discontinued within five years from the effective date
6 the use becomes nonconforming when (A) no buildings are employed
7 in connection with such use; (B) the only buildings employed are
8 accessory or incidental to the principal use of the land and the
9 replacement cost thereof does not exceed \$5,000; or (C) such use
10 is maintained in connection with a conforming building.

11
12 (c) Nonconforming Improvements.

13
14 (i) Repair and Maintenance. A nonconforming Improvement may
15 be maintained or repaired without the necessity of complying with
16 the Governing Documents, so long as during any period of 12
17 consecutive months such repair and maintenance shall not exceed
18 25 percent of the current replacement cost of the nonconforming
19 Improvement. Any repair or maintenance of the Improvement the
20 cost of which exceeds 25 percent of the current replacement cost
21 thereof shall require conformance to the Governing Documents as
22 then in effect.

23
24 (ii) Enlargements. An Improvement, which is nonconforming as
25 to use, may not be added to or enlarged unless such nonconforming
26 Improvement, and the additions and enlargements thereto and the
27 use thereof, are brought into compliance with the Governing
28 Documents as then in effect.

29
30 (iii) Restoration. A nonconforming Improvement which is
31 damaged or partially destroyed by any reason to the extent of not
32 more than 50 percent of its value at that time, may be restored
33 and the occupancy or use of such structure or part thereof, which
34 existed at the time of such partial destruction, may be continued
35 or resumed, provided that the total cost of such restoration does
36 not exceed 50 percent of the value of the Improvement at the time
37 of such damage and that such restoration is started within a
38 period of one year and is diligently prosecuted to completion. In
39 the event such damage or destruction exceeds 50 percent of the
40 value of such nonconforming Improvement, no repair or
41 reconstruction shall be made unless every portion of such
42 Improvement is made to conform to all Governing Document
43 regulations for new Improvements of a similar nature. The
44 Architectural Committee shall determine the value of the non-
45 conforming Improvement. If the Owner disputes the Architectural
46 Committee's determination of value, the matter may be appealed to
47 the Board of Directors whose decision shall be final.

1 (d) Certificate of Compliance. Upon the elimination of any
2 nonconforming Improvement, the Association shall execute and
3 record an Estoppel certificate, as described in Article V,
4 Section 16 which shall reference any previously recorded Notice
5 of Noncompliance With Recorded Use Restrictions, rescind said
6 notice and confirm that the Lot is in compliance with all
7 applicable Governing Document provisions referenced in the Notice
8 of Noncompliance.
9

10 5.16 Estoppel Certificate. Within 30 days after written demand
11 is delivered to the Architectural Committee by any Owner, and
12 upon payment to the Association of a reasonable fee (as
13 established from time to time by the Board), the Architectural
14 Committee shall record an Estoppel Certificate, executed by any
15 two of its members, certifying (with respect to any Lot owned by
16 the applicant Owner) that, as of the date thereof, either (a) all
17 Improvements made and other work completed by said Owner comply
18 with this Declaration or (b) such Improvements or work do not so
19 comply, in which event the certificate shall also identify the
20 non-complying Improvements or work and set forth with
21 particularity the basis of such noncompliance. Any purchaser from
22 the Owner, or from anyone deriving any interest in said Lot
23 through the Owner, shall be entitled to rely on the Association's
24 Estoppel certificate with respect to the matters therein set
25 forth, such matters being conclusive as between the Association,
26 all Owners and any persons deriving any interest through them.
27

28 5.17 Limitation on Liability. Neither the Association, its
29 Architectural Committee nor any member thereof shall be liable to
30 any Owner for any damage, loss or prejudice suffered or claimed
31 on account of any mistakes in judgment, negligence or nonfeasance
32 arising out of (a) the approval or disapproval of any plans,
33 drawings and specifications, whether or not defective; (b) the
34 construction or performance of any work of Improvement, whether
35 or not pursuant to approved plans, drawings or specifications;
36 (c) the development of any Lot within the Property; or (d)
37 the execution and filing of a Notice of Noncompliance pursuant to
38 Section 15, above, or an Estoppel Certificate pursuant to Section
39 16 above, whether or not the facts therein are correct, provided
40 that such member has acted in good faith upon the basis of such
41 information as may be possessed by him or her.
42

43 5.18 Compliance With Governmental Regulations. Review and
44 approval by the Architectural Committee of any proposals, plans
45 or other submittals pertaining to Improvements shall in no way be
46 deemed to constitute satisfaction of, or compliance with, any
47 building permit process or any other governmental requirements,

1 the responsibility for which shall lie solely with the Owner who
2 desires to construct, install, or modify the Improvement.

3
4 5.19 Appeals. Appeals from decisions of the Architectural
5 Committee may be made to the Board of Directors, which may elect,
6 in its discretion, to hear the appeal or, in the alternative, to
7 affirm the decision of the Architectural Committee. The
8 Association Rules may contain procedures to process appeals
9 pursuant to this Section 19.

10
11 **ARTICLE VI**

12
13 Minimum Construction Standards

14
15 Unless a variance is requested from, and granted by, the Board
16 of Directors in accordance with Article V, Section 14 hereof,
17 Improvements constructed on any Lot shall conform to the
18 following minimum construction standards:

19
20 6.1 Building Location. No building shall be located nearer to
21 the front, side or rear Lot line or nearer to the side street
22 line than the building setback lines as permitted by any
23 applicable zoning ordinance or other governmental restriction or
24 any other provision hereof.

25
26 6.2 Licensed Contractor. Residential structures shall be
27 constructed by a Contractor, Bonded, Licensed and Insured under
28 the Laws of the State of California.

29
30 6.3 Approval by Architectural Committee. No building, fence,
31 wall or other permanent structure or Improvement shall be
32 erected, altered or placed on any Lot until building plans,
33 specifications and a plot plan showing the location of structures
34 on the Lots have been submitted to the Architectural Committee
35 for review and approval as described in Article V hereof.

36
37 6.4 Maximum Height. Each Residence constructed on any Lot
38 shall be of low silhouette, not to exceed two stories.
39 Residences with step-down floor levels and roof plans contouring
40 to natural grades are encouraged, as are porches and terraces.
41 The maximum height permitted for any Residence from finished
42 first floor level to finished grade is six feet. For any
43 structure to be constructed on or within fifty (50) feet of a
44 ridgeline, such structure shall not exceed one (1) story, and
45 shall not exceed twenty-four (24) feet in height. No structure
46 within the Association may exceed thirty (30) feet in height.

1 6.5 Minimum Square Footage Requirements. Each Residence
2 constructed on any Lot shall have a fully enclosed floor area
3 (exclusive of roofed or unroofed porches, decks, terraces,
4 garages (attached or detached), carports or other outbuildings)
5 of not less than 3,000 square feet.
6

7 6.6 Setbacks and Location of Structure. Setbacks for any
8 Residence or other permanent structure (whether or not attached
9 to the Residence) shall be at least:

10 (a) 75-feet from the front Lot line;

11 (b) 50-feet from the rear Lot line;

12 (c) 40 feet from the side Lot lines;

13 (d) All setbacks to be a minimum of 75 feet from any street.
14
15
16
17
18

19 The foregoing setback requirements do not apply to permitted
20 signs, pole lines, underground pipe lines, conduits, ditches,
21 waterworks facilities for the production and distribution of
22 water primary for irrigation purposes, fences, private roads,
23 newspaper tubes and mail boxes.
24

25 6.7 Utility Lines. All utility lines within the property
26 shall be placed underground, no overhead lines will be allowed.
27

28 6.8 No Used Materials. No used buildings or structures,
29 intended for use, as a Residence shall be transported onto,
30 placed or introduced on any Lot.
31

32 6.9 Solar Heating Systems. Subject to limitations imposed by
33 California law, the Architectural Committee shall be entitled to
34 adopt, as part of the Architectural Rules, reasonable regulations
35 regarding the installation of solar heating systems. These rules
36 may include limitations on placement and design of such systems
37 to the extent necessary to avoid an unsightly appearance from
38 neighboring Lots or Common Area.
39

40 6.10 Colors and Exterior Finishes. All exterior colors,
41 textures and materials, including roof materials, must be
42 adequately described in the plans and specifications (with an
43 indication where the colors will be used upon the finished
44 dwelling) and approved in writing by the Committee prior to
45 initiation of construction. Color samples shall be submitted to
46 the Committee along with the plans and specifications. The
47 Committee is authorized to maintain a chart of approved colors.
48

1 6.11 Prohibition on A-Frame and Geodesic Dome Structures. No
2 Residence shall be constructed which utilized an "A-frame" or
3 "geodesic dome" design.
4

5 6.12 Roofing Materials. All roofs shall be constructed of
6 concrete tile, clay tile, slate or fiberglass simulating tile or
7 shake. All other roof materials (including, but not limited to,
8 asphalt shingle, metal and wood shake) are prohibited.
9

10 6.13 Roofs. The Architectural Committee must approve roof
11 Designs of all Residences. Any approval by the Committee shall in
12 no way imply any roof guarantee by such Committee. All visible
13 roofing on any Residence shall be uniform in design and material.
14

15 6.14 Siding Materials. The exterior walls of any Residence,
16 garage or other structure shall be finished with natural wood
17 (but no T1-11), stucco, stone, stone veneer, brick or brick
18 veneer. All other siding materials (including, but not limited
19 to metallic siding) are prohibited.
20

21 6.15 Drainage. Without prior written approval of the
22 Architectural Committee, no Owner shall do any work, construct
23 any Improvement, place any landscaping or suffer the existence of
24 any condition whatsoever which shall alter or interfere with the
25 drainage pattern for the Owner's or any adjacent Lots or parcels
26 or Common Area. Plans and specifications submitted by an Owner
27 to the Architectural Committee in connection with the
28 construction of a Residence or other major structural Improvement
29 shall include a drainage plan in sufficient detail to permit the
30 Architectural Committee to assess the impacts, if any, of the
31 Improvement on natural drainage courses.
32

33 6.16 Modular and Prefabricated Housing: Mobile Homes. No
34 modular housing unit or prefabricated housing unit shall be
35 permitted on any Lot.
36

37 6.17 Metal Buildings. No Metal Buildings shall be permitted
38 on any Lot without written approval of the Architectural
39 Committee.
40

41 6.18 Exterior Lighting and Fixtures. Fluorescent, mercury
42 vapor, sodium, or amber vapor lights, or standard outdoor lights
43 of the type used for security must be enclosed in a manner that
44 directs the light in a specific area without causing a visual
45 impairment to passing motorists or a nuisance to neighboring
46 Lots. The Architectural Committee, at its sole discretion, shall
47 determine the issue of whether a nuisance exists.

1 All exterior fixtures that are attached to the Residence shall be
2 compatible with the design and materials of the Residence. Any
3 post-mounted exterior fixtures shall also be compatible in design
4 and materials to the fixtures attached to the Residence.
5

6 6.19 Glass. Certain architectural glass treatments such as
7 extensive use of black or heavy tint glass, mirrored or
8 reflective glass, or brightly colored glass or polycarbonate
9 panels are not permitted without specific prior approval of the
10 Architectural Committee.
11

12 6.20 Patios, Walkways and Driveways. All driveways, patio,
13 and walks materials shall be architecturally compatible to the
14 design of the Residence.
15

16 6.21 Water Systems, Septic Systems and Pools. All individual
17 water supply systems, on-site septic waste disposal systems and
18 swimming pools on any Lot must be designed, located and
19 constructed in accordance with the requirements, standards and
20 recommendations of the appropriate public health authority and
21 the Architectural Committee. Approval of such systems shall also
22 be obtained, if required, by any responsible governmental agency.
23

24 6.22 Garages. Each Residence shall have at least a two-car
25 garage which may be either of an attached or detached design.
26 Garage doors shall be of a roll-top design. Carports do not
27 satisfy the requirement of a two-car garage.
28

29 6.23 Fences. All screening and fencing must be approved by
30 the Architectural Committee and must be designed to conform to
31 the design of the proposed or existing Residence. All screening
32 and fencing shall be constructed of wood, rock, masonry, plastic
33 or wrought iron or a combination thereof. All screening and
34 fencing must be maintained in a good sound structural manner, and
35 painted or stained periodically so as not to have a shabby or
36 unkempt appearance. No screening or fencing shall be constructed
37 on any Lot in such a location or at such a height as to
38 unreasonably obstruct the view from any other Lot. All Lots on
39 which animals are present shall be adequately fenced so as to
40 keep the animals on such Lot. No chain link to be used for
41 perimeter fencing.
42

43 6.24 Excavation. Exposed openings resulting from any
44 excavation made in connection with construction or Improvements
45 shall be back-filled and disturbed grounds shall be leveled.
46

47 6.25 Landscaping. As noted in Article V, Section 7,
48 landscaping is a matter subject to review and regulation by the

1 Architectural Committee. A landscape plan is required in
2 conjunction with the construction of any Residence. Once
3 installed, the Owner shall be responsible for maintaining
4 landscaping in good and attractive condition on those portions of
5 the Owner's Lot which are visible from any street within the
6 Property.
7

8 **ARTICLE VII**

9 Use of Property and Restrictions

10
11
12 In addition to the restrictions established by law or
13 Association Rules promulgated by the Board of Directors
14 (consistent with this Declaration), the following restrictions
15 are hereby imposed upon the use of Lots and Common Areas within
16 the Property.
17

18 7.1 Use of Lots.

19
20 (a) Except as otherwise prohibited in this Declaration, all
21 Lots within the Property shall be used only for (i) the
22 construction of Residences whose occupancy and use shall be
23 restricted to Single Family Residential Use as defined in Article
24 I, Section 24 hereof and (ii) the permitted agricultural uses
25 allowed under the zoning applicable to any Lot. Unless otherwise
26 specifically prohibited herein, any agricultural operation and
27 use will be permitted if it is performed or carried out so as not
28 to cause or produce a nuisance to adjacent Parcels. In no event
29 shall more individuals than permitted by applicable law, zoning,
30 or other local governmental regulations occupy a Residence.
31 This Single Family Residential Use restriction is not intended
32 to preclude construction of a "guest house" for the housing of
33 occasional social guests or servants' quarters for the housing
34 of servants or the domestic employees on the premises.
35

36 (b) The following uses are prohibited on any Lot within the
37 property:
38

39 (i) Heavy industrial or manufacturing; provided however
40 the following uses contained in this subparagraph (i) are
41 permitted and not prohibited; the drying, packing, and
42 processing (other than canning) of fruits (including wine
43 making), nuts, vegetables and other horticultural products
44 where such drying, packing, or processing is primarily in
45 conjunction with a farming operation provided the
46 permanent buildings and structures used in conjunction
47 with such drying, packaging and processing operations are
48 not nearer than 20 feet from the boundaries of the Lot;

- 1
2 (ii) Junk Yards or Dumps;
3
4 (iii)Drilling for or the removal of oil, gas or other
5 hydrocarbon substances;
6
7 (iv) Mining operations of any kind, including drilling,
8 refining or quarrying;
9 (v) Distillation of Bones;
10
11 (vi) Fat Rendering;
12
13 (vii) Stockyard or slaughter of animals, except those
14 animals produced on the parcel;
15
16 (viii)Grange halls;
17
18 (ix) Farm Labor Camps;
19
20 (x) Community Auctions and Sales Yards;
21
22 (xi) Menageries, Alligator, Ostrich, EMU or Fox farms;
23
24 (xii) Commercial raising of poultry;
25
26 (xiii)Dairies and dairy purposes;
27
28 (xiv) Commercial raising of pigs, domestic animals, sheep or
29 goats; and
30
31 (xv) Any other use prohibited under this Declaration.
32

33 (c) All Residence and structures erected on any Lot shall
34 conform to the minimum construction standards set forth in
35 Article VI hereof, unless a variance have been granted by the
36 Architectural Committee in Accordance with Article V, Section 14
37 hereof.
38

39 (d) Each Lot shall be conveyed as a separately designated and
40 legally described fee simple estate, subject to this Declaration.
41 All Lots and the Residences and other Improvements erected or
42 placed thereon (including, without limitation, landscaping) shall
43 at all times be maintained in such a manner as to prevent their
44 becoming unsightly.
45

46 (e) The vegetation and landscaping on any Lot shall be planted
47 and maintained by the Owner or resident in such a manner as to
48 reduce the risk of fire, prevent or retard shifting or erosion of

1 soils, encourage the growth of indigenous ground cover and to
2 cause the proper diversion of water into streets and natural
3 drainage channels.

4
5 (f) No camping, whether temporary or permanent, and no
6 temporary structures of any kind shall be permitted on any Lot.

7 (g) No Improvement, shall be constructed, erected, or placed
8 on any Lot without the prior approval of the Architectural
9 Committee.

10
11 (h) No sign(s) shall be permitted, other than the following:
12

13 (i) Those identifying the name of the person occupying the
14 premises;

15
16 (ii) Those offering the premises for sale or lease shall
17 conform to the following standards:
18

19 (a) No higher than four feet from ground level to the
20 top of the sign;

21
22 (b) No larger than 30" x 24" in surface area;

23
24 (c) One sign per parcel only;

25
26 (d) Signs should be supported by a metal stake or wooden
27 post only (not "yard arm" style posts);

28
29 (e) Each sign shall be placed horizontally to the
30 roadway;

31
32 (f) Each sign shall be placed at least ten (10) feet
33 back from the edge of the paved surface of the roadway;

34
35 (g) Signs shall be removed from the parcel upon close of
36 escrow or removal from the market.
37

38 (iii) All signs shall only be of such size, design, color
39 and location as are specifically approved in writing by the
40 Architectural Committee. All signs must thereafter conform to
41 such standards and non-conforming signs shall no longer be
42 permitted and shall be promptly removed. No other signs shall be
43 placed on Association road easements outside the parcel to which
44 such sign pertains without the Association's prior written
45 consent. This includes directional or other signs placed at the
46 entrance or along roads within the Association.
47

1 (i) Preservation of Trees: Native Sycamore or Oak Trees now or
2 hereafter located on any portion of the property shall NOT be
3 removed, cut down or in any way damaged or destroyed without the
4 prior written approval of the Architectural Committee. This
5 article shall not apply to trees planted for commercial purposes.
6

7 (j) Virus Free Root Stock: No root stock shall be planted,
8 stored, or transported across any portion of the Property, unless
9 prior to such planting, storage or transportation across any
10 portion of the Property of any such root stocks, the person or
11 persons undertaking such activity shall secure a certificate from
12 the University of California Agricultural Extension Service that
13 such root stock is "virus-free" and such certificate shall be
14 delivered to the Architectural Committee.
15

16 7.2 Common Areas. The Common Areas shall be used for roads
17 and equestrian trails and any other purpose allowed by the Board
18 of Directors. Such uses shall be limited to the private use by
19 the Association's Members, their tenants, families and guests,
20 subject to the provisions of the Governing Documents. No
21 Improvement, excavation or work which in any way alters any
22 Common Area or Common Facility from its natural or existing state
23 on the date such Common Area or Common Facility shall be made or
24 done except by the Association.
25

26 Each Owner shall be liable to the Association and the
27 remaining Owners for any damage to the Common Area and Common
28 Facilities which may be sustained by reason of the negligence of
29 that Owner, that Owner's family members, contract purchasers,
30 tenants, guests, or invitees, but only to the extent that any
31 such damage is not covered by casualty insurance in favor of the
32 Association.
33

34 7.3 Temporary Structures. No structure of a temporary
35 character, trailer, mobile home, camper, tent, shack, garage or
36 other outbuilding shall be used on any Lot at any time as a
37 Residence, either temporarily or permanently. A travel trailer or
38 motor home may be parked on a parcel during construction of a
39 primary building. In no case, however, may occupants reside
40 therein for a period of longer than one (1) year.
41

42 7.4 Household Pets. The following restrictions regarding the
43 care and maintenance of pets within the Property shall be
44 observed by each Owner and resident:
45

46 (a) Dogs shall be allowed on the Common Area only when they
47 are leashed and are otherwise under the supervision and restraint
48 of their Owners.

1
2 (b) Each person bringing or keeping a pet on the Property
3 shall be solely responsible for the conduct of such pets. The
4 Association, its Board, officers, employees and agents shall have
5 no liability (whether by virtue of this Declaration or otherwise)
6 to any Owners, their family members, guests, invitees, tenants
7 and contract purchasers for any damage or injury to persons or
8 property caused by any pet.
9

10 (c) The Board of Directors shall have the right to establish
11 and enforce additional rules and regulations defining in a
12 uniform and non-discriminatory manner, what constitutes a
13 "reasonable number" of pets and imposing standards for the
14 reasonable control and keeping of household pets in, upon and
15 around the Property to ensure that the same do not interfere with
16 the quiet and peaceful enjoyment of the Property by the other
17 Owners and residents.
18

19 7.5 Garbage. No rubbish, trash, or garbage shall be allowed
20 to accumulate on Lots. Any trash that is accumulated by an Owner
21 outside the interior walls of a Residence or other building shall
22 be stored entirely within appropriate covered disposal containers
23 which shall be located on the Owner's Lot screened from view from
24 any street, neighboring Lot or Common Area. Trash bins or
25 dumpsters must be camouflaged with shrubbery, fencing or
26 permanent structures that comply with Architectural guidelines.
27 Any extraordinary accumulation on a Lot of rubbish, trash,
28 garbage or debris (such as debris generated upon vacating of
29 premises or during the construction of modifications and
30 Improvements) shall be promptly removed from the Lot to a public
31 dump or trash collection area by the Owner or tenant at his or
32 her expense. The Association shall be entitled to impose
33 reasonable fines and penalties for the collection of garbage and
34 refuse disposed in a manner inconsistent with this Section.
35

36 7.6 Antennas and Similar Devices.
37

38 Owners are required to maintain antennas on their residence,
39 which are designed for television, and radio broadcast reception.
40

41 In order to ensure adequate aesthetic controls and to maintain
42 the general attractive appearance of the Property, no Owner,
43 resident or lessee shall, at his or her expense or otherwise,
44 place or maintain any (i) objects exceeding ten feet in width
45 such as masts, towers, poles, television and radio antennas, or
46 (ii) television satellite reception dishes exceeding twenty-four
47 inches in diameter on or about the exterior of any building
48 within the Property unless architectural approval is first

1 obtained in accordance with Article V, hereof. Furthermore, no
2 activity shall be conducted on any Lot which causes an
3 unreasonable broadcast interference with television or radio
4 reception on any other Lot.

5
6
7 7.7 Burning.

8
9 Burning is permitted on Lots subject to prior notification to,
10 and approval by, the Association and compliance with all local
11 governmental fire safety and permit regulations.

12
13 No Owner or resident shall permit any condition to exist on
14 his or her Lot, including, without limitation, trash piles or
15 weeds, which create a fire hazard or is in violation of local
16 fire regulations.

17
18 7.8 Diseases and Pests. No Owner shall permit any thing or
19 condition to exist on his or her Lot, which shall induce, breed,
20 or harbor infectious plant diseases, rodents or noxious insects.

21
22 7.9 Parking and Vehicles.

23
24 (a) No vehicle, trailer or equipment shall be parked for more
25 than twenty-four hours along any road within the Common Area of
26 the Property.

27
28 (b) No materials, supplies, trailers or equipment including
29 inoperable motor vehicles shall be parked or stored on any Lot
30 except inside a closed building or behind a visual barrier
31 screening any such areas from the view of other Lots, traveled
32 ways and any public roads within the Property.

33
34 (c) All provisions of the California Vehicle Code must be
35 honored at all times when operating any motor vehicle within the
36 Property.

37
38 (d) Private roads within the Property shall not be used for
39 racing.

40
41 (e) No motorized vehicles or bikes of any sort shall be
42 operated or allowed on the equestrian trails.

43
44 (f) To prevent accelerated deterioration of private roadways,
45 the Association Board shall be entitled to collect deposits from
46 Owners and/or contractors in connection with construction
47 projects within the Property. Such deposits can be designated as
48 nonrefundable or they can, in the Board's discretion, be applied

1 to correct or repair specific damage caused by the construction
2 in accordance with Article V, Section 7(d), above.

3
4 (g) The Board shall have the authority to promulgate further
5 reasonable rules and regulations of uniform application regarding
6 the parking and use of vehicles and roads within the Property.

7
8 7.10 Children. Each Owner and resident shall be accountable
9 to the remaining Owners and residents, their families, visitors,
10 guests and invitees, for the conduct and behavior of their
11 children and any children temporarily residing in or visiting the
12 Owner and for any property damage caused by such children.

13
14 7.11 Activities Affecting Insurance. Nothing shall be done or
15 kept on any Lot or within the Common Area, which will increase
16 the rate of insurance relating thereto on any policy maintained
17 by the Association (see Article X, below) without the prior
18 written consent of the Association.

19
20 7.12 Restriction on Further Subdivision and Severability. No
21 Owner, Lessor or occupant of any portion of the Property,
22 including any Lot, or any other person or entity, shall subdivide
23 any portion of the Property, including any Lot, in any manner,
24 including without limitation, the filing of subdivision maps, Lot
25 splits or sales or leases without the prior written approval of
26 the Architectural Committee, which approval shall be requested in
27 the manner provided for in Article V. The Architectural
28 Committee shall consider the shape and location of the proposed
29 parcels resulting from any proposed subdivision, their aesthetic
30 appearance, enhancement or detracton from the value of
31 surrounding Lots and their conformity with planned roads.

32
33 Notwithstanding anything to the contrary herein, no transfer
34 sale, lease or other conveyance of any portion of any portion of
35 the Property shall be made in a parcel of less than ten (10)
36 acres. Nor shall any Owner make any transfer, sale, lease or
37 other conveyance of any portion of the Property so that the
38 conveying Owner retains less than an (10) acre parcel. Any such
39 attempted conveyance described in this paragraph shall be void ab
40 initio and of absolutely no force or effect. No variance shall
41 be made or granted concerning the provisions of this paragraph
42 and no variance provision of this Declaration shall apply to this
43 paragraph.

44
45 7.13 Variances. Upon application by any Owner, the Board of
46 Directors shall be authorized and empowered to grant reasonable
47 variances from the property use restrictions set forth in this
48 Article VII, if specific application of the restriction will, in

1 the sole discretion of the Board, either cause an undue hardship
2 to the affected Owner or fail to further or preserve the common
3 plan and scheme of development contemplated by this Declaration.
4 In considering and acting upon any request for a variance, the
5 Board shall follow the procedures set forth in Article V, Section
6 14 for the granting of architectural variances.

7 7.14 Enforcement of Property Use Restrictions. One objective
8 of this Declaration shall be to promote and seek voluntary
9 compliance by Owners and tenants with the environmental standards
10 and property use restrictions contained herein. Accordingly, in
11 the event that the Association becomes aware of an architectural
12 or property use infraction that does not necessitate immediate
13 corrective action under Article XIII, Section 6 hereof, the
14 Association may (but shall have no obligation to) give the Owner
15 or tenant responsible for the violation written notice thereof
16 and a reasonable opportunity to voluntarily comply with the
17 pertinent Governing Document provision(s). Such notice shall
18 describe the non-complying condition, request that the Owner or
19 tenant correct the condition within a reasonable time specified
20 in the notice, and advise the Owner or tenant of his or her
21 appeal rights.

22 23 **ARTICLE VIII**

24 25 Maintenance Responsibilities

26
27 8.1 Common Area. The Association shall be solely responsible
28 for all maintenance, repair, upkeep and replacement of Common
29 Facilities within the Common Area. No person other than the
30 Association or its duly authorized agents shall construct,
31 reconstruct, refinish, alter or maintain any Improvement upon, or
32 shall create any excavation or fill or change the natural or
33 existing drainage of any portion of the Common Area. In
34 addition, no person shall remove any tree, shrub or other
35 vegetation from, or plant any tree, shrub, or other vegetation
36 upon the Common Area without express approval of the Association.

37
38 Without limiting the foregoing, the Association shall be
39 responsible for:

40
41 (a) The construction, reconstruction, replacement, refinishing
42 of roads and equestrian trails.

43
44 (b) The replacement of trees or other vegetation and the
45 planting of trees, shrubs and ground cover upon any portion of
46 Common Area, as the Association deems appropriate.

1 (c) The placement and maintenance of such signs as the
2 Association may deem necessary for the identification of the
3 development and of roads, the regulation of traffic, including
4 parking, the regulation and use of Common Area and Common
5 Facilities and for the health, welfare and safety of Owners,
6 tenants and guests. Any such signs to be placed within the road
7 area shall be subject to any required county approval.

8 8.2 Owner Maintenance Responsibilities. Each Owner shall be
9 responsible for the maintenance and repair of his or her
10 Residence, Improvements and Lot.

11
12 8.3 Recovery of Costs of Certain Repairs and Maintenance.

13
14 (a) In the event that the need for maintenance or repair,
15 which would otherwise be the Association's responsibility
16 hereunder is caused through the willful or negligent acts of an
17 Owner, his or her family, guests, tenants, or invitees, and is
18 not covered or paid for by Association insurance policies or any
19 liability insurance maintained by the responsible Owner, the cost
20 of such maintenance or repairs shall be subject to recovery by
21 the Association through the imposition of a Special Individual
22 Assessment against the offending Owner in accordance with Article
23 IV, Section 4 hereof.

24
25 (b) In the event that an Owner fails to perform maintenance
26 functions for which he or she is responsible, the Association may
27 give written notice to the offending Owner with a request to
28 correct the failure within 15 days after receipt thereof. If the
29 Owner refuses or fails to perform any necessary repair or
30 maintenance, the Association may exercise its rights under
31 Article III, Section 6(b) to enter the Owner's Lot and perform
32 the repair or maintenance so long as the Owner has been given
33 notice and the opportunity for a hearing in accordance with
34 Article XIII, Section 6(e), hereof.

35
36 8.4 Drainage Structures, Ditches and Swales.

37
38 (a) All drainage structures, culverts and canals improved by
39 the Association for the major collection of storm runoff and any
40 natural drainage courses within Common Areas shall be maintained
41 regularly by the Association.

42
43 (b) Except as provided in subparagraph (a), above, each Owner
44 shall keep drainage courses, ditches and swales on his or her Lot
45 free and clear of all obstructions, and shall, in cooperation
46 with contiguous property Owners (including the Association as to
47 the Common Area), maintain all such drainage ditches, swales and
48 culverts common to their Lots in good order.

1
2 (c) No Owner or resident shall alter or obstruct a natural
3 drainage course, or materially add to the natural water volume of
4 said drainage course without making adequate provisions with
5 respect to neighboring Lots and Common Areas. The Architectural
6 Committee should consider any said alteration, obstruction, or
7 addition to water volume a work of Improvement that is subject to
8 prior review and approval.
9

10 **ARTICLE IX**

11 Easements and Right of Entry

12
13
14 9.1 Road and Utility Easements. Each Owner and the
15 Association shall have and is hereby granted a nonexclusive
16 easement over, under and along the original roads in the
17 Property, excluding all cul-de-sacs and roads built by private
18 property owners, for roadway and vehicular traffic purposes and
19 for the installation, replacing, repairing and maintaining all
20 utilities, including but not limited to water, sewers, gas,
21 telephones, drainage and electricity and cable television
22 systems. The easements provided for in this Section 1 shall in
23 no way effect any other recorded easement on the Property.
24

25 9.2 Maintenance Right of Entry. A right of entry is hereby
26 granted to the Association, its officers, agents, employees, and
27 to any management company and contractor selected by the
28 Association to enter in or to cross over the Common Area and any
29 Lot to perform the duties of maintenance and repair of the Lots,
30 Common Area, or Common Facilities, provided that any entry by the
31 Association or its agents onto any Lot shall only be undertaken
32 in strict compliance with Article III, Section 6(b).
33

34 9.3 Other Easements. Each Lot and its Owner are hereby
35 declared to be subject to all the easements, dedications and
36 rights-of-way granted or reserved in, on, over and under the
37 Property and each Lot and Common Area as shown on the Subdivision
38 Map.
39

40 9.4 Equestrian Easements. Certain Lots and Common Areas are
41 subject to easements for equestrian trails as shown on the
42 Subdivision Map for the Property. Each Owner whose property is
43 subject to such an easement shall be required to ensure that
44 there is no obstruction of riding trails which extend onto or
45 traverse his or her Lot in such manner that there is interference
46 with the free use thereof or circulation of equestrian traffic,
47 except such obstructions as may be reasonably required in
48 connection with repairs of such trails.

1
2
3
4
5
6
7 **ARTICLE X**
8

9 Insurance
10

11 10.1 Types of Insurance Coverage. The Association shall
12 purchase, obtain and maintain, with the premiums therefore being
13 paid out of Common Funds, the following types of insurance, if
14 and to the extent such insurance, with the coverage's described
15 below, is available at a reasonable premium cost:
16

17 (a) Fire and Casualty Insurance. A policy of fire and casualty
18 insurance naming as the party insured the Association and
19 containing the standard extended coverage and replacement cost
20 endorsements and such other or special endorsements as will
21 afford protection and insure, for the full insurable, current
22 replacement cost as determined annually by the insurance carrier
23 and the Association, all Common Facilities of the Association for
24 or against the following:
25

26 (i) Loss or damage by fire or other risks covered by the
27 standard extended coverage endorsement; and
28

29 (ii) Such other risks, perils or coverage as the Board of
30 Directors may determine.
31

32 Such policy or the endorsement made a part thereof shall, to
33 the extent available, provide that the insurer issuing the policy
34 agrees to abide by the decision of the Association made in
35 accordance with the provisions of Article X of this Declaration
36 as to whether or not to repair, reconstruct or restore all or any
37 damaged or destroyed portion(s) of the Common Facilities.
38

39 (b) Public Liability and Property Damage Insurance. To the
40 extent such insurance is reasonably obtainable, the Association
41 shall obtain and maintain a policy of comprehensive public
42 liability and property damage insurance naming as party insured
43 the Association, each member of the Association Board of
44 Directors, any manager, the Owners and occupants of Lots, and
45 such other persons as the Board may determine. The policy will
46 insure each named party against any liability incident to the
47 ownership and use of the Common Area and any other
48 Association-owned or maintained real or personal property and

1 including, if obtainable, a cross-liability or sever ability of
2 interest endorsement insuring each insured against liability to
3 each other insured. The limits of such insurance shall not be
4 less than \$500,000 covering all claims for death, personal injury
5 and property damage arising out of a single occurrence. Such
6 insurance shall include coverage against water damage liability,
7 liability for non-owned and hired automobiles, liability for
8 property of others and any other liability or risk customarily
9 covered with respect to projects similar in construction,
10 location and use.

11
12 (c) Additional Insurance and Bonds. To the extent such
13 insurance is reasonably obtainable, the Association may also
14 purchase with Common Funds such additional insurance and bonds as
15 it may, from time to time, determine to be necessary or
16 desirable, including, without limiting the generality of this
17 Section, demolition insurance, flood insurance, and workers'
18 compensation insurance. The Board may also purchase and maintain
19 fidelity bonds or insurance in an amount not less than 100
20 percent of each year's estimated annual operating expenses and
21 reserves and shall contain an endorsement of any person who may
22 serve without compensation. The Board shall purchase and maintain
23 such insurance on personal property owned by the Association and
24 any other insurance, including directors and officers liability
25 insurance that it deems necessary or desirable.

26 27 **ARTICLE XI**

28 29 Damage or Destruction

30
31 11.1 Common Facilities; Bids and Determination of Available
32 Insurance Proceeds. In the event any Common Facilities are ever
33 damaged or destroyed, then, and in such event, as soon as
34 practicable thereafter the Board of Directors shall (a) obtain
35 bids from at least three reputable, licensed contractors, which
36 bids shall set forth in detail the work required to repair,
37 reconstruct and restore the damaged or destroyed portions of the
38 Common Facilities to substantially the same condition as they
39 existed prior to the damage and the itemized price asked for such
40 work, and (b) determine that amount of all insurance proceeds
41 available to the Association for the purpose of effecting such
42 repair, reconstruction and restoration.

43
44 11.2 Common Facilities; Sufficient Insurance Proceeds.
45 Subject to the provisions of this Article XI, Section 1 hereof,
46 if, in the event of damage to or destruction of any portion of
47 any Common Facility, the insurance proceeds available to the
48 Association are sufficient to cover the costs of repair,

1 reconstruction and restoration, then the Association may cause
2 such facilities to be repaired, reconstructed and restored to
3 substantially the same condition in which they existed prior to
4 the loss.

5
6 11.3 Common Facilities; Insurance Proceeds Insufficient in an
7 Amount Exceeding \$5,000. In the event that any Common Facility is
8 totally or substantially damaged or destroyed or, if, in the
9 event of damage to or destruction of only a portion of the Common
10 Facilities, the insurance proceeds available to the Association
11 are insufficient in an amount exceeding \$5,000 to cover the
12 estimated cost of repair, reconstruction and restoration, then
13 the Owners entitled to vote 75 percent of the voting power of the
14 membership of the Association shall determine whether (a) to
15 repair, reconstruct and restore the damaged or destroyed Common
16 Facilities, and specially assess all Owners for such additional
17 funds as may be needed for such purpose, or (b) not to repair,
18 reconstruct or restore the damaged or destroyed Common Facilities
19 but rather to utilize the insurance proceeds available for such
20 reconstruction, together with any other sums otherwise available
21 to the Association for such purpose, to demolish and remove the
22 damaged or destroyed Improvements from the Common Area and to
23 level and landscape the sites thereof and apply any balance of
24 such proceeds and/or funds as the Members holding such voting
25 power and as their First Mortgages may determine.

26
27 11.4 Damage or Destruction of Residences.

28
29 (a) Obligation to Rebuild. If all or any portion of any
30 Residence is damaged or destroyed by fire or other casualty it
31 shall be the duty of the Owner of said Residence to rebuild,
32 repair or reconstruct said Residence in a manner which will
33 restore it substantially to its appearance and condition
34 immediately prior to the casualty or to remove any damaged
35 structures from the Owner's Lot without unreasonable delay.

36
37 (b) Architectural Committee Approval. Any Owner who has
38 suffered damage shall apply to the Architectural Committee for
39 approval of plans for the reconstruction, rebuilding, or repair
40 of his or her Residence. Application for such approval shall be
41 made in writing together with full and complete plans,
42 specifications, working drawings and elevations showing the
43 proposed reconstruction and the end result thereof. The
44 Architectural Committee shall grant such approval only if the
45 design proposed by the Owner would result in a finished Residence
46 in harmony with the exterior design of other Residences within
47 the Property.

1 (c) Time Limitation for Reconstruction or Removal of
2 Improvements. The Owner or Owners of any damaged Residence(s) and
3 the Architectural Committee shall be obligated to proceed with
4 all due diligence hereunder to discharge their respective
5 obligations. Unless a waiver or modification of these time
6 requirements is obtained from the Architectural Committee in
7 accordance with Article V, Sections 10 and 11, the Owner(s) shall
8 commence reconstruction or removal of the damaged or destroyed
9 structure within three months after the damage occurs and
10 complete reconstruction or removal within one year after the
11 damage occurs.

12
13 **ARTICLE XII**

14
15 Condemnation

16
17 12.1 Association as Trustee for Owner. If all or part of the
18 Common Area shall be taken or condemned by any authority having
19 the power of eminent domain, all compensation and damages for or
20 on account of the taking of the Common Area, shall be payable to
21 the Owners of the Lots where such Common Area is located
22 according to the loss or damages to their respective Lots.

23
24 **ARTICLE XIII**

25
26 Breach and Default

27
28 13.1 Remedy at Law Inadequate. Except for the nonpayment of
29 any Assessment, it is hereby expressly declared and agreed that
30 the remedy at law to recover damages for the breach, default or
31 violation of any of the covenants, conditions, restrictions,
32 limitations, reservations, grants of easements, rights,
33 rights-of-way, liens, charges, equitable servitude's or other
34 matters contained in this Declaration are inadequate and that the
35 failure of any Owner, tenant, occupant or user of any Lot, or any
36 portion of the Common Area or Common Facilities, to comply with
37 any provision of the Governing Documents may be enjoined by
38 appropriate legal proceedings instituted by any Owner, the
39 Association, its officers or Board of Directors, or by their
40 respective successors in interest.

41
42 13.2 Nuisance. Without limiting the generality of the
43 foregoing Section 1, the result of every act or omission whereby
44 any covenant contained in this Declaration is violated in whole
45 or in part is hereby declared to be a nuisance, and every remedy
46 against nuisance, either public or private, shall be applicable
47 against every such act or omission.

1 13.3 Costs and Attorneys' Fees. In any action brought because
2 of any alleged breach or default of any Owner or other party
3 hereto under this Declaration, the court may award to any party
4 in any such action such attorneys' fees and other costs, as the
5 court deems just and reasonable.

6 13.4 Cumulative Remedies. The respective rights and remedies
7 provided by this Declaration or by law shall be cumulative, and
8 the exercise of any one or more of such rights or remedies shall
9 not preclude or affect the exercise, at the same or at different
10 times, of any other such rights or remedies for the same or any
11 different default or breach or for the same or any different
12 failure of any Owner or others to perform or observe any
13 provision of this Declaration.

14
15 13.5 Failure Not a Waiver. The failure of any Owner, the
16 Board of Directors, the Association or its officers or agents to
17 enforce any of the covenants, conditions, restrictions,
18 limitations, reservations, grants or easements, rights,
19 rights-of-way, liens, charges, equitable servitude's or other
20 matters contained in this Declaration shall not constitute a
21 waiver of the right to enforce the same thereafter, nor shall
22 such failure result in or impose any liability upon the
23 Association or the Board, or any of its officers or agents.

24
25 13.6 Rights and Remedies of the Association.

26
27 (a) Rights Generally. In the event of a breach or violation of
28 any Association Rule or of any of the restrictions contained in
29 any Governing Document by an Owner, his or her family, or the
30 Owner's guests, employees, invitees, licensees, or tenants, the
31 Board, for and on behalf of all other Owners, may enforce the
32 obligations of each Owner to obey such rules, covenants, or
33 restrictions through the use of such remedies as are deemed
34 appropriate by the Board and available in law or in equity,
35 including but not limited to the hiring of legal counsel, the
36 imposition of fines and monetary penalties, the pursuit of legal
37 action, or the suspension of the Owner's right to use
38 recreational Common Facilities or suspension of the Owner's
39 rights, including voting rights, as a Member of the Association;
40 provided that the Association's right to undertake disciplinary
41 action against its Members shall be subject to the conditions set
42 forth in this Section 6.

43
44 The decision of whether it is appropriate or necessary for the
45 Association to initiate enforcement or disciplinary action in any
46 particular instance shall be within the sole discretion of the
47 Association's Board or its duly authorized enforcement committee.
48 If the Association declines to take action in any instance, any

1 Owner shall have such rights of enforcement as may exist by
2 virtue of the California Civil Code Section 1354 or otherwise by
3 law.
4

5 (b) Schedule of Fines. The Board may implement a schedule of
6 reasonable fines and penalties for particular offenses that are
7 common or recurring; in nature and for which a uniform fine
8 schedule is appropriate (such as fines for late payment of
9 Assessments or illegally parked vehicles). Once imposed, a fine
10 or penalty may be collected as a Special Individual Assessment.
11

12 (c) Definition of "Violation." A violation of the Governing
13 Documents shall be defined as a single act or omission occurring
14 on a single day. If the detrimental effect of a violation
15 continues for additional days, discipline imposed by the Board
16 may include one component for the violation and, according to the
17 Board's discretion, a per diem component for so long as the
18 detrimental effect continues. Similar violations on different
19 days shall justify cumulative imposition of disciplinary
20 measures. The Association may take reasonable and prompt action
21 to repair or avoid the continuing damaging effects of a violation
22 or nuisance occurring within the Common Area at the cost of the
23 responsible Owner.
24

25 (d) Limitations of Disciplinary Rights. Loss of Rights:
26 Forfeitures. The Association shall have no power to cause a
27 forfeiture or abridgment of an Owner's right to the full use and
28 enjoyment of his or her Lot due to the failure by the Owner (or
29 his or her family members, tenants, guests or invitees) to comply
30 with any provision of the Governing Documents or of any duly
31 enacted Association rule except where the loss or forfeiture is
32 the result of the judgment of a court of competent jurisdiction,
33 a decision arising out of arbitration or a foreclosure or sale
34 under a power of sale for failure of the Owner to pay Assessments
35 levied by the Association, or where the loss or forfeiture is
36 limited to a temporary suspension of an Owner's rights (including
37 voting rights) as a Member of the Association or the imposition
38 of monetary penalties for failure to pay Assessments or otherwise
39 comply with any Governing Documents so long as the Association's
40 actions satisfy the due process requirements of subparagraph
41 below.
42

43 (e) Hearings. No penalty or temporary suspension of rights
44 shall be imposed pursuant to this Article unless the Owner
45 alleged to be in violation is given at least 15 days prior
46 written notice of the proposed penalty or temporary suspension
47 and is given an opportunity to be heard before the Board of
48 Directors or appropriate committee established by the Board with

1 respect to the alleged violation(s) at a hearing conducted at
2 least 5 days before the effective date of the proposed
3 disciplinary action.
4

5 Notwithstanding the foregoing, under circumstances involving
6 conduct that constitutes (i) an immediate and unreasonable
7 infringement of, or threat to, the safety or quiet enjoyment of
8 neighboring Owners; (ii) a traffic or fire hazard; (iii) a threat
9 of material damage to, or destruction of, the Common Area or
10 Common Facilities; or (iv) a violation of the Governing Documents
11 that is of such a nature that there is no material question
12 regarding the identity of the violator or whether a violation has
13 occurred (such as late payment of Assessments or parking
14 violations), the Board of Directors or its duly authorized agents
15 may undertake immediate corrective or disciplinary action and,
16 upon request of the offending Owner (which request must be
17 received by the Association, in writing, within five days
18 following the Association's disciplinary action), or on its own
19 initiative, conduct a hearing as soon thereafter as reasonably
20 possible. If the Association acts on its own initiative to
21 schedule a hearing, notice of the date, time and location of the
22 hearing shall accompany the notice of disciplinary action. The
23 hearing shall be held no more than 15 days following the date of
24 the disciplinary action or 15 days following receipt of the
25 accused Owner's request for a hearing, whichever is later. Under
26 such circumstances, any fine or other disciplinary action shall
27 be held in abeyance and shall only become effective if affirmed
28 at the hearing.
29

30 (f) Notices. Any notice required by this Article shall, at a
31 minimum, set forth the date and time for the hearing, a brief
32 description of the action or inaction constituting the alleged
33 violation of the Governing Documents and a reference to the
34 specific Governing Document provision alleged to have been
35 violated. The notice shall be in writing and may be given by any
36 method reasonably calculated to give actual notice, provided that
37 if notice is given by mail it shall be sent by first-class or
38 certified mail sent to the last address of the Member shown on
39 the records of the Association.
40

41 (g) Rules Regarding Disciplinary Proceedings. The Board, or a
42 Covenants Committee appointed by the Board to conduct and
43 administer disciplinary hearings and related proceedings pursuant
44 to Section 7, below, shall be entitled to adopt rules that
45 further elaborate and refine the procedures for conducting
46 disciplinary proceedings. Such rules, when approved and adopted
47 by the Board, shall become a part of the Association Rules and
48 may provide for notices and procedures satisfying the alternative

1 dispute resolution requirements of Civil Code §1354 or comparable
2 superseding statute.

3
4
5 13.7 Covenants Committee.

6
7 (a) Appointment of Committee. Acting pursuant to Article VI,
8 Section 7 (g) of the By-laws, the Board of Directors may
9 establish a Covenants Committee to hear and decide cases
10 involving alleged violations of the Governing Documents. If no
11 committee is established, the Board shall perform this function.
12

13 (b) Jurisdiction and Hearing Procedures of the Committee. The
14 Covenants Committee shall review written complaints from Lot
15 Owners or the Architectural Committee (for violations other than
16 those relating to specific Improvement projects within the
17 jurisdiction of the Architectural Committee) regarding alleged
18 violations of the Governing Documents or Association Rules, and,
19 when determined appropriate, conduct hearings and make findings
20 regarding the alleged violation(s). The Covenants Committee may
21 levy penalties and/or fines (pursuant to a Board-approved fine
22 schedule) in the event the allegations regarding such violations
23 are found to be true. To perform the foregoing, the Covenants
24 Committee shall adopt rules of procedure for enforcement hearings
25 and shall conduct its hearings in accordance with such rules
26 after approval by the Board. Notwithstanding the foregoing,
27 enforcement of specific violations of architectural requirements
28 relating to Improvement projects submitted to, and reviewed by,
29 the Architectural Committee shall remain the jurisdiction of the
30 Board of Directors pursuant to Article V, Section 13.
31

32 (c) Appeals. The decisions of the Covenants Committee, if
33 established, shall be appealable to the Board of Directors within
34 10 calendar days following receipt of the committee's decision.
35 The Board shall have the discretion to hear any appealed matter
36 or decline to take the appeal and thus affirm the decision of the
37 Covenants Committee. Any decision to decline an appeal shall be
38 based on a reasonable determination from the record that the
39 appeal lacks merit. Decisions of the Board shall be final.
40 Procedures for appeal and the hearing of appeals shall be set
41 forth in the Association Rules.
42

43 13.8 Court Actions; Alternative Dispute Resolution Rules.

44
45 (a) Court actions to enforce the Governing Documents may only
46 be initiated on behalf of the Association upon approval of the
47 Board. Before initiating any court action seeking declaratory or
48 injunctive relief to interpret or enforce the governing documents

1 (including either of those actions coupled with a claim for
2 monetary damages not in excess of \$5000), the Association shall
3 first comply with the provisions of Civil Code §1354, or
4 comparable superseding statute, relating to alternative dispute
5 resolution. The Board of Directors may from time to time adopt
6 rules that shall govern the notices and procedures for such
7 alternative dispute resolution proceedings, and in that event,
8 the Association shall provide all Owners with a copy of such
9 rules.

10
11 **ARTICLE XIV**

12
13 Notices

14
15 14.1 Mailing Addresses. Any communication or notice of any
16 kind permitted or required herein shall be in writing and may be
17 served, as an alternative to personal service, by mailing the
18 same as follows:

19
20 If to any Owner: To the street address of his or her Lot or to
21 such other address as he or she may from time to time designate
22 in writing to the Association.

23
24 If to the Association: Santa Rosa West Association at the
25 principal office of the Association (or to such other address as
26 the Association may from time to time designate in writing to the
27 Owners).

28
29 14.2 Personal Service Upon Co-Owners and Others. Personal
30 service of a notice or demand to one of the co-Owners of any Lot,
31 to any general partner of a partnership which is the Owner of
32 Record of the Lot, or to any officer or agent for service of
33 process of a corporation which is the Owner of Record of the Lot,
34 shall be deemed delivered to all such co-owners, to such
35 partnership, or to such corporation, as the case may be.

36
37 14.3 Deposit in United States Mail. All notices and demands
38 served by mail shall be by first-class or certified mail, with
39 postage prepaid, and shall be deemed delivered three days after
40 deposit in the United States mail in Riverside County,
41 California.

42
43 **ARTICLE XV**

44
45 No Public Rights in the Property

46
47 15.1 No Public Rights. Nothing contained in this Declaration
48 shall be deemed to be a gift or a dedication of all or any

1 portion of the Property to the general public or for any public
2 use or purpose whatsoever.
3
4

5 **ARTICLE XVI**

6
7 Amendment of Declaration
8

9 16.1 Amendment in General. This Declaration may be amended or
10 revoked in any respect by the vote or assent by written ballot of
11 the Owners entitled to vote and holding at least fifty-one
12 percent of the voting power of the Association. Notwithstanding
13 the foregoing, the percentage of the voting power necessary to
14 amend a specific clause or provision of this Declaration shall
15 not be less than the percentage of affirmative votes prescribed
16 for action to be taken under that clause.
17

18 With respect to any vote hereunder the Association shall be
19 entitled to accept the vote of any Owner of Record of a Lot as
20 the vote of all Owners of Record of such Lot unless the
21 Association receives more than one vote from said co-Owners, in
22 which case the vote of a majority of the co-owners shall bind
23 all.
24

25 16.2 Effective Date of Amendment. The amendment will be
26 effective upon the recording in the Office of the Recorder of
27 Riverside County a Certificate of Amendment, duly executed and
28 certified by the president and secretary of the Association
29 setting forth in full the amendment so approved and that the
30 approval requirements of Section 1, above, have been duly met.
31 Notwithstanding anything to the contrary herein contained, no
32 such amendment shall affect the rights of the holder of any first
33 deed of trust or Mortgage recorded prior to the recording of such
34 amendment.
35

36 16.3 Reliance on Amendments. Any amendments made in
37 accordance with the terms of this Declaration shall be presumed
38 valid by anyone relying on them in good faith.
39

40 **ARTICLE XVII**

41
42 General Provisions
43

44 17.1 Term. The covenants, conditions, restrictions,
45 limitations, reservations, grants of easement, rights,
46 rights-of-way, liens, charges, equitable servitude's and other
47 matters contained in this Declaration, including amended
48 versions, shall run with, and shall benefit and burden, the

1 Property, and all portions thereof including the Lots and shall
2 inure to the benefit of and be binding upon the Owners, the
3 Association, its Board of Directors, and its officers and agents,
4 and their respective successors in interest, for the term of 20
5 years from the date of the recording of this Declaration, after
6 which time the same shall be automatically extended for
7 successive periods of 20 years each unless, within 6 months prior
8 to the expiration of the initial 20-year term or any such 20-year
9 extension period, a recorded written instrument, approved by
10 Owners entitled to vote and holding at least fifty-one percent of
11 the voting power of the Association terminating the effectiveness
12 of this Declaration shall be filed for recording in the Office of
13 the County Recorder of Riverside County, California.

14

15 17.2 Construction of Declaration.

16

17 (a) Restrictions Construed Together. All of the covenants,
18 conditions, and restrictions of this Declaration shall be
19 liberally construed together to promote and effectuate the
20 fundamental concepts of the development of the Property as set
21 forth in the Recitals of this Declaration. Failure to enforce any
22 provision hereof shall not constitute a waiver of the right to
23 enforce that provision in a subsequent application or any other
24 provision hereof.

25

26 (b) Restrictions Severable. Notwithstanding the provisions of
27 subparagraph (a) above, the covenants, conditions, and
28 restrictions of this Declaration shall be deemed independent and
29 severable, and the invalidity or partial invalidity of any
30 provision or portion thereof shall not affect the validity or
31 enforceability of any other provision.

32

33 (c) Singular Includes Plural. The singular shall include the
34 plural and the plural the singular unless the context requires
35 the contrary, and the masculine, feminine or neuter shall each
36 include the masculine, feminine and neuter, as the context
37 requires.

38

39 (d) Captions. All captions or titles used in this Declaration
40 are intended solely for convenience of reference and shall not
41 affect the interpretation or application of that which is set
42 forth in any of the terms or provisions of the Declaration.

43

44 (e) Exhibits. All exhibits to which reference is made herein
45 are deemed to be incorporated herein by reference, whether or not
46 actually attached.

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Dated: _____

SANTA ROSA WEST PROPERTY OWNERS
ASSOCIATION

By: _____
PATRICIA J. JELSMA, PRESIDENT

ATTEST:

By: _____
PAMELA MALNAR, SECRETARY