



2015 11224

RECORDING REQUESTED BY, AND  
WHEN RECORDED, RETURN TO:

FOREST MEADOWS OWNER'S ASSOCIATION  
c/o THE LAW OFFICES OF DEON R. STEIN  
885 University Avenue  
Sacramento, CA 95825

297  
15-282

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(Space Above For Recorder's Use)

AS

RESTATEMENT

(PURSUANT TO CALIFORNIA CIVIL CODE SECTION 4235)

OF

SECOND AMENDED AND RESTATED DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

FOREST MEADOWS



2015 11224

**RESTATEMENT  
(PURSUANT TO CALIFORNIA CIVIL CODE SECTION 4235)  
OF  
SECOND AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
FOREST MEADOWS**

This "*Restatement (Pursuant to California Civil Code Section 4235) of Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Forest Meadows*" (the "Restatement Declaration") is made by the Forest Meadows Owner's Association, a California nonprofit corporation (the "Association").

**RECITALS**

1. An instrument entitled "*Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Forest Meadows*" was recorded on February 28, 2011 as Instrument No. 20112271 in the Official Records of Calaveras County, California (the "Declaration").

2. The Declaration encumbers the real property in Calaveras County, California that is more particularly described in Attachment No. 1 (the "Development").

3. Prior to January 1, 2014, the Davis-Stirling Common Interest Development Act (the "Davis-Stirling Act"), was codified in the California Civil Code as Sections 1350 through 1378, inclusive, (the "Old Code Sections"). Effective January 1, 2014, the Davis-Stirling Act is comprehensively reorganized and recodified in the California Civil Code as Sections 4000 through 6150, inclusive, (the "new Davis-Stirling Act").

4. Because the Declaration was recorded prior to January 1, 2014, the Declaration references the Old Code Sections.

5. California Civil Code Section 4235 states the following:

(a) Notwithstanding any other provision of law or provision of the governing documents, if the governing documents include a reference to a provision of the Davis-Stirling Common Interest Development Act that was repealed and continued in a new provision by the act that added this section, the board may amend the governing documents, solely to correct the cross-reference, by adopting a board resolution that shows the



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correction. Member approval is not required in order to adopt a resolution pursuant to this section.

(b) A declaration that is corrected under this section may be restated in corrected form and recorded, provided that a copy of the board resolution authorizing the corrections is recorded along with the restated declaration.

6. Pursuant to California Civil Code Section 4235, and by Resolution of the Board of Directors, attached as Attachment No. 2, the Declaration is amended and restated in its entirety to read as set forth in Attachment No. 3.

7. Upon recordation of this Restatement Declaration, all of the property comprising the Development shall be subject to the covenants, conditions, restrictions, protective limitations, rights, rights-of-way, reservations, easements, equitable servitudes, liens and charges contained herein.

Date: SEPTEMBER 24, 2015.

**FOREST MEADOWS OWNER'S  
ASSOCIATION**, a California  
nonprofit mutual benefit corporation

By: 

Eric Davis, President

By: 

Allen Dodson, Secretary



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## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of CALAVERAS

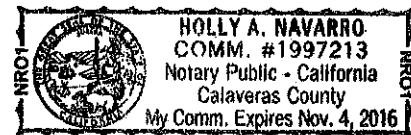
On SEPT 24, 2015 before me, HOLLY A. NAVARRO, NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared Eric Davis  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Holly A Navarro (Seal)





2015 11224

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of CALAVERAS

On SEPT 24, 2015 before me, HOLLY A NAVARRO, NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared Allen Dodson  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in  
his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

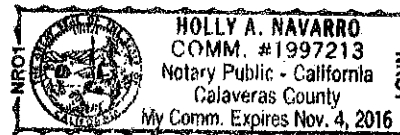
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Holly A Navarro

(Seal)





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**ATTACHMENT NO. 1**  
**LEGAL DESCRIPTION OF THE DEVELOPMENT**

That certain real property in the County of Calaveras, State of California, which is more particularly described as follows:

Forest Meadows Unit No. 1, Tract No. 220, as set forth on the Official Map thereof, filed for record October, 2, 1972, in Book 4 of Maps, Page 15, Calaveras County Records, excepting therefrom Lots 1 and 273 and Parcel C;

Forest Meadows Unit No. 1A, Tract No. 259, being a subdivision of Lot NO. 176 of Unit No. 1, as set forth in the Official Map thereof, filed for record September 20, 1977, in Book 4 of Maps, Page 40, Calaveras County Records;

Forest Meadows Unit No. 1B, Tract No. 257, being a subdivision of Lot No. 164 of Unit No. 1, as set forth on the Official Map thereof, filed for record July 11, 1977, in Book 4 of Maps, Page 37, Calaveras County Records;

Forest Meadows Unit No. 1C, Tract No. 263, being a subdivision of Lot No. 111 of Unit No. 1, as set forth on the Official Map thereof, filed for record July 11, 1977, in Book 4 of Maps, Page 35, Calaveras County Records;

Forest Meadows Unit No. 1D, Tract No. 258, being a subdivision of Lot No. 150 of Unit No. 1, as set forth on the Official Map thereof, filed for record July 11, 1977, in Book 4 of Maps, Page 34, Calaveras County Records;

Forest Meadows Unit No. 1E, Tract No. 264, being a subdivision of Lot No. 29 of Unit No. 1, as set forth on the Official Map thereof, filed for record July 11, 1977, in Book 4 of Maps, Page 36, Calaveras County Records;

Forest Meadows Unit No. 1F, Tract No. 260, being a subdivision of Lots 2, 3, 270, 271, and 272 of Unit No. 1, as set forth on the Official map thereof, filed for record September 20, 1977, in Book 4 of Maps, Page 39, and the Amended Map of Forest Meadows, Unit 1F, filed for record November 1, 1977, in Book 4 of Maps, Page 42, Calaveras County Records;



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Forest Meadows Unit No. 1F-A, Tract No. 260, being a subdivision of Lot 9 of Unit 1F and Lot AA of Unit No. 2 and a portion of NW ¼ of SW ¼ of Section 26, as set forth on the Official Map thereof, filed for record November 1, 1977, in Book 4 of Maps, Page 41, Calaveras County Records;

Forest Meadows Unit No. 2, Tract No. 231, as set forth on the Official Map thereof, filed for record December 3, 1974, in Book 4 of Subdivisions, Page 20, Calaveras County Records, excepting therefrom Lots B, C, CC, DD, EE, 243, 247, 249, 250, 251, 252, 253, and 254 and the portion of Lot AA as shown on the Map of Unit 1F-A;

Forest Meadows Unit No. 2B, Tract no. 282, being a resubdivision of Lots 237, 238, 239, 240, 241, 246 and 248 of Unit 2, as set forth on the Official Map thereof, filed for record January 16, 1980, in Book 5 of Subdivisions, Page 12, Calaveras County Records;

Forest Meadows Unit No. 2E, Tract No. 295, being a resubdivision of Lot D of Unit 2 and Lot 2B-22 of Unit 2B, as set forth on the Official Map thereof, filed for record January 16, 1980, in Book 5 of Subdivisions, Page 13, Calaveras County Records;

Forest Meadows Unit 2G, Tract No. 90-848, being a subdivision of Lot 242 of Unit 2, as set forth on the Official Map thereof, filed for record October 30, 1996, in Book 7 of Subdivisions, Page 26, Calaveras County Records.

Forest Meadows Unit No. 4, as described in that certain Declaration of Annexation Forest Meadows Unit No. 4 recorded December 28, 1982, in Book 635, Page 332, and in that certain declaration of Annexation recorded January 6, 1982, in Book 636, Page 249, Calaveras County records, as follows:

BEGINNING at the Northwest corner of the Northwest Quarter of the Southwest Quarter of said Section 25, as said corner is shown on that certain Record of Survey map, filed in the Office of the County Recorder of said Calaveras County in Book 7 of Record of Surveys, Page 193, thereof, said corner being the true point of beginning; thence North 88°42'20," East 1324.06 feet to the Northwest corner of the Northwest Quarter of the Southwest Quarter of said Section 25; thence South 0°02'42," West, 1323.52 feet to the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 25; thence South 88°29'48" West, along the South line of the Northwest Quarter of the Southwest



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along the South line of the Northwest Quarter of the Southwest Quarter of said Section 25, 862.89 feet; thence leaving said South line, North 13°39'23" West, along the West line 359.71 feet to the true point of beginning as shown on that certain Final Map filed in the Office of the Recorder of said Calaveras County on October 2, 1972, in Book 4 of Subdivisions at Page 15 thereof excepting therefrom that portion conveyed to the Calaveras County Water District, in deed recorded February 6, 1976, in Book 410 of Official Records, Page 261, Calaveras County Records;

Forest Meadows Unit No. 4, Tract No. 328, Phase 1, being a subdivision of a portion of the NW ¼ of the SW ¼ of Section 25, T 4 N, R 14 E, MDB&M, as set forth on the Official Map thereof, filed for record January 16, 1986, in Book 6 of Subdivisions, Page 20, Calaveras County Records;

Forest Meadows Unit No. 5, being Lot 1 as shown on that certain Record of Survey Map filed for record September 2, 1988, in Book 5 of Record of Surveys, Page 114, Calaveras County Records.

**Commercial Lots:**

Lot 273, as shown on that certain Map entitled, "Forest Meadows Subdivision, Unit No. 1, Tract No. 220," filed for record on October 2, 1972 in Book 4 of Subdivision Maps, Page 15, Calaveras County Records.

Lot 1 of Forest Meadows, Unit No. 1, as shown on the Official Map thereof, filed for record October 2, 1972, in Book 4 of Subdivision Maps, at Page 15, Calaveras County Records.

Parcel A, as shown on Record of Survey of Boundary Line Adjustment, Recorded December 23, 1994, in Book 19 of Record of Surveys at Page 6.





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**ATTACHMENT NO. 2**

**RESOLUTION OF THE BOARD OF DIRECTORS**



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**FOREST MEADOWS OWNER'S ASSOCIATION  
RESOLUTION OF THE BOARD OF DIRECTORS  
TO RESTATE  
SECOND AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
FOREST MEADOWS  
(PURSUANT TO CALIFORNIA CIVIL CODE SECTION 4235)**

The following actions were taken at a meeting of the Board of Directors (the "Board") of Forest Meadows Owner's Association (the "Association") held on SEPTEMBER 18, 2015, at which at least a quorum of the Directors were present. The Board finds and resolves as follows:

**WHEREAS**, the Association is a California nonprofit corporation that was formed to manage the residential planned development in Calaveras County, California, commonly known as Forest Meadows (the "Development"); and

**WHEREAS**, the Development is encumbered by the "*Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Forest Meadows*" (the "Declaration"), which was recorded on February 28, 2011 as Instrument No. 20112271 in the Official Records of Calaveras County, California; and

**WHEREAS**, the Declaration is part of the "Governing Documents" of the Association; and

**WHEREAS**, prior to January 1, 2014, the Davis-Stirling Common Interest Development Act (the "Davis-Stirling Act"), was codified in the California Civil Code as Sections 1350 through 1378, inclusive, (the "Old Code Sections"); and

**WHEREAS**, effective January 1, 2014, the Davis-Stirling Act, is comprehensively reorganized and recodified in the California Civil Code as Sections 4000 through 6150, inclusive, (the "new Davis-Stirling Act"); and

**WHEREAS**, the Declaration was recorded prior to January 1, 2014 and therefore contains the Old Code Sections; and

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WHEREAS, California Civil Code Section 4235, authorizes the Board, without membership approval, to correct the cross-references in the Development's governing documents to reflect the numerical scheme of the new Davis-Stirling, by adopting a board resolution that shows the correction; and

WHEREAS, pursuant to California Civil Code Section 4235, a declaration that is corrected under Civil Code Section 4235 may be restated in corrected form and recorded, provided that a copy of the board resolution authorizing the correction is recorded along with the restated declaration; and

WHEREAS, the Board seeks to exercise its authority to correct the California Civil Code numerical cross-references in the Declaration.

NOW, THEREFORE, IT IS RESOLVED, that the Declaration is hereby amended to correct the California Civil Code numerical cross-references to reflect the numbering scheme of the new Davis-Stirling; and

IT IS FURTHER RESOLVED, that the President and the Secretary of the Association are hereby authorized and instructed to execute the document entitled "*Restatement (Pursuant to California Civil Code Section 4235) of Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Forest Meadows*" in the form attached hereto as Exhibit "1" and to record such document in the Official Records of Calaveras County, California; and

IT IS FURTHER RESOLVED, that the majority of the Board of Directors has approved this Resolution, and that the minutes of the meeting held on SEPTEMBER 18, 2015 shall reflect the Board's vote.

#### CERTIFICATE OF SECRETARY

The undersigned declares that he/she is the duly appointed Secretary of the Association and that the foregoing Resolution of the Board was duly approved at the regular meeting of the Board of Directors held on SEPTEMBER 18, 2015, and that such Resolution remains in full force and effect.

Dated: SEPTEMBER 24, 2015.

  
Allen Dodson, Secretary



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**EXHIBIT "1"**  
**TO**  
**RESOLUTION OF THE BOARD OF DIRECTORS**

**FORM OF "RESTATEMENT (PURSUANT TO CALIFORNIA CIVIL CODE SECTION 4235)  
OF SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR FOREST MEADOWS"**

RECORDING REQUESTED BY, AND  
WHEN RECORDED, RETURN TO:

FOREST MEADOWS OWNER'S ASSOCIATION  
c/o THE LAW OFFICES OF DEON R. STEIN  
885 University Avenue  
Sacramento, CA 95825

(Space Above For Recorder's Use)

RESTATEMENT  
(PURSUANT TO CALIFORNIA CIVIL CODE SECTION 4235)  
OF  
SECOND AMENDED AND RESTATED DECLARATION  
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2001.01 / 20030.3

- 1 -

09-21-2015

the cross-reference, by adopting a board resolution that shows the correction. Member approval is not required in order to adopt a resolution pursuant to this section.

(b) A declaration that is corrected under this section may be restated in corrected form and recorded, provided that a copy of the board resolution authorizing the corrections is recorded along with the restated declaration.

6. Pursuant to California Civil Code Section 4235, and by Resolution of the Board of Directors, attached as Attachment No. 2, the Declaration is amended and restated in its entirety to read as set forth in Attachment No. 3.

7. Upon recordation of this Restatement Declaration, all of the property comprising the Development shall be subject to the covenants, conditions, restrictions, protective limitations, rights, rights-of-way, reservations, easements, equitable servitudes, liens and charges contained herein.

Date: \_\_\_\_\_, 2015.

FOREST MEADOWS OWNER'S  
ASSOCIATION, a California  
nonprofit mutual benefit corporation

By: \_\_\_\_\_  
Eric Davis, President

By: \_\_\_\_\_  
Allen Dodson, Secretary

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CALAVERAS COUNTY, CA  
REBECCA TURNER, COUNTY CLERK-RECORDER

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along the South line of the Northwest Quarter of the Southwest Quarter of said Section 25, 862.89 feet; thence leaving said South line, North 13°39'23" West, along the West line 359.71 feet to the true point of beginning as shown on that certain Final Map filed in the Office of the Recorder of said Calaveras County on October 2, 1972, in Book 4 of Subdivisions at Page 15 thereof excepting therefrom that portion conveyed to the Calaveras County Water District, in deed recorded February 6, 1976, in Book 410 of Official Records, Page 261, Calaveras County Records;

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#### Commercial Lots:

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Lot 1 of Forest Meadows, Unit No. 1, as shown on the Official Map thereof, filed for record October 2, 1972, in Book 4 of Subdivision Maps, at Page 15, Calaveras County Records.

Parcel A, as shown on Record of Survey of Boundary Line Adjustment, Recorded December 23, 1994, in Book 19 of Record of Surveys at Page 6.

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#### ATTACHMENT NO. 2

#### RESOLUTION OF THE BOARD OF DIRECTORS

#### ATTACHMENT NO. 3

#### SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FOREST MEADOWS

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CALAVERAS COUNTY, CA  
REBECCA TURNER, COUNTY CLERK-RECORDER

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**ATTACHMENT NO. 3**

**SECOND AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
FOREST MEADOWS**



**2015 11224**

**SECOND AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
FOREST MEADOWS**





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SECOND AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
FOREST MEADOWS

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**SECOND AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
FOREST MEADOWS**

The First Restated Declaration of Covenants, Conditions and Restrictions for Forest Meadows, executed by the Forest Meadows Owners' Association, a California nonprofit mutual benefit corporation and recorded on November 2, 1989, in Book 947, Page 135 of the Official Records of Calaveras County, California (the "First Restated Declaration"), which Declaration affects all of the real property described and commonly known as Forest Meadows is hereby amended and restated in its entirety to read as follows:

**RECITALS**

A The Declarant, as defined in Section 1.14, below, was the original owner of certain property located in the County of Calaveras, State of California, that is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. In this Declaration that real property is, at times, referred to by its common name of Forest Meadows and at other times, depending on the context, as the "Development".

B The Declarant conveyed the real property comprising Forest Meadows, subject to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Original Declarations that are more particularly identified in Exhibit "A" of the First Restated Declaration, all of which were imposed for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property comprising Forest Meadows and all of which were intended by the Declarant to run with all Lots and Common Areas comprising Forest Meadows and to be binding on all parties having or acquiring any right, title or interest in any portion of such real property, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. The First Restated Declaration consolidated the Original Declarations into a single document and made other changes considered necessary and desirable as of the date when the First Restated Declaration was drafted and proposed to the Members of the Forest Meadows for approval in 1989.

C It was the further intention of the Declarant to sell and convey residential Lots to the Owners, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between Declarant and such Owners which are set forth in this Declaration and which are intended to be in furtherance of a general plan for the subdivision, development, sale and use of the Development as a "planned development" as that term is defined in California Civil Code Section 4175. Finally, it was the intention of Declarant that the "Common Areas" and "Common Facilities," as defined herein, be owned and maintained by the Association, but reserved exclusively for the use and enjoyment of the Members of the Association, their tenants, lessees, guests and invitees, all subject to the terms and conditions of the Governing Documents.



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D On January 14, 2011, Members representing a majority of the Voting Power of the Association voted by secret written ballot in accordance with California Civil Code Section 5100 *et seq.*, to amend, consolidate and restate the First Restated Declaration, all in accordance with the procedures for amendment set forth in Article XIII, Section 1 of the First Restated Declaration. It was the intention of said Owners to replace the First Restated Declaration, in its entirety, with the recordation of this Declaration, without, however, changing the priority of the First Restated Declaration in the chain of title to the Lots and Common Areas comprising the Development. The action of the Members of the Association to amend and restate the First Restated Declaration as set forth herein and the fact that the requisite percentage of affirmative votes required in the First Restated Declaration was achieved, is attested by the execution of this Second Restated Declaration by duly authorized officers of the Association, as required by California Civil Code Section 4270. As so amended and restated, the easements, covenants, restrictions and conditions set forth herein shall run with the real property comprising the Development and shall be binding upon all parties having or acquiring any right, title or interest in any portion of the Development and shall inure to the benefit of each Owner of an interest in such real property.

## ARTICLE I DEFINITIONS

Section 1.01. "Architectural Review Committee" means the committee created in accordance with Article V, below. "Architectural Guidelines" means and refers to the guidelines and architectural review procedures that may be adopted from time to time pursuant to Section 5.07, below.

Section 1.02. "Articles" means the Articles of Incorporation of Forest Meadows Owners Association, a California nonprofit mutual benefit corporation, which are filed in the Office of the California Secretary of State.

Section 1.03. "Assessment" means any Regular, Special, Emergency, or Special Individual Assessment made or assessed by the Association against an Owner and his or her Lot in accordance with the provisions of Article IV, below.

Section 1.04. "Association" shall mean and refer to Forest Meadows Owners Association, a California nonprofit mutual benefit corporation, its successors and assigns. The Association is an "association" as defined in California Civil Code Section 4080, whose Members are the Owners of Lots and Units in the Forest Meadows development.

Section 1.05. "Association Rules" means the rules, regulations and policies adopted by the Board of Directors of the Association, pursuant to Section 3.08, below, as the same may be in effect from time to time.

Section 1.06. "Board of Directors" or "Board" means the Board of Directors of the Association as the Board may be constituted from time to time.



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Section 1.07. "Bylaws" means the Bylaws of the Association, as such Bylaws may, from time to time, be amended.

Section 1.08. "Common Area" or "Common Areas" shall mean all real property in which the Association owns an interest for the common use and enjoyment of the Owners. Said interest may include without limitation, estates in fee, estates for a term of years, or easements. The Common Areas owned by the Association as of the date of execution of this Declaration are described as follows:

That certain real property designated and shown as roads and those designated as Parcels A, B, D, E, F, G and H, on that Subdivision Map entitled, "Tract 220, Forest Meadows Unit 1" filed for record in that office of the Recorder of the County of Calaveras, State of California, on October 2, 1972, in Book 4 of Maps at Page 15; and that certain real property designated and shown as roads and those parcels designated as Parcels A, AA, BB, FF, GG and HH on that Subdivision Final Map, entitled "Tract 231, Forest Meadows Unit 2," filed for the record in that office of the County of Calaveras, State of California, on December 3, 1974, in Book 4 of Maps at Page 20, excepting that portion of Lot AA as shown on that certain Subdivision Map, entitled "Forest Meadows Unit 1F-A Tract 280," Book 4, Pages 41, et seq.

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

Section 1.09. "Common Expense" means any use of Common Funds authorized by Article IV, below, and Article IX of the Bylaws and includes, without limitation: (a) all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area and Common Facilities of the Forest Meadows development, (b) any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Areas and Common Facilities, and for nonpayment of any Assessments, and (c) the use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in this Declaration and the other Governing Documents of the Association.

Section 1.10. "Common Facilities" means the private roads within the Development, the Common Area swimming pools and recreation building, the entrance gates to the Development and related electrical components and equipment, entrance landscaping and monumentation, trees, hedges, plantings, lawns, shrubs, landscaping, fences, utilities, berms, pipes, lines, lighting fixtures, buildings, structures, and other facilities constructed or installed, or to be constructed or installed, or currently located on or within any portion of the Common Area.

Section 1.11. "Common Funds" means all funds collected or received by the Association (a) for use in the maintenance, management, administration, insurance, operation, replacement, repair, addition to, alteration or reconstruction of, all or any portion of the Common Area and Common Facilities and (b) for use in discharging any and all of its functions as provided for in the Governing Documents.





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Section 1.12. "Condominium" shall mean an estate in real property as defined in California Civil Code Section 783 and Section 4125(b).

Section 1.13. "County" means the County of Calaveras, State of California, and its various departments, divisions, employees, and representatives.

Section 1.14. "Declarant" means and refers to the original project developer of Forest Meadows, namely Forest Meadows Development Company, a limited partnership, its successors and assigns.

Section 1.15. "Declaration" shall mean this Second Restated Declaration of Covenants, Conditions and Restrictions as such Declaration may, from time to time, be amended. The "Original Declaration of Unit 1" and the "Original Declaration of Unit 2" (or, collectively, the "Original Declarations") shall mean the documents referenced in Exhibit "A" of the First Restated Declaration and references to the "First Restated Declaration" are to the document that is identified in the Preamble to this Declaration.

Section 1.16. "Development" means and refers to all parcels of real property (Common Area and Lots) described in Exhibit "A," attached hereto, together with all buildings, structures, utilities, Common Facilities, and other improvements located thereon and all appurtenances thereto. At times herein, the Development is referred to by its common name, which is Forest Meadows.

Section 1.17. "Emergency Assessment" means an Assessment that the Association is authorized and empowered to impose under the limited circumstances defined in California Civil Code Section 5610 and Section 4.05, below.

Section 1.18. "Family" shall mean one or more persons each related to the other by blood, marriage or legal adoption; or a group of not more than three persons not so related who maintain a common household in a Residence.

Section 1.19. "Governing Documents" is a collective term that means and refers to this Declaration and to the Articles, Bylaws and Rules of the Association, as the same may be amended from time to time.

Section 1.20. "Improvement" is a word that is used in Article V of this Declaration to identify the type of construction and Improvement projects that must first be approved by the Association's Architectural Review Committee before being initiated by an Owner. Improvement projects shall include any building, outbuilding, road, driveway, parking area, fence, retaining wall, paving or other cement flatwork, stairs, deck, windbreak, post, sign, spas, satellite reception dishes, roadside planting, sprinkler irrigation systems, solar systems, pool, lamp, effect lighting, installation of any utility (wire or conduit), excavation or act resulting in a change in topography, structure, landscaping, landscape structure or other Improvement that is proposed to be erected upon, placed or moved to any Parcel which alters any Lot from its natural or improved state, as existed on the date such Parcel was first conveyed to Owner. The term shall also include any later additions, alterations, reconstruction, refinishing, remodeling or changes



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(including, without limitation, color changes to the exterior of any Residence) of existing improvements or structures.

Section 1.21. "Lot" shall mean and refer to any plot of land shown upon any recorded Subdivision Map of the Development, excluding the Common Area. Unless the context clearly indicates a contrary intention, the term "Lot" shall also include the Residence and other improvements constructed thereon. As more particularly described herein, within the Development there are single family residential Lots, Multiple Family Residential Lots and Commercial Lots.

Section 1.22. "Majority of a Quorum" means the vote of a majority of the votes cast at a meeting or by written ballot when the number of Members attending the meeting in person or by proxy or casting written ballots equals or exceeds the minimum quorum requirement for Member action, as specified in the Bylaws or by statute.

Section 1.23. "Member" means and refers to every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Section 13.06, below.

Section 1.24. "Mortgage" means any security device encumbering all or any portion of the Development, including any deed of trust. "Mortgagee" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.

Section 1.25. "Multiple Family Residential Lots" shall mean all of the real property within the boundaries of any Lot and designated "multiple family residential" on a Subdivision Map. As so defined, the Multiple Family Residential Lots in Forest Meadows include that certain real property designated as Lots 18, 29, 111, 150, 153, 164, 176 and 270 on that Subdivision Final Map entitled "Tract 220, Forest Meadows Unit 1," filed for record in the office of the Recorder of the County of Calaveras, State of California, on October 2, 1972, in Book 4 of Maps, at page 15; and all that certain real property designated as Lots 236, 237, 238, 239, 240, 241, 244 and 245 on that Subdivision Final Map entitled "Tract 231, Forest Meadows Unit 2," filed for record in the office of the Recorder of the County of Calaveras, State of California, on December 3, 1974, in Book 4 of Maps, at page 20.

Section 1.26. "Owner" means any person, firm, corporation, or other entity which owns a fee simple interest in any Lot or any Condominium and includes (except when the context otherwise requires) the family, guests, tenants, and invitees of such Owner.

Section 1.27. "Owner of Record" and "Member of the Association" include an Owner and mean any person, firm, corporation or other entity in which title to a Lot is vested as shown by the official records of the Office of the County Recorder.

Section 1.28. "Party Wall" shall mean any wall of a Residence located on a property line dividing any Lots, which wall is commonly used by any such Lot and the adjoining Lot. The rights and responsibilities of Owners with respect to Party Walls shall be governed by Article V, below.



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Section 1.29. "Parcel" is a collective term which includes:

- (a) Any single family residential Lot as designated on a Subdivision Map and all improvements thereon and appurtenances thereto;
- (b) Any undeveloped Multiple Family Residential Lot as designated on a Subdivision Map; and
- (c) A Condominium Unit and the interest appurtenant thereto within a Project created upon a Multiple Family Residential Lot within the Development and any apartment unit located in an apartment complex or building located on any such Lot.

Section 1.30. "Project" shall mean a condominium project, as defined in Civil Code Section 4125(a), created upon Parcels designated as Multiple Family Residential Lots.

Section 1.31. "Project Assessment" shall mean Assessments levied pursuant to the Project Declaration.

Section 1.32. "Project Committee" shall mean the governing body of each Project created pursuant to each Project Declaration.

Section 1.33. "Project Common Area" shall mean the area within a Project that is restricted in a whole or in part to use primarily by or for the benefit of the Owners of Condominiums within the Project, their lessees and invitees.

Section 1.34. "Project Declaration" shall mean the declaration establishing a plan of Condominium ownership to be filed with respect to each Project.

Section 1.35. "Regular Assessment" means an Assessment levied on an Owner and his or her Lot in accordance with Section 4.02, below.

Section 1.36. "Reserves" means those funds that the Board of Directors of the Association has identified for use to defray the future repair or replacement of, or additions to, those major components of the Development that the Association is obligated to maintain. Funds that are accumulated in Reserve accounts pursuant to Article IV of this Declaration and California Civil Code Section 5510 shall be a Common Expense of the Association. The amounts required to properly fund Reserves shall be determined annually by the Board in accordance with the standards prescribed by maintenance cost guidelines prepared in accordance with California Civil Code Section 5300 and Section 5550 and prudent property management practices generally applied in common interest developments in the geographic region in which the Development is located. "Reserve Accounts" means and refers to any account established and maintained by the Association for its Reserve funds.

Section 1.37. "Residence" means a private, single-family dwelling constructed on a Lot. Within the Development there are both free standing and shared wall (townhouse style) Residences.



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Section 1.38. "Single Family Residential Use" means occupation and use of a Residence for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy single family residential dwellings.

Section 1.39. "Special Assessment" means an Assessment levied on an Owner and his or her Lot in accordance with Section 4.03, below.

Section 1.40. "Special Individual Assessment" means an Assessment made against an Owner and his or her Lot in accordance with Section 4.04, below.

Section 1.41. "Subdivision Map" means that Final Map, entitled Tract 220, Forest Meadows Unit No. 1, filed for record in the Office of the Recorder of the County of Calaveras, State of California, on October 2, 1972, in RDA 4 of Maps, at page 15 and that Final Map entitled Tract 231, Forest Meadows Unit No. 2, filed for record in the Office of the Recorder of the County of Calaveras, State of California, on December 3, 1974, in Book 4 of Maps, at page 20.

Section 1.42. "Unit" shall mean the elements of a Condominium that are not owned in common with the other Owners of Condominiums in a condominium project within Forest Meadows. Unless otherwise defined in a Project Declaration or condominium plan, a Unit shall be a separate estate consisting of the space bounded by and contained within the unfinished interior surfaces of the perimeter walls, floors, ceilings, windows and doors of each Unit. The respective elements and the boundaries of each Unit are more particularly described in the Condominium Plan. In interpreting deeds and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the original plans, shall be conclusively presumed to be the Unit's boundaries rather than the description expressed in the deed or plans, regardless of minor variances between the boundaries as shown on the plans or the deed and those of the building containing the Unit and regardless of settling or lateral movement of the Unit.

Section 1.43. "Voting Power" means those Members who are eligible to vote for the election of directors or with respect to any other matter, issue or proposal properly presented to the Members for approval at any time a determination of voting rights is made. To be part of the Voting Power, a Member must be in Good Standing, as defined in Section 1.04(c) of the Association's Bylaws.

## ARTICLE II PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS

### Section 2.01. Declaration Regarding the Property Comprising the Development.

(a) Property Subject to Declaration. In subjecting the real property comprising the Development to the Original Declaration, as amended and restated herein, it was the intent of the Declarant, as interpreted and modified by action of the Association and its Members, that the Common Areas, Lots, Units and Parcels comprising the Development should and will be held, conveyed, divided, encumbered, hypothecated, leased, rented, used, occupied and improved only upon compliance with and subject to the provisions of this Declaration, which is hereby



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declared to: (i) be in furtherance of a plan for the subdivision of the Development and the sale of residential Lots within the Development; (ii) be for the benefit and protection of the Development and to enhance the desirability, value and attractiveness of the property and improvements comprising the Development; (iii) be for the benefit of the Owners of Parcels within Forest Meadows; (iv) run with the land and be binding upon all parties having or acquiring any right, title or interest in the Development or any portion thereof; (v) inure to the benefit of every portion of the Development and any interest therein; and (vi) inure to the benefit of and be binding upon each Owner, or any successor in interest to an Owner who should subsequently obtain or hold an interest in any portion of the real property comprising the Development.

(b) Binding Effect on Successors In Interest. Each conveyance, transfer, sale, assignment, lease or sublease made by any Owner of a Lot or Unit in the Development shall be deemed to incorporate by reference all of the provisions of this Declaration. All present and future Owners, tenants and occupants within the Development shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same shall be amended from time to time unless a particular provision of the Governing Documents is specifically restricted to one or more classes of persons (i.e., Owners, tenants, invitees, etc.). The acceptance of a deed to any Lot or Unit, the execution of a lease, sublease or contract of sale with respect to any Lot or Unit, or the entering into occupancy of any Residence shall make the provisions of this Declaration binding upon said Owners, lessees, and contract purchasers and they shall thereafter be obligated to observe and comply with all Governing Documents.

Section 2.02. Property Rights in Common Area.

(a) Fee Title in Association. Prior to the approval of the Original Declarations, the Declarant conveyed fee simple title to the Common Area located in each Phase of the Development to the Association. Additionally, Common Area, if any, in Unit No. 5 will be conveyed to the Association prior to the close of escrow in the first sale of a Lot in Unit No. 5.

(b) Rights of Owners in Common Areas. The interest of each Owner in and to the use and benefit of the Common Area and the Common Facilities shall be appurtenant to the Lot or Unit that is owned by the Owner and shall not be sold, conveyed or otherwise transferred by the Owner separately from the ownership interest in the Lot or Unit. Any sale, transfer or conveyance of such Lot or Unit shall transfer the appurtenant right to use and enjoy the Common Area and Common Facilities. There shall be no judicial partition of the Common Area or any part thereof, and each Owner (whether by deed, gift, devise, or operation of law for his or her own benefit and for the benefit of all other Owners) specifically waives and abandons all rights, interest and causes of action for a judicial partition of any ownership interest in the Common Area and does further covenant that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. The rights of all Owners in the Common Area shall be further subject to the requirements and restrictions set forth in Section 2.03, below.

Section 2.03. Owners' Nonexclusive Easements of Enjoyment. Every Owner of a Lot or Unit in Forest Meadows shall have a nonexclusive right and easement of enjoyment in and to the



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Common Areas and Common Facilities, including ingress and egress to and from his or her Lot, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) Right of Association to Regulate Common Area Uses. The right of the Association to charge reasonable admission and other fees or to limit the number of guests of Members who may use any recreational Common Facilities.

(b) Right of Association to Adopt Rules. The right of the Association to adopt Association Rules as provided in Section 3.08, below, regulating the use and enjoyment of the Development for the benefit and well-being of the Owners in common, and, in the event of the breach of such rules or any provision of any Governing Document by any Owner or tenant, to initiate disciplinary action against the violating Owner or tenant in accordance with Section 13.06, below. Such action may include the levying of fines and/or the temporary suspension of the voting rights and/or the right to use the Common Facilities, other than roads, by any Owner and the Owner's tenants and guests.

(c) Right to Incur Indebtedness. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and Common Facilities.

(d) Rights of Dedication. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners; provided, however, that no such dedication or transfer shall be effective unless an instrument, approved by at fifty-one percent (51%) of the Owners consenting to such dedication or transfer, has been recorded. Furthermore, no dedication shall be permitted that impairs the ingress and egress to any Lot. The instrument effecting the dedication may be executed in counterparts so long as each counterpart is in recordable form. The membership approval requirements of this subparagraph shall not apply to any sale or conveyance of property received by the Association which is not designated as Common Area, including, without limitation, Lots received in foreclosure.

(e) Rights of Easement Holders. All easements affecting the Common Area that are described in Article IX, below.

Section 2.04. Delegation of Use.

(a) Delegation of Use and Leasing Residences. Any Owner may delegate, in accordance with the Governing Documents, his or her right to use and enjoy the Common Area and Common Facilities to the members of the Owner's Family or to the Owner's tenants or contract purchasers who reside in the Owners' Residence or Unit; provided that any rental or lease of the Owners' Residence or Unit may only be to a single family for Single Family Residential Use. Residences and Units shall not be converted to a time-share property as defined in California Business and Professions Code section 11212(aa), or comparable superseding statute.

The restrictions on multiple family occupancy and transient use imposed by the immediately preceding paragraph are intended to protect, enhance and maintain the single



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family residential atmosphere which exists within the Development and to avoid the occupancy of Residences or Units for short periods of time or by an unreasonable number of unrelated individuals. In the case of Multiple Family Residential Lots, the restrictions contained in this Section 2.04 shall be applied on a Unit basis.

During any period when a Residence or Unit has been rented or leased, the Owner, his Family and guests shall not be entitled to use and enjoy the recreational Common Facilities within the Development, unless the Owner is contemporaneously residing in another Residence or Unit within the Development.

Any rental or lease of a Residence or Unit shall be subject to the provisions of the Governing Documents, each of which shall be deemed to be incorporated by reference in the lease or rental agreement. Each Owner shall provide any tenant or lessee with a current copy of all the Governing Documents and shall at all times be responsible for compliance of the Owner's tenant or lessee with the Governing Documents during the lease or rental term.

(b) Discipline of Lessees. Subject to subparagraph (d) below, in the event that any tenant or lessee fails to honor any provision of the Governing Documents, the Association shall be entitled to take appropriate corrective action if, within a reasonable time, the Owner fails to take such action with respect to the tenant or lessee. Such corrective action may include suspension of the tenant's privileges to use the Common Area and/or Common Facilities (other than roads) or the imposition of fines and penalties against the Owner.

(c) Association's Right to Initiate Eviction Proceedings to Protect the Common Interests. In the event a tenant's conduct involves material damage to, or misuse of, the Common Areas or Common Facilities, or constitutes an unreasonable nuisance to neighboring Lot or Unit Owners, the Association shall be entitled to maintain an eviction action against such tenant to the same extent as the Owner of the subject Parcel, the Association being deemed to be a third party beneficiary of any lease agreement involving any Residence located within the Development. The Association's rights hereunder shall be subject to the due process requirements of subparagraph (d) below.

(d) Due Process Requirements for Disciplinary Action. Except for circumstances in which immediate corrective action is necessary to prevent damage to, or destruction of, any improvements or other property within the Development or to preserve the right of quiet enjoyment of other residents, the Association shall have no right to initiate disciplinary action against an Owner (or the Owner's lessee or tenant) on account of the misconduct of the Owner's lessee or tenant unless and until the following conditions have been satisfied: (i) the Owner has received written notice from the Board, the Association's general manager or an authorized committee of the Board detailing the nature of the lessee's/tenant's alleged infraction or misconduct and advising the Owner of his right to a hearing; (ii) the Owner has been given a reasonable opportunity to take corrective action against the tenant/lessee on a voluntary basis or to appear at a hearing (conducted in accordance with Article XIII, below), to present arguments as to why disciplinary action is unnecessary or unwarranted; and (iii) the Owner has failed to prevent or correct the tenant's objectionable actions or misconduct.



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Section 2.05. Obligations of Owners. Owners of Lots within the Development shall be subject to the following:

(a) Owner's Duty to Notify Association of Tenants and Contract Purchasers. Each Owner shall notify the Association General Manager or Secretary of the Association, if any, of the names of any contract purchaser or tenant residing in the Owner's Lot or Unit. Each Owner, contract purchaser or tenant shall also notify the Association General Manager or Secretary of the Association of the names of all persons to whom such Owner, contract purchaser or tenant has delegated any rights to use and enjoy the Common Areas and Common Facilities of the Development and the relationship that each such person bears to the Owner, contract purchaser or tenant.

(b) Contract Purchasers. A contract seller of a Lot (i.e., an Owner who contracts to sell his or her Lot or Unit pursuant to an agreement where title transfers to the buyer only upon payment in full of the purchase price) must delegate his or her voting rights as a Member of the Association and his or her right to use and enjoy the Common Area and Common Facilities to any contract purchaser in possession of the property that is subject to the contract of sale. Notwithstanding the foregoing, the contract seller shall remain liable for any default in the payment of Assessments by the contract purchaser until title to the property sold has been transferred to the purchaser.

(c) Notification to Prospective Purchasers Regarding Governing Documents.

(i) As more particularly provided in California Civil Code Section 4525, as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Lot, the Owner thereof must give the prospective purchaser:

(A) a copy of the Governing Documents;

(B) a copy of the most recent documents distributed by the Association pursuant to California Civil Code Section 5300 *et seq.* (see Article XII of the Bylaws);

(C) a true statement ("delinquency statement") in writing from an authorized representative of the Association as to: (1) the amount of the Association's current Regular and Special Assessments and fees; (2) the amount of any Assessments levied upon the Owner's Lot or Unit that remain unpaid as of the date of the delinquency statement and any monetary fines or penalties levied upon the Owner's Lot and unpaid as of the date of the delinquency statement. The delinquency statement shall also include true information on late charges, interest, and costs of collection that, as of the date of the delinquency statement, are or may become a lien against the Owner's Lot pursuant to Civil Code Section 5650 *et seq.* and Section 5740;





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(D) a copy or a summary of any notice previously sent to the Owner pursuant to Civil Code Section 5855, that sets forth any alleged violations of the Governing Documents that remain unresolved at the time of the request; and

(E) a statement disclosing any change in the Association's current Regular and Special Assessments and fees which have been approved by the Board but have not become due and payable as of the date the information is provided and any monetary fines or penalties levied upon the Owners Lot that are unpaid on the date of the statement. The statement obtained from the Association shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement are or may be made a lien upon the Owner's Lot pursuant to Section 4.10(b), below.

(ii) Within ten (10) days of the mailing or delivery of a request for the information described in subparagraph (c)(i), above, the Association shall provide the Owner with copies of the requested items. The items that the Association is obligated to provide pursuant to this subparagraph (c) may be maintained in electronic form and requesting parties shall have the option of receiving them by electronic transmission or machine readable storage media if the Association maintains these items in electronic form. The Association may charge a reasonable fee for these services based upon the Association's actual cost to procure, prepare, and reproduce the requested items.

(d) Payment of Assessments and Discharge of Assessment Liens. Each Owner shall pay, when due, each Regular, Special, Emergency, and Special Individual Assessment levied against the Owner and his or her Lot and shall promptly discharge any Assessment lien that may hereafter become a charge against his or her Lot pursuant to Section 4.10(b), below.

(e) Compliance with Association Rules. Owners shall be obligated to observe, comply with and abide by any and all rules and regulations set forth in, or promulgated by the Association pursuant to Section 3.08, below, for the purpose of protecting the interests of all Owners or protecting the Common Area and Common Facilities.

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

(g) Prohibition on Avoidance of Obligations. No Owner, by non-use of the Common Areas or Common Facilities, abandonment of the Owner's Lot or otherwise may avoid the burdens and obligations imposed on such Owner by the Governing Documents, including, without limitation, the payment of Assessments levied against the Owner and his or her Lot pursuant to Article IV, below.

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(h) Termination of Obligations. Upon the conveyance, sale, assignment or other transfer of a Lot or Unit to a new Owner, the transferor-Owner shall not be liable for any Assessments levied with respect to the transferred Lot or Unit which become due after the date of Recording of the deed evidencing the transfer and, upon such Recording, all Association membership rights possessed by the transferor-Owner by virtue of the ownership of the Lot or Unit shall automatically cease.

### ARTICLE III FOREST MEADOWS OWNERS' ASSOCIATION

Section 3.01. Requirement of Membership in the Association. The Forest Meadows Owners' Association is a California nonprofit mutual benefit corporation who Members are comprised of the Owners of Lots and Units within the Forest Meadows common interest development. Ownership of a Lot or Unit in the Development shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his or her ownership in all Lots or Units in the Development ceases, at which time his or her membership in the Association shall automatically cease. Persons or entities who hold an interest in a Lot or Unit merely as security for performance of an obligation are not Members until such time as the security holder comes into title to the Lot or Unit through foreclosure or acceptance of a deed in lieu thereof.

Section 3.02. Association Action; Board of Directors and Officers. With the exception of those matters requiring approval of Members under the Governing Documents or California law, the affairs of the Association shall be conducted and all corporate powers shall be exercised by the Board of Directors and such officers as the Board may elect or appoint. Unless otherwise provided by law, an act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the Board. Each director present and voting at a meeting shall have one vote on each matter presented to the Board of Directors for action. No director may vote at any meeting by proxy.

Section 3.03. Membership. The Association shall have one class of membership comprised of the Owners of Lots and Units in the Development. The rights, duties, obligations and privileges of the Members shall be as set forth in the Governing Documents.

Section 3.04. Voting Rights of Members. Each Member of the Association shall be entitled to one vote for each Lot or Unit that the Member owns. When more than one person holds an interest in any Lot, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Lot or Unit. A Member's voting rights may be temporarily suspended under those circumstances described in Section 13.06, below.

Section 3.05. Assessments. The Association shall have the power to establish, fix and levy Assessments against the Owners of Lots and Units within the Development and to enforce payment of such Assessments in accordance with Article IV, below. Any Assessments levied by the Association on its Members shall be levied in accordance with and pursuant to the provisions of this Declaration.



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Section 3.06. Transfer of Memberships. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Lot or Unit to which it is appurtenant, and then only to the purchaser. In the case of a sale, the membership appurtenant to the transferred Lot or Unit shall pass automatically to the purchaser upon recording of a deed evidencing transfer of title to the Lot or Unit. In the case of an encumbrance of a Lot or Unit, a Mortgagee does not have membership rights until he or she becomes an Owner by foreclosure or deed in lieu thereof. Tenants who are delegated rights of use pursuant to Section 2.04, above, do not thereby become Members, although the tenant and Members of the tenant's family shall, at all times, be subject to the provisions of all Governing Documents. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of his or her Lot or Unit, the Association shall have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller shall be null and void.

Section 3.07. Powers and Authority of the Association.

(a) Powers, Generally. The Association shall have the responsibility of owning, managing and maintaining the Common Areas and Common Facilities within Forest Meadows and discharging the other duties and responsibilities imposed on the Association by the Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California in the ownership and management of its properties and the discharge of its responsibilities hereunder for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents.

With the exception of those matters requiring approval of the Members under the Governing Documents or California law, the affairs of the Association shall be conducted and all corporate powers shall be exercised by the Board of Directors and such officers and agents as the Board may elect, hire or appoint. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. The specific powers of the Association and the limitations thereon are set forth in Article IX of the Bylaws.

(b) Association's Limited Right of Entry.

(i) Right of Entry, Generally. Without limiting the foregoing description of powers, but in addition thereto, the Association and its agents shall have the right and power to enter any Lot to perform the Association's obligations under this Declaration, including: (A) obligations to enforce the architectural review and approval requirements, minimum construction standards and/or land use restrictions of Articles V, VI and VIII, below; (B) any obligations with respect to construction, maintenance and repair of adjacent Common Facilities; or (C) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, any portion of the Development or the Owners in common.



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(ii) Limitations on Exercise of Right. The Association's right of entry pursuant to this subparagraph (b) shall be subject to the following:

(A) The right of entry may be exercised immediately and without prior notice to the Owner or resident in case of an emergency originating in or threatening the Lot or Unit where entry is required or any adjoining Lots/Units or Common Area. The Association's work may be performed under such circumstances whether or not the Owner or his or her lessee is present.

(B) In all non-emergency situations involving routine repair and/or maintenance activities, the Association or its agents shall furnish the Owner or his or her lessee with at least twenty-four (24) hours prior written notice of its intent to enter the Lot or Unit, specifying the purpose and scheduled time of such entry, and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing in the Residence or Lot.

(C) In all non-emergency situations involving access by the Association for purposes of enforcing the Governing Documents against an Owner in default, the Association's entry shall be subject to observance of the notice and hearing requirements imposed by Section 13.06, below.

(D) In no event shall the Association's right of entry hereunder be construed to permit the Association or its agents to enter any Residence without the express permission of the Owner or tenant.

Section 3.08. Association Rules.

(a) Rule Making Power. The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend rules and regulations of general application to the Owners ("Association Rules"). The Association Rules may concern, but need not be limited to: (i) matters pertaining to use of the Common Area and Common Facilities; (ii) architectural control and the rules of the Architectural Review Committee under Article V, below; (iii) regulation of pet ownership, parking, signs, collection and disposal of refuse and other matters subject to regulation and restriction under Article VIII, below; (iv) collection of delinquent Assessments; (v) minimum standards of maintenance of landscaping or other Improvements on any Lot; (vi) the conduct of disciplinary proceedings in accordance with Section 13.06, below, (vii) and any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents. The Association Rules also include any Architectural Guidelines adopted pursuant to Section 5.07, below.

Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the Governing Documents or the rights,



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preferences and privileges of the Owners thereunder. In the event of any material conflict between any Association Rule and the provisions of any other Governing Document, the conflicting provisions contained in the other Governing Document shall prevail. All Association Rules shall be adopted, amended and repealed (as the case may be) in good faith and in substantial compliance with this Declaration and California Civil Code Section 4340 *et seq.*

(b) Distribution of Rules. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner: (i) within fifteen (15) days after a new Association Rule is adopted or an existing Association Rule is amended (in which case only the new Rule or amendment need be distributed); or (ii) within ten (10) days following receipt of a written request from an Owner for a copy of the Rules. The Association Rules may be maintained in electronic form and Owners who request a copy of the Rules pursuant to Civil Code Section 4525 may receive the Rules in that format at their election. Distributions of Rule changes may also be made by inclusion in a periodical that is circulated primarily to Association Members or in a mailing of Association invoices or newsletters to the Members.

(c) Adoption and Amendment of Rules.

(i) Requirement of Prior Notice to the Members of Certain Operating Rules or Amendments Thereto. California Civil Code Section 4340(a) defines an "Operating Rule" as an Association Rule or regulation that applies generally to the management and operation of the Development or to the conduct of the business and affairs of the Association. That Civil Code Section 4340(b) further defines a "Rule Change" as any adoption, amendment, or repeal of an Operating Rule by the Board of Directors. Civil Code Section 4355 identifies seven (7) types of Operating Rules (and Rule Changes involving such Operating Rules) that must first be provided to the Members in writing at least thirty (30) days prior to the Board taking action to implement the Rule Change. The notice must include the text of the proposed Rule Change and a description of the purpose and effect of the proposed Rule Change. This requirement of prior notice to the Members applies only to Operating Rules that relate to one (1) or more of the following subjects:

(A) Use of the Common Areas and Common Facilities of the Development;

(B) Use of any Residence, Lot or Unit in the Development (including Architectural Guidelines that govern the Improvement or alteration of Lot Improvements);

(C) Member discipline, including any schedule of monetary penalties for violation of the Governing Documents and any procedure for the imposition of penalties;

(D) Any standards for delinquent Assessment payment plans;



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(E) Any procedures adopted by the Association for resolution of disputes;

(F) Any procedures for reviewing and approving or disapproving a proposed physical change to an Owner's Residence, Lot or Unit; and

(G) Any procedures for the conduct of elections.

Specifically excluded by Civil Code Section 4355 from the requirement of prior notice to Members are the following actions of the Board, regardless of whether those actions may be construed as being Association Rules or "Operating Rules," as defined in the Civil Code: (i) any Rule Change that the Board adopts to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the Association (such "emergency rules" can be adopted and remain in effect for up to one hundred and twenty (120) days); (ii) decisions regarding maintenance of the Common Areas or Common Facilities; (iii) a decision on a specific matter that is not intended to apply to all Members, generally; (iv) establishing the amount of an Assessment; (v) adoption of a Rule Change that is required by law (if the Board of Directors has no discretion regarding the substantive effect of the Rule Change); and (vi) issuance of a document that merely repeats existing law or the Governing Documents.

With respect solely to Operating Rules and/or Rule Changes listed in subparagraphs (A) through (G), above, Civil Code Section 4365 gives Members owning five percent (5%) or more of the Lots in the Development the right to demand that a special meeting of the Members be called to reverse a proposed Rule Change, so long as the request for the special meeting is delivered to the Association not more than thirty (30) days after the Members are given notice of the Rule Change. If a proper and timely demand for a special meeting to vote to rescind an Operating Rule or Rule Change is tendered to the Association, the Board shall establish the date, time and location of the meeting and provide notice thereof to the Members in accordance with Corporations Code section 7511(c) and Section 5.04 of the Association Bylaws.

So long as a quorum of the Members is present at any such meeting, the Rule Change can be reversed on the affirmative vote of a Majority of a Quorum of the Members, with each Member having one (1) vote on the proposed Rule reversal for each Lot owned. If the Members vote to reverse an Operating Rule or a Rule Change, the Board may not take action to readopt the Operating Rule or Rule Change for a period of one (1) year after the date of the special meeting where reversal of the Operating Rule or Rule Change was approved; provided, however, that this provision is not intended to preclude the Board from adopting a different Operating Rule or Rule Change on the same subject as the Rule Change that was successfully reversed. As soon as possible following the close of voting on any proposal to reverse an Operating Rule or Rule Change, but not more than fifteen (15) days after the close of voting, the Board shall provide notice to each Member of the results of the Member vote by any means permitted by Civil Code Section 4040, Section 4045, and Section 4050 which includes publication in a periodical that is circulated primarily to Members of the Association.



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(ii) Minimum Content for Election Rules. Civil Code Section 5105 requires associations to adopt rules regarding the conduct of elections that do all of the following:

(A) Ensure that any candidate or member advocating a point of view is provided access to Association media, newsletters, or Internet Web sites during a campaign so long as the access is reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view (whether or not endorsed by the Board). The Association may not edit or redact any content from these campaign communications, but may include a statement specifying that the candidate or Member, and not the Association, is responsible for that content.

(B) Ensure access to the Common Area meeting space, if any exists, during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all Members advocating a point of view (whether or not endorsed by the Board) so long as use of the space is for a purpose that is reasonably related to the election.

(C) Specify the qualifications for candidates for election to the Board of Directors and any other elected position, and procedures for the nomination of candidates. A nomination or election procedure shall not be deemed reasonable if it disallows any Member of the Association from nominating himself or herself for election to the Board.

(D) Specify the qualifications for voting, the Voting Power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close.

(E) Specify a method of selecting one (1) or three (3) inspectors of election by the Board of Directors.

(F) Allow the inspector, or inspectors, to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties (as defined in Section 7.05(d) of the Bylaws).

(iii) Adoption of Other Association Rules. Except as provided in subparagraph (c)(i), above, with respect to certain Operating Rules and Rule Changes that must first be distributed to the Members, any other Association Rules may be adopted or amended from time to time by majority vote of the Board; provided, however, that no Association Rule or amendment thereto shall be



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adopted by the Board until at least thirty (30) days after the proposed rule or rule amendment has been distributed in writing to each Member, along with a description of the purpose and effect of the proposed Association Rule or amendment thereto. The notice describing the proposed rule or amendment shall also set forth the date, time and location of the Board meeting at which action on the proposal is scheduled to be taken. Any duly adopted rule or amendment to the Association Rules shall become effective immediately following the date of adoption thereof by the Board, or at such later date as the Board may deem appropriate. Any duly adopted rule or rule amendment shall be distributed to the Members any means permitted by Civil Code Section 4045, which includes, regular mail or personal delivery, or Association news publications that are circulated primarily to the Association's Members.

(iv) Prohibition on Adoption of Certain Rules. In accordance with Civil Code Section 4730, any rule or regulation of an association that arbitrarily or unreasonably restricts an Owner's ability to market his or her Residence and/or Lot is void. Without limiting the foregoing, in no event shall the Association be entitled to impose an Assessment or fee in connection with the marketing of an Owner's Lot in an amount that exceeds the Association's actual and direct costs (see also Section 4.01(e) below).

Section 3.09. Breach of Rules or Restrictions. Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth in Article XIII, below.

Section 3.10. Limitation on Liability of the Association's Directors and Officers.

(a) Claims Regarding Breach of Duty. No director or officer of the Association (collectively and individually referred to as the "Released Party") shall be personally liable to any of the Members, or to any other person, for any error or omission in the discharge of his or her duties and responsibilities or for his or her failure to provide any service required under the Governing Documents; provided that such Released Party has, upon the basis of such information as he or she possessed, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

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





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(b) Other Claims Involving Tortious Acts and Property Damage. No person who suffers bodily injury (including, without limitation, emotional distress or wrongful death) as a result of the tortious act or omission of a volunteer director or volunteer officer of the Association shall recover damages from such director or officer if all of the following conditions are satisfied:

- (i) The director or officer owns no more than two (2) Lots or Units in the Development;
- (ii) The act or omission was performed within the scope of the volunteer director's or officer's Association duties;
- (iii) The act or omission was performed in good faith;
- (iv) The act or omission was not willful, wanton, or grossly negligent;
- (v) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim is made general liability insurance with coverage of at least One Million Dollars (\$1,000,000.00).

The payment of actual expenses incurred by a director or officer in the execution of such person's Association duties shall not affect such person's status as a volunteer Board member or officer for the purposes of this Section. The provisions of this subparagraph (b) are intended to reflect the protections accorded to volunteer directors and officers of community associations pursuant to California Civil Code Section 5800 and should not be construed to expand or to limit the fiduciary duties owed by a Board member or officer to the Association and its Members. In the event said Civil Code section is amended or superseded by another, similar provision of the California statutes, this subparagraph (b) shall be deemed amended by approval of the Board, without the necessity of further Member approval, to correspond to the amended or successor Civil Code provision.

#### ARTICLE IV ASSESSMENTS

##### Section 4.01. Assessments Generally.

(a) Covenant to Pay Assessments. Each Owner of a Lot, by acceptance of a deed therefor (whether or not it shall be so expressed in such deed), covenants and agrees to pay to the Association: (i) Regular Assessments; (ii) Special Assessments; (iii) Special Individual Assessments; and (iv) Emergency Assessments, as those categories of Association Assessments are defined herein. Each such Assessment shall be established and collected as hereinafter provided.

(b) Extent of Owner's Personal Obligation for Assessments. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a debt and a personal obligation of the person who is the Owner of the Lot or Unit at the time the Assessment is levied. Each Owner who acquires title to a Lot (whether by conventional conveyance, at a judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Lot or Unit that become due and



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payable after the date that the person acquires title. Accordingly, when a person acquires title to a Lot or Unit, he or she shall not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability of a prior Owner. However, if the acquired Lot/Unit is conveyed subject to a valid lien for delinquent Assessments and related costs of collection (i.e., the lien is not removed from record prior to close of escrow in the sale of the Lot or Unit), the Association may continue to exercise its foreclosure remedies against the Lot or Unit, regardless of the change of ownership, and/or the Association may pursue its collection remedies against the prior Owner, individually.

(c) Creation of Assessment Lien. With the exception of the limitations imposed by law on the collection of certain Special Individual Assessments by use of lien and foreclosure remedies, all Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a charge on the Lot and shall become a lien upon the Lot or Unit against which such Assessment is made from and after the date when a Notice of Delinquent Assessment is recorded against the defaulting Owner's Lot or Unit in accordance with Section 4.10(b)(v), below. Any lien for unpaid Assessments created pursuant to the provisions of this Article may be subject to foreclosure to the extent and as provided in Sections 4.10(b) (vii) and 4.10(b)(ix), below.

(d) No Avoidance of Assessment Obligations. No Owner may exempt himself/herself or the Owner's Lot or Unit from liability or charge for the Owner's share of any Assessment made against the Owner or his or her share of any Regular, Special or Emergency Assessment made against the Owner's Lot or Unit, by waiving or relinquishing, or offering to waive or relinquish, the Owner's right to use and enjoy all or any portion of the Common Areas or Common Facilities or by the abandonment or non-use of the Owner's Lot or Unit.

(e) Improper Assessment. The Association shall not impose or collect an Assessment or fee that exceeds the amount necessary to defray the costs for which the Assessment or fee is levied.

#### Section 4.02. Regular Assessments.

(a) Preparation of Annual Budget; Establishment of Regular Assessments. Not less than thirty (30) days nor more than ninety (90) days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year (including additions to any Reserve fund established to defray the costs of future repairs, replacement or additions to the Common Facilities or portions of the Lots which the Association is obligated to maintain by preparing and distributing to all Members a budget satisfying the requirements of Section 12.05 of the Bylaws. If the Board fails to distribute the budget for any fiscal year within the time period specified in the first sentence of this Section, the Board shall not be permitted to increase Regular Assessments for that fiscal year unless the Board first obtains the approval of the Members in accordance with Section 4.08, below.

(b) Establishment of Regular Assessment; Member Approval Requirements for Certain Assessment Increases. The total Common Expenses estimated in the Association's budget (less projected income from sources other than Assessments) shall become the aggregate Regular



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Assessment for the next succeeding fiscal year; provided, however, that except as provided in Section 4.05, below ("Emergency Assessments") the Board of Directors may not impose a Regular Assessment that is more than twenty percent (20%) greater than the Regular Assessment for the Association's immediately preceding fiscal year without the Members' prior approval in accordance with Section 4.08, below.

(c) Allocation of Regular Assessment.

(i) Association Common Expenses. The total estimated Common Expenses, determined in accordance with subparagraph (a), above, shall be allocated among, assessed against, and charged to each Owner according to the ratio of the number of Lots/Units within the Development owned by the assessed Owner to the total number of Lots and Units that are subject to Assessment so that each Lot bears an equal share of the total Regular Assessment. It is the intent of this allocation to equitably allocate Assessments in proportion to the value of common services furnished to each Owner's Lot or Unit.

(d) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded in an Assessment roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or his or her authorized representative for any purpose reasonably related to the Owner's interest as a property Owner or as a Member of the Association. The Assessment roll (which may be maintained in electronic form) shall show, for each Lot that is subject to assessment, the name and address of the Owner of Record of each such Lot or Unit, all Regular, Special, Emergency, and Special Individual Assessments levied against each Owner and his or her Lot or Unit, and the amount of such Assessments which have been paid or remain unpaid. The delinquency statement required by Section 2.05(c), above, shall be conclusive upon the Association and the Owner of such Lot or Unit as to the amount of such indebtedness appearing on the Association's Assessment roll as of the date of such statement in favor of all persons who rely thereon in good faith.

(e) Mailing Notices of Assessments and Related Financial Disclosures. Not less than thirty (30) nor more than sixty (60) days prior to the beginning of the Association's fiscal year the Board of Directors shall provide notice by first-class mail to the Owners of Lots and Units, at the street address of the Owner's Lot or Unit, or at such other address as the Owner may from time to time designate in writing to the Association, of the amount of the Regular Assessment for the next succeeding fiscal year. This notice is in addition to the following notices which must also be distributed to the Members: (i) the written notice required by Civil Code Section 5730 which Members with general information regarding assessments, foreclosure rights, payment of assessments and payment plans; (ii) the form required by Civil Code Section 5570 that provides summarized information regarding the amount of the current Annual Assessment, additional assessments that have already been scheduled to be imposed or charged, and the calculation of capital replacement Reserve replacement needs and Reserve account funding requirements; and (iii) the statement that is required by Civil Code Section 5310(a)(7) which describes the Association's policies and practices in enforcing lien rights or other legal remedies for the collection of delinquent assessment obligations. These budgets and disclosure documents shall be delivered to the Members by one of the methods authorized by Civil Code Section 4040.



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(f) Failure to Make Estimate. If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to Section 4.03(a)(i), below, for that year, shall be assessed against each Owner and his or her Lot on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic Assessment shall be payable on the regular payment dates established by the Board.

(g) Installment Payment. The Regular Assessment levied against each Owner and his or her Lot or Unit shall be due and payable in advance to the Association in equal quarterly installments on the first day of each quarter or on such other date or dates as may be established from time to time by the Association's Board of Directors. Installments of Regular Assessments shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board.

(h) Current Regular Assessment. Until such time as the Association shall change the Regular Assessment for the fiscal year beginning in 2008, or thereafter pursuant to this Section 4.03, the Regular Assessment shall be, as to each and every Parcel, the sum of One Thousand One Hundred Eighty-Five Dollars (\$1,1850.00) per year.

Section 4.03. Special Assessments.

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

(i) Regular Assessment Insufficient in Amount. If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for said fiscal year, then the Board of Directors shall levy and collect a Special Assessment, applicable to the remainder of such year only, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder.

(ii) Capital Improvements. The Board may also levy Special Assessments for additional capital Improvements within the Common Area (i.e., Improvements not in existence on the date of this Declaration that are unrelated to repairs for damage to, or destruction of, the existing Common Facilities) or to defray the costs of any other extraordinary, non-recurring action or undertaking which the Board, in its discretion, determines to be to the advantage and in the best interests of the Members as a whole. The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, and replacement and repair of the Common Area or existing Common Facilities through Regular Assessments (including the funding of reasonable Reserves) and to maintain adequate insurance on the Common Area and existing Common Facilities in accordance with Article X, below.

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(b) Special Assessments Requiring Membership Approval. The following Special Assessments require prior membership approval in accordance with Section 4.08, below: (i) any Special Assessments which, in the aggregate, exceed five percent (5%) of the Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied; and (ii) any Special Assessments imposed pursuant to subparagraph (a)(i) of this Section when the Board has failed to distribute a budget to the Members within the time specified in Section 4.02(a), above. The foregoing Member approval requirements shall not apply, however, to any Special Assessment imposed to address any "emergency situation" as defined in Section 4.05, below.

(c) Allocation and Payment of Special Assessments. When levied by the Board or approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charged to each Owner and his or her Lot in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.02(c), above. The Special Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner by first-class mail not less than thirty (30) nor more than sixty (60) days prior to the Special Assessment becoming due.

Special Assessments for purposes described in subparagraph (a)(i) of this Section 4.03 shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable to the Association in equal monthly installments during the remainder of the then current fiscal year. Special Assessments for purposes described in subparagraph (a)(ii) of this Section 4.03 shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable in full to the Association within thirty (30) days after the mailing of such notice or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Special Assessment.

#### Section 4.04. Special Individual Assessments.

(a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners in accordance with Section 4.03, above, the Board of Directors may impose Special Individual Assessments against an Owner in any of the circumstances described in subparagraphs (i) through (iii) below; provided, however, that no Special Individual Assessments may be imposed against an Owner pursuant to this Section 4.04 until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Section 13.06, below, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Special Individual Assessments include the following:

(i) Damage to Common Area or Common Facilities. In the event that any damage to, or destruction of, any portion of the Common Area or the Common Facilities is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of his or her tenants, guests, servants, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred by the Association in connection therewith (to the extent not compensated by insurance proceeds) shall



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be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(ii) Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses to: (A) accomplish the payment of delinquent Assessments; (B) perform any repair, maintenance or replacement to any portion of the Development that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion; or (C) otherwise bring the Owner and/or his or her Lot or Unit into compliance with any provision of the Governing Documents, the amount incurred by the Association (including reasonable fines and penalties duly imposed hereunder, title company fees, accounting fees, court costs and reasonable attorneys' fees) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(iii) Required Maintenance on Lots. If any Lot is maintained so as to become a nuisance, fire or safety hazard for any reason, the Association shall have the right to enter said Lot, correct the condition and recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner. Any entry on the property of any Owner by the Association shall be effected in accordance with Section 3.07(b), above.

(b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed in subparagraph (a) of this Section, such Special Individual Assessment shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to the affected Owner. The Special Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within thirty (30) days after the mailing of notice of the Assessment.

(c) Limitation on Right to Lien Lots For Special Individual Assessments. The right of the Association to collect delinquent Special Individual Assessments through the use of lien and foreclosure remedies is subject to the limitations set forth in Section 4.10(b)(ix), below. However Special Individual Assessments may be collected by the Association through the use of other legal processes, including, without limitation, an action in small claims court.

#### Section 4.05. Assessments to Address Emergency Situations.

(a) Authority of Board to Impose Emergency Assessments. The requirement of a membership vote to approve: (i) Regular Assessment increases in excess of twenty percent (20%) of the previous year's Regular Assessment; or (ii) Special Assessments which, in the aggregate, exceed five percent (5%) of the Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied, shall not apply to Assessments necessary to address emergency situations ("Emergency Assessments"). For purposes of this Section, an emergency situation is any of the following:

- (i) An extraordinary expense required by an order of a court;



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(ii) An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities where a threat to personal safety is discovered; or

(iii) An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to Section 4.02(a), above; provided, however, that prior to the imposition or collection of an Assessment under this subparagraph (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Members together with the notice of assessment.

(b) Payment of Emergency Assessments. When levied by the Board, the Emergency Assessment shall be divided among, assessed against and charged to each Owner and his or her Lot in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.02(e), above. The Emergency Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner. An Emergency Assessment shall be due as a separate debt of the Owner and shall be payable in full to the Association within thirty (30) days after the mailing of the notice of the Emergency Assessment or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Emergency Assessment. If an Emergency Assessment is not paid on or before the due date, the Assessment may be enforced in the manner provided in Section 4.10, below.

Section 4.06. Purpose and Reasonableness of Assessments. Each Assessment made in accordance with the provisions of this Declaration is hereby declared and agreed to be for use exclusively: (a) to promote the recreation, health, safety and welfare of individuals residing within the Development; (b) to promote the enjoyment and use of the Development by the Owners and their families, tenants, invitees, licensees, guests and employees; and (c) to provide for the repair, maintenance, replacement and protection of the Common Area and Common Facilities.

Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation of the Owner of the Lot against which the Assessment is imposed that shall be binding on the Owner's heirs, successors and assigns; provided, however, that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them. Subject to the limitations imposed by Section 4.10(b)(ix), below, limiting the right of the Association to impose a lien as a remedy for collecting some types of Special Individual Assessments, the Association shall also be entitled to collect delinquent Assessments through lien and foreclosure, as more particularly provided in Section 4.10(b), below.



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Section 4.07. Exemption of Certain Portions of the Development From Assessments.

The following real property subject to this Declaration shall, unless devoted to the use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:

- (a) Any portion of the Development that is dedicated and accepted by a local public authority;
- (b) The Common Area and Common Facilities; and
- (c) Any Lot owned by the Association.

Section 4.08. Notice and Procedure for Member Approval Pursuant to Sections 4.02 and 4.03. In the event that Member approval is required in connection with any increase or imposition of Assessments pursuant to Sections 4.02 and 4.03, above, the affirmative vote required to approve the increase shall be a Majority of a Quorum of the Members. The quorum required for such membership action shall be a majority of the Members. Any vote on an increase in the Regular Assessment or on the imposition of a Special Assessment that requires approval of the Members must be conducted by use of a secret ballot and that balloting process shall be conducted using the same procedures for the casting of ballots in the election of directors pursuant to Section 7.05 of the Bylaws.

Section 4.09. Maintenance of Assessment Funds.

(a) Establishment and Maintenance of Association Bank Accounts. All sums received or collected by the Association from Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in a bank or savings and loan association selected by the Board of Directors. In addition, the Board shall be entitled to make prudent investment of Reserve funds in FDIC insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board and such officers or agents of the Association as the Board shall designate shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code Section 5510(a) and Section 12.02 of the Bylaws. Any interest received on deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subparagraph (b), below.

(b) Expenditure of Assessment Funds. Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the requirement of which such Assessment was levied, such surplus may, in the Board's discretion, be: (i) returned proportionately to the contributors thereof; (ii) reallocated among the Association's Reserve accounts if any such





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account is, in the Board's opinion, underfunded; or (iii) credited proportionately on account of the Owners' future Regular Assessment obligations.

(c) Separate Accounts; Commingling of Funds. Except as otherwise provided in subparagraph (d), below, to preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. For purposes of accounting, but without requiring any physical segregation of assets, the Association shall keep a separate accounting of all funds received by the Association in payment of each Assessment and of all disbursements made therefrom; provided, however, that receipts and disbursements of Special Assessments made pursuant to Section 4.03(a)(i), above, shall be accounted for together with the receipts and disbursements of Regular Assessments, and a separate accounting shall be maintained for each capital Improvement for which Reserve funds for replacement are allocated.

Unless the Association is exempt from federal or state taxes, all sums allocated to capital replacement Reserve Accounts shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association.

(d) Reserve Funds. As more particularly provided in Article XII of the Association Bylaws, the Association Board is required by law to periodically identify the major components of the Development that the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of thirty (30) years or less. In the capital Reserve analysis process, the Board is also obligated to identify the probable remaining useful life of the components identified in the study and to estimate the cost of repair, replacement, restoration, or maintenance of the components during and at the end of their useful life. The information developed in this capital Reserve replacement analysis is then to be used by the Board as a component of preparing the annual budget of the Association. The Board shall not expend funds designated as Reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or for litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the Reserve fund was established. However, the Board may authorize the temporary transfer of money from a Reserve Account to the Association's general operating fund to meet short term cash flow requirements or other expenses if the Board has provided notice of the intent to consider the transfer in a notice of meeting, which shall be provided to the Members as specified in Civil Code Section 4920. The notice shall include the reasons why the transfer is needed, some of the options for repayment, and whether a Special Assessment may be considered. If the Board authorizes the transfer, the Board shall issue a written finding, recorded in the minutes of the Board meeting where the action is taken, explaining the reasons that the transfer is needed and describing when and how the monies will be repaid to the Reserve fund.

The transferred funds shall be restored to the Reserve Account within one (1) year of the date of the initial transfer, except that the Board may, after giving the same notice required for considering a transfer, and upon making a finding supported by documentation that a temporary



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delay would be in the best interests of the Development and the Association, temporarily delay the restoration. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the Reserve account, and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limits required by this subparagraph (d). This Special Assessment is subject to the Member approval requirements of California Civil Code Section 5605(b) and Section 4.03(b), above, if the aggregate amount of the Special Assessment exceeds five percent (5%) of the budgeted gross expenses of the Association for the year in which the Special Assessment is imposed. The Board may, at its discretion, extend the date the payment on the Special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of an unpaid Special Assessment.

When the decision is made to use Reserve funds or to temporarily transfer money from the Reserve fund to pay for litigation, the Association shall notify the Members of that decision in the next available mailing to all Members pursuant to California Corporations Code Section 5016, and of the availability of an accounting of those expenses. The Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members at the Association's principal office.

(e) Limitations on Association's Authority to Assign or Pledge Assessment Obligations. The Association may not voluntarily assign or pledge its right to collect payments or Assessments, or to enforce or foreclose a lien of a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan obtained by the Association. However, the restrictions imposed by this subparagraph (e) shall not restrict the right or ability of the Association to assign any unpaid obligations of a former Member to a third party for purposes of collection.

Section 4.10. Collection of Assessments; Enforcement of Liens. Installments of Regular Assessments shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board. Special Assessments, Special Individual Assessments and Emergency Assessments shall be delinquent if not paid within the times prescribed in Sections 4.03(c), 4.04(b) and 4.05(b), respectively. When an Assessment becomes delinquent, the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law commencing thirty (30) days after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of reasonable late charges for any delinquent Assessments, subject to the limitations imposed by California Civil Code Section 5650(b)(2) or comparable successor statutes. Once an Assessment becomes delinquent, the Association may elect to pursue one or both of the following remedies:

(a) Enforcement of An Owner's Personal Obligation to Pay Assessments. The Association may bring a legal action directly against the Owner for breach of the Owner's personal obligation to pay the Assessment and in such action shall be entitled to recover the delinquent Assessment or Assessments, accompanying late charges, interest, costs and reasonable attorneys' fees. Commencement of a legal action shall not constitute a waiver of any lien rights as described in subparagraph (b), below.



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(b) Imposition and Enforcement of Assessment Lien and Limitations Thereon. Except as otherwise provided in subsection (b)(ix), below, with respect to the limitation on the imposition of liens for Special Individual Assessments, the Association may impose a lien against the Owner's Lot for the amount of the delinquent Assessment or Assessments, plus any reasonable costs of collection (including reasonable attorneys' fees), late charges and interest by taking the following steps:

(i) Issuance of Delinquency Notice; Contents. At least thirty (30) days prior to recording a lien upon the Owner's Lot to collect a delinquent Assessment, the Association shall notify the Owner in writing by certified mail of the following (the "Delinquency Notice"):

(A) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount, a statement that the Owner of the Lot or Unit has the right to inspect the Association records, pursuant to section 8333 of the Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR LOT IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

(B) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent Assessments, the fees and reasonable costs of collection, reasonable attorneys' fees, any late charges, and interest, if any.

(C) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection previously levied by the Association if it is subsequently determined that the Assessment was paid on time.

(D) The right of the notified Owner to request a meeting with the Board as provided in subsection (iv), below.

(E) The right to dispute the Assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program pursuant to Civil Code Section 5900 *et seq.*

(F) The right of the noticed Member to request alternative dispute resolution with a neutral third party pursuant to Civil Code Section 5925 *et seq.*, before the Association may initiate foreclosure against the Owner's Lot, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure rather than a non-judicial foreclosure.



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(ii) Application of Payments. Any payments made by the Lot Owner toward the delinquent Assessment shall first be applied to the Assessments that are owed at the time the payment is made; and only after the Assessments owed are paid in full shall the payments be applied to the fees and the costs of collection, attorneys' fees, late charges or interest. When an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the person who received the payment on behalf of the Association. The Association shall provide its Members with a mailing address for overnight payment of Assessments.

(iii) Pre-Lien Offer to Meet and Confer with the Owner. Prior to recording a lien for delinquent assessments, the Association shall offer the delinquent Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's meet and confer program that is required by Civil Code Section 5900 *et seq.* or alternative dispute resolution with a neutral third party pursuant to Civil Code Section 5925 *et seq.* The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

(iv) Rights of Owners to Propose Payment Plans. An Owner may also submit a written request to meet with the Board to discuss a payment plan for the delinquent Assessment. This request must also be made within fifteen (15) days of the postmark of the Delinquency Notice. The Association shall provide the Owners with the standards for payment plans, if such standards have been adopted. So long as a timely request for a meeting has been tendered, the Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request for a meeting, unless there is no regularly-scheduled Board meeting within that period, in which case the Board may designate a committee of one (1) or more Members to meet with the Owner. Payment plans may incorporate any Assessments that accrue during the payment plan period. Payment plans shall not impede an Association's ability to record a lien on the Owner's Lot to secure payment of delinquent Assessments. Additional late fees shall not accrue during the payment plan period if the Owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent Assessments from the time prior to entering into the payment plan.

(v) Association Assessment Lien Rights. Except as provided in subparagraph (ix), below (relating to Special Individual Assessments), the amount of the Assessment, plus any costs of collection, late charges, and interest assessed in accordance with Civil Code Section 5650, shall be a lien on the Owner's Lot from and after the time the Association causes to be recorded in the Office of the County Recorder a Notice of Delinquent Assessment, which shall state the amount of the Assessment and other sums imposed in accordance with Civil Code Section 5650, a legal description of the Owner's Lot against which the Assessment and other sums are levied and the name of the record owner of the Owner's Lot



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against which the lien is imposed. The itemized statement of the charges owed by the Owner that is required by subparagraph (b)(i)(B) of this Section 4.10 shall be recorded together with the Notice of Delinquent Assessment. The decision to record a lien for delinquent Assessments shall be made only by the Board of Directors of the Association and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board in an open meeting and the vote shall be recorded in the minutes of the meeting.

In order for the lien to be imposed by non-judicial foreclosure as provided in subsection (vii), below, the Notice of Delinquent Assessment shall state the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment shall be signed by any officer of the Association or by the person designated by the Association for that purpose, or if no one is designated, by the President of the Association. A copy of the recorded Notice of Delinquent Assessment shall be mailed by certified mail to every person whose name is shown as an Owner of the Lot in the Association's records, and the notice shall be mailed no later than ten (10) calendar days after Recordation. Upon receipt of a written request by an Owner identifying a secondary address for purposes of collection notices, the Association shall send additional copies of any notices, including Notices of Delinquent Assessments, required by Civil Code Section 5650 *et seq.* to the secondary address that is specified.

(vi) Priority of Assessment Liens. A lien created pursuant to subparagraph (b) (v), above or subparagraph (b)(ix), below, shall be prior to all other liens recorded against the Owner's Lot subsequent to the Notice of Delinquent Assessment, except as described in Section 4.12, below.

(vii) Enforcement of Assessment Liens. Subject to the limitations of this Section 4.10(b), and in particular this subsection (vii), after expiration of thirty (30) days following the recording of a Notice of Delinquent Assessment, the Association's lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the Notice of Delinquent Assessment, or sale by a trustee substituted pursuant to Civil Code section 2934(a). Any sale by the trustee shall be conducted in accordance with Civil Code sections 2924, 2924(b) and 2924(c) applicable to the exercise of powers of sale in mortgages and deeds of trusts. The fees of a trustee may not exceed the amounts prescribed in Civil Code sections 2924(c) and 2924(d).

The following specific limitations shall apply to the Association's use of foreclosure remedies as a means of collecting delinquent Assessment obligations:

(A) The decision to initiate foreclosure of a lien for delinquent Assessments that has been validly recorded shall be made only by the Board of Directors of the Association and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board in an executive session and shall record the vote in the minutes of the next meeting of the Board that is open to attendance by the Members. The Board shall maintain the confidentiality of the Owner or Owners of the Lot by identifying the matter in the



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minutes by the parcel number of the property, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least thirty (30) days prior to any public sale of the Lot in question.

(B) Prior to initiating a foreclosure for delinquent Assessments, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's meet and confer program that is required by Civil Code Section 5900 *et seq.* or alternate dispute resolution with a neutral third party pursuant to Civil Code Section 5925 *et seq.* The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate judicial foreclosure, rather than non-judicial foreclosure. If a dispute exists between the Owner of a Lot and the Association regarding any disputed charge or sum levied by the association, including, but not limited to, an Assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and the amount in dispute does not exceed the jurisdictional limits stated in sections 116.220 and 116.221 of the Code of Civil Procedure, the Owner of the Lot may, in addition to pursuing dispute resolution pursuant to Civil Code Section 5900 *et seq.*, pay under protest the disputed amount and all other amounts levied, including any fees and reasonable costs of collection, reasonable attorney's fees, late charges, and interest, if any, (Civil Code Section 5650(e)), and commence an action in small claims court. Nothing in this subparagraph (B) shall impede the Association's ability to collect delinquent assessments.

(C) If the Board votes to commence foreclosure proceedings to collect delinquent Assessments pursuant to this subsection (vii), the Board shall provide notice of that decision by personal service to an Owner of the Lot in accordance with the manner of service of a summons pursuant to Code of Civil Procedure section 415.10 *et seq.*, who occupies the Residence on the Lot or to the Owner's legal representative. If the Owner does not occupy the Residence and Lot that are the subject of the foreclosure proceeding, the Board shall provide written notice to the Owner by first-class mail, postage prepaid, at the most current address for the Owner that is shown on the books of the Association. In the absence of written notification by the Owner to the Association, the address of the Owner's Lot may be treated as the Owner's mailing address.



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(D) Debts for Assessments, Regular or Special, may not be collected through the use of judicial or non-judicial foreclosure remedies until the delinquent Assessment amount, exclusive of any accelerated Assessments, late charges, fees, costs of collection, attorneys' fees, and interest, equals or exceeds One Thousand Eight Hundred Dollars (\$1,800.00) or the Assessments are more than twelve (12) months delinquent. Delinquent Assessments in a smaller amount may not be collected through the use of foreclosure remedies, but may be collected through the use of any of the following other means: (1) a civil action in small claims court; (2) by recording a lien on the Owner's Lot (subject to the restrictions on foreclosure of that lien); or (3) any other manner provided by law, other than judicial or non-judicial foreclosure. If the Association elects to record a lien for delinquent Assessments, subsections (b)(iii) and (b)(v), above shall continue to apply. The limitations on the use of foreclosure remedies set forth in this subparagraph (B) do not apply to Assessment collection actions against the Declarant in its capacity as an Owner when the Declarant's Assessment obligations are delinquent.

(viii) Foreclosed Owner's Rights of Redemption. A non-judicial foreclosure by the Association of an Owner's interest in his or her Lot to collect a debt for delinquent Assessments shall be subject to a right of redemption. The redemption period within which the Lot may be redeemed from a foreclosure sale under this subsection (viii) (which reflects Civil Code Section 5715(b)) ends ninety (90) days after the sale. In addition to the requirements of Civil Code section 2924(f), a notice of sale in connection with an Association's foreclosure of a Residence and Lot shall include a statement that the property is being sold subject to the right of redemption created pursuant to Civil Code Section 5715(b).

(ix) Limitation on Authority to Use Lien and Foreclosure Remedies to Collect Special Individual Assessments. For so long as any Lots within the Development are being sold under authority of a Department of Real Estate Public Report, a Special Individual Assessment or other monetary charge imposed by the Association: (A) as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Area Improvements or landscaping for which the Member or the Member's guests or tenants were responsible; or (B) as a disciplinary measure for failure of a Member to comply with the Governing Documents (except for reasonable late payment penalties, interest, and other reasonable costs of collection authorized by Civil Code Section 5650) may not be characterized nor treated as an Assessment that may become a lien against the Owner's Lot enforceable by the sale of the interest under Civil Code sections 2924, 2924(b) and 2924(c).

Once the Association is no longer subject to the regulatory jurisdiction of the Department of Real Estate, the following categories of Special Individual Assessments may be collected through the use of lien and foreclosure remedies in accordance with subsections (v) through (viii),



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above: (A) Special Individual Assessments or other monetary charges imposed by the Association as a means of reimbursing the Association for costs incurred in the repair of damage to Common Areas and Common Facilities for which the Member or the Member's guests or tenants were responsible; and (B) Special Individual Assessments imposed to recover late charges, reasonable costs of collection and interest assessed in accordance with Civil Code Section 5650.

(x) Obligation to Record Lien Releases. If it is determined that a lien previously recorded against a Lot was recorded in error, the party who recorded the lien, within twenty-one (21) calendar days, shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Lot Owner with a copy of the lien release or notice of rescission and declaration that the lien filing or recording was in error. If the determination that the lien was recorded in error is the result of dispute resolution meet and confer proceedings conducted pursuant to Civil Code Section 5900 or alternative dispute resolution with a neutral third-party pursuant to Civil Code Section 5925, the Association shall also be obligated to promptly reverse all late charges, fees, interest, attorneys' fees, costs of collection, costs imposed for the issuance of the notices prescribed by Civil Code Section 5650 *et seq.*, and costs of recording the lien release and all costs incurred in the mediation or alternative dispute resolution process.

In addition, within twenty-one (21) days of the payment of the sums specified in the Notice of Delinquent Assessment, the Association shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Lot Owner a copy of the lien release or notice that the delinquent Assessment has been satisfied.

(xi) Effect of Failure to Adhere to Lien Restrictions. If the Association fails to comply with the procedures set forth in this Section 4.10(b) prior to recording a lien, the Association shall recommence the required notice process prior to recording a lien. Any costs associated with recommencing the notice process shall be borne by the Association and not by the Lot Owner.

The provisions of this Section 4.10(b) are intended to comply with the requirements of Civil Code Section 5650 *et seq.*, Section 5705 and Section 5685(c), as in effect on the date that this Declaration has been Recorded in the Official Records of Calaveras County, California. If the sections of the Civil Code pertaining to owner association assessment collection rights and procedures are amended or modified in the future in a way that is binding on the Association and causes this Section 4.10 to be in conflict with applicable law, the provisions of this Section automatically shall be amended or modified in the same manner by action of the Board of Directors without necessity of approval of the amendment by the Members so long as all Members are given a copy of the recorded amendment and the decision to approve the amendment is made at a duly noticed open meeting of the Board of Directors.



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Section 4.11. Transfer of Lot by Sale or Foreclosure. The following rules shall govern the right of the Association to enforce its Assessment collection remedies following the sale or foreclosure of a Lot:

(a) Except as provided in subparagraph (b), below, the sale or transfer of any Lot shall not affect any Assessment lien which has been duly Recorded against the Lot prior to the sale or transfer, and the Association can continue to foreclose its lien in spite of the change in ownership.

(b) The Association's Assessment lien shall be extinguished as to all delinquent sums, late charges, interest and costs of collection incurred prior to the sale or transfer of a Lot pursuant to a foreclosure or exercise of a power of sale by the holder of a prior encumbrance (but not pursuant to a deed-in-lieu of foreclosure). A "prior encumbrance" means any first Mortgage or other Mortgage or lien Recorded against the Lot at any time prior to Recordation of the Association's Assessment lien (see Section 4.12, below).

(c) No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale, or otherwise, shall relieve the new Owner of such Lot (whether it be the former beneficiary of the first Mortgage or other prior encumbrance or a third party acquiring an interest in the Lot) from liability for any Assessments which thereafter become due with respect to the Lot or from the lien thereof.

(d) Any Assessments, late charges, interest and associated costs of collection which are lost as a result of a sale or transfer of a Lot covered by subparagraph (b), above, shall be deemed to be a Common Expense collectible from the Owners of all of the Lots, including the person who acquires the Lot that is the subject of the foreclosure and his or her successors and assigns.

(e) No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale, or otherwise, shall affect the Association's right to maintain an action against the foreclosed previous Owner personally to collect the delinquent Assessments, late charges, interest and associated costs of collection incurred prior to and/or in connection with the sale or transfer.

Section 4.12. Priorities. When a Notice of Delinquent Assessment has been Recorded, such notice shall constitute a lien on the Lot that is prior and superior to all other liens except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; (b) the lien or charge of any first Mortgage of Record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value; and (c) any other mortgage or lien that was recorded prior to recordation of the Association's Notice of Delinquent Assessment. Subordination of the Association's lien to the lien of any first Mortgage shall apply only to the Assessments which have become due and payable prior to the transfer of the such property pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage or other prior encumbrance.

Section 4.13. Unallocated Taxes. In the event that any taxes are assessed against the Common Area or the personal property of the Association, rather than being assessed to the Lots, such taxes shall be included in the Regular Assessments imposed pursuant to Section 4.02, above,



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and, if necessary, a Special Assessment may be levied against the Lots pursuant to Section 4.03, above, in an amount equal to such taxes to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

## ARTICLE V ARCHITECTURAL REVIEW AND APPROVAL OF IMPROVEMENT PROJECTS

Section 5.01. Authority of the Architectural Review Committee. The Architectural Review Committee is vested with the responsibility and authority to review and approve or disapprove the construction of any Residence or other Improvement (as defined in Section 1.20, above) within the Forest Meadows development. The Committee shall discharge its duties with a view towards assuring conformance of the proposed Improvement to the land use and other restrictions and controls contained in this Declaration and in any applicable Association Rules and maintaining or achieving harmony between the proposed Improvement and existing buildings and improvements on neighboring Parcels and the homeowner's personal desires.

### Section 5.02. Prior Written Approval Required for All Improvements.

(a) Written Approval Required, Generally. Prior to undertaking any work of Improvement on any Parcel within the Development, the Owner thereof shall first submit detailed plans and specifications therefor to the Association's Architectural Review Committee (the "Committee") for review and approval; provided, however, that if no suit to enjoin or require removal of any work of Improvement made or installed without such consent is filed within one hundred twenty (120) days after completion thereof, then such consent shall be conclusively presumed to have been given.

The plans and specifications for any Improvement meeting the requirements of Section 5.04 below, shall be delivered to the chairman of the Committee at the Association office and shall meet the requirements of Section 5.04, below. No work shall commence until such time as the submitted plans and specifications have received the Committee's written approval. The Committee's responsibilities and authority shall extend to Improvements located or erected upon both detached single family and multifamily Lots.

(b) Modifications to Approved Plans Must Also Be Approved. Once a proposed work of Improvement has been duly approved by the Architectural Review 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 affect on other aspects or components of the work, the Committee, in its discretion, may order the Owner and 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 Review 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 5.15, below,



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including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement by "red tagging" the project until such time as proper Architectural Review Committee review and approval is obtained.

Section 5.03. Committee Membership. The Architectural Review Committee shall be composed of three to nine Members of the Association appointed by the Board. In selecting Members for the Committee, the Board of Directors shall endeavor to select individuals whose occupations or education will provide technical knowledge and expertise relevant to matters within the Committee's jurisdiction. Committee members shall serve for one (1) year terms subject to the Board's power to remove any Committee member and to appoint his or her successor. The Board shall designate one of the Committee members as the chairman.

Section 5.04. Basis for Approval of Improvements. When a proposed Improvement is submitted to the Architectural Review Committee for review, the Committee shall grant the requested approval only if the Committee, in its sole discretion, makes the following findings regarding the proposed project:

- (i) The Owner's plans and specifications conform to this Declaration and to the Architectural Guidelines in effect at the time such plans are submitted to the Committee;
- (ii) The Improvement will be in harmony with the external design of other structures and/or landscaping within the Property;
- (iii) The Improvement, as a result of its appearance, design, construction materials, location or anticipated use, will not interfere with the reasonable enjoyment of any other Owner of his or her property; and
- (iv) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within Forest Meadows and with the overall plan and scheme of development within Forest Meadows.

While it is recognized that the Architectural Review Committee's determination will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith and shall consider such factors as the quality of workmanship and materials proposed for the Improvement project. Any decision on a proposed Improvement project shall be made in good faith and may not be unreasonable, arbitrary, or capricious. Furthermore, in spite of the discretion conferred on the Committee pursuant to this Article V, no decision of the Committee regarding a proposed Improvement project can be made or imposed that violates any governing provision of law (including, without limitation, the California Fair Employment and Housing Act) or a building code or other applicable law governing land use or public safety.

Decisions on proposed Improvement projects shall be in writing, and if a proposed project is not approved, the Board's written decision shall include both an explanation of why the proposed change was not approved, and a description of the procedure for reconsideration of the decision by the Board of Directors. Any applicant whose proposal is not approved shall have the



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right to seek reconsideration by the Board of Directors at an open meeting of the Board. On an annual basis the Association shall provide the Members with notice of any requirements for Association approval of Improvement projects that are subject to this Article V. The notice shall describe the types of changes that require Association approval and shall include a copy of the procedure used to review and approve or disapprove proposed Improvement projects.

In approving a request for construction of an Improvement, the Architectural Review Committee may condition approval upon the adoption of modifications in the Owner's plans and specifications or observance of restrictions as to location, noise abatement or similar mitigating conditions applicable to the Improvement.

Section 5.05. Submittal of Plans. The plans and specifications required to be delivered to the Committee in accordance with Section 5.02, above, shall include the following:

(a) Application for Preliminary Approval. In order to afford an Owner who is proposing to make substantial Improvements an opportunity to obtain guidance and comment from the Committee, prior to the expenditure of substantial sums on complete plans and specifications, such Owners should apply to the Committee for preliminary approval of the proposed project. Applications for preliminary approval shall be considered and processed as follows:

(i) Any application for preliminary approval shall be in writing and shall present sufficient detail to apprise the Committee of the general nature, location, and dimensions of the proposed Improvement and a plot plan which includes topographic contours.

(ii) Within thirty (30) days after receipt of the application for preliminary approval, the committee shall grant the preliminary approval only, if the proposed Improvement, to the extent that its nature and characteristics are shown by the application, would be entitled to a final approval on the basis of a full and complete application. Failure of the Committee to act within thirty (30) days from the filing date shall constitute a preliminary approval. In granting or denying approval, the Committee may give the applicant such directions concerning the form and substance of the final application for approval as it may deem proper or desirable for the guidance of the applicant.

(iii) Any preliminary approval granted by the Committee shall be effective for a period ninety (90) days from the date of issuance. During said period, any application for final approval that presents complete plans and specifications for the proposed Improvements, consistent with the provisions of the preliminary approval and otherwise acceptable under the terms of this Declaration and the Architectural Guidelines, shall be approved by the Committee.

(iv) In no event shall any preliminary approval be deemed to constitute final approval authorizing construction of the proposed Improvements. The purpose of the preliminary review procedure is only to give the Owner a measure of security in proceeding with the proposed Improvement project and committing funds thereto.



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(b) Application for Final Approval. Regardless of whether an Owner elects to seek preliminary approval in accordance with subparagraph (a), above, all Owners who desire to undertake any work of Improvement must apply to the Committee and receive its prior approval in accordance with Section 5.06 below. The application shall be in writing and shall contain all information that is necessary to reasonably evaluate the nature, design, location and extent of the proposed Improvement, including, at a minimum, two complete sets of plans and specifications for the Improvement project (satisfying the requirements set forth below) and such additional information as the Committee may reasonably request, either by Architectural Rule or while the project is under review. No plans shall be approved which do not comply with the requirements of Article VI of this Declaration (or other provision hereof which pertains to architectural or design matters) unless a variance is granted pursuant to Section 5.16, below. Unless the Board and the Architectural Review Committee adopt less detailed requirements for minor or commonly recurring Improvement projects, in order to be complete, the plans and specifications for proposed Improvements shall include the following:

- (i) A site plan, including, without limitation:
  - (A) The Parcel number or street address;
  - (B) The information detailed in subparagraph (a), above, indicating a notation of any proposed modifications in the previously-approved preliminary design;
  - (C) The square footage of the Improvement (as a general rule, the total coverage of the land by all buildings, paved parking, driveways and decks should not exceed forty percent (40%));
  - (D) A drainage plan to protect Association Common Areas, Common Facilities, and adjacent Lots from damage resulting from improperly diverted water;
  - (E) Site lighting plan (may be included in the site plan showing type, wattage and location of all exterior lights);
  - (F) Location and proposed method of screening or fencing any proposed service yards to contain mechanical equipment, garbage and/or recycling containers, fuel tanks, piping, wiring, service connections and clotheslines to prohibit sight of such items from any adjacent Parcel;
  - (G) The location of the Improvement on the Lot, which improvement should be located where it least alters the natural terrain and tree covers (trees shall not be cut, nor tree roots disturbed without specific prior approval of the Committee);



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(H) Topographic detail of the Parcel with a maximum five foot contour interval; and

(I) A perspective drawing of the proposed Residence or other work of Improvement, showing relationship of the improvements to the Parcel, with sufficient detail to represent exterior siding materials, trim patterns and roofing materials.

(ii) The floor plan for the Improvement;

(iii) Exterior elevations indicating all exterior materials and including color samples (unless otherwise approved, structures should not exceed two stories); and

(iv) Foundation and roof plans.

(c) As-Built Plans. Prior to occupancy, the Owner shall furnish the Committee one set of construction documents showing all revisions made during construction that affect site drainage or the exterior finish, color or appearance of the Improvement. Revisions shall be marked in red.

(d) Other Requirements. In addition to the minimum requirements set forth in subparagraphs (a) through (c) above, Improvement plans shall meet such further requirements as imposed by the Committee based on their experience in discharging their duties hereunder. Any such further requirements shall be published in the Committee's rules, regulations and guidelines, as the same may be amended from time to time (see Section 5.07, below).

Section 5.06. Filing Fee. As a means of defraying its expenses, the Association Board shall require a reasonable filing fee to accompany the submission of any plans to the Committee. The Architectural Guidelines may also provide for a cash deposit procedure to help insure proper and timely completion of works of Improvement in accordance with approved plans and specifications. No additional fee shall be required for resubmission of plans revised in accordance with the Committee's recommendations. Information regarding architectural fees, if any, shall be available upon written request to the Association.

Section 5.07. Architectural Guidelines. The Committee may, from time to time and in its sole discretion and by majority vote, propose rules and regulations (or amendments thereto) pertaining to such matters as: (a) procedures for plan submission and architectural review; (b) set back requirements; (c) landscaping; (d) exterior color schemes and building materials; (e) the definition of minor, routine projects that can be approved on committee action alone, without necessity of Board confirmation; or (f) any other matter or concern within the jurisdiction of the Committee. These rules and regulations shall be known as the "Architectural Guidelines" and any new rule or amendment thereto shall become effective upon ratification by the Board. Said rules shall interpret and implement the provisions of this Article V provided, however, that said rules shall not be in derogation of the minimum architectural standards required by this Declaration. In the event of any conflict between the Architectural Guidelines and this Declaration, the provisions of the Declaration shall prevail.

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Among other things, in accordance with Civil Code Section 4765, the Architectural Guidelines shall provide a fair, reasonable and expeditious procedures that the Committee must follow when making decisions on submitted Improvement plans and projects. The procedures shall include prompt deadlines for various actions and a maximum time for response to an application, consistent with Sections 5.07 through 5.10, below.

Section 5.08. Final Approval of Plans.

(a) The Committee shall approve or disapprove the plans and specifications for any work of Improvement within thirty (30) days from the date of submission thereof or shall notify the applicant that an additional period of time, not to exceed thirty (30) days, is required for such approval or disapproval. Plans and specifications not approved or disapproved within the time limits provided herein shall be deemed to have been denied and may be resubmitted by the Owner. One set of said plans and specifications, with the approval or disapproval endorsed thereon, shall be returned to the person submitting them and the other copy shall be retained by the Committee for its permanent files.

(b) Once a set of plans and specifications has been approved by the Committee, no material changes may be made therein without the prior written consent of the Committee. In approving a requested Improvement, the Committee may condition its approval upon the adoption of modifications in the plans and specifications or observance of restrictions as to location, height, noise abatement, or other factors.

(c) Review and approval by the Committee of any proposals, plans or other submittals shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Owner/applicant.

Section 5.09. Appeals to the Board. In accordance with Civil Code Section 4765(a)(2), if a proposed Improvement project is not approved by the Architectural Review Committee, the written decision of the Committee shall include both an explanation of why the proposed Improvement was disapproved and a description of the procedure for reconsideration of the decision by the Board of Directors. Any applicant whose proposed project is rejected shall have a right of appeal to the Board and the Board shall reconsider the Committee's decision in an open meeting. Reconsideration by the Board does not constitute dispute resolution within the meaning of Civil Code Section 5905 and therefore the Association is not obligated to offer the Owner a process of internal dispute resolution when acting on an appeal. The Board shall not be obligated to review the Owner's proposed plans and specifications de novo, but rather can base its decision on the record that was presented to the Committee and any testimony or presentations made or presented by members of the Committee, the Owner-applicant, or other Members in attendance.

Section 5.10. Proceeding With Work.

(a) Upon receipt of approval from the Committee pursuant to Section 5.08, above, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction and excavation pursuant to said approval, said commencement to be, in all cases, sixty (60) days from the date of such approval. If the Owner fails to comply



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with this subparagraph, any approval given pursuant to Section 5.08, above, shall be deemed revoked unless the Committee, upon written request of the Owner made prior to the expiration of the initial one (1) year period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Committee that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the project within the time of the requested extension. Expired plans must be resubmitted to the Committee for approval, along with a new filing fee.

(b) As a matter of policy, the Committee prefers to have a single project of construction prosecuted to completion by the same contractor or contractors. In the event that an Owner changes contractors prior to completion of the project, or if the Owner conveys his or her interest in the subject Parcel(s) prior to completion of the project, the Committee shall be entitled to require the new Owner and/or Contractor to appear before the Committee and to submit such additional plans, specifications or documents as may be necessary or appropriate to insure that the project will be completed in accordance with the approved plans and specifications.

Section 5.11. Failure to Complete Work. Unless the Owner has been granted an extension of time to complete the project by the Committee, construction, reconstruction, refinishing or alteration of the exterior of any such Improvement shall be completed within six (6) months after construction has commenced, and the entire Improvement must be completed within one (1) year after construction has commenced, except that the time of completion shall be extended for a period equal to the time when completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his or her agents. In the case of building improvements, the requirements of this Section shall be deemed to have been met if, within the one (1) year construction period, the Owner has completed construction of the building's foundation and all exterior surfaces (including the roof, exterior walls, windows and doors).

Notwithstanding the one (1) year construction limitation set forth above, the Committee shall be entitled to impose a shorter construction period if, in the opinion of the Committee, the Improvement project can reasonably be completed in a workmanlike manner in a shorter period of time.

If an Owner fails to comply with this Section, the Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Section 5.12(d) and (e), below, as though the failure to complete the Improvement was a noncompliance with approved plans.

Section 5.12. Inspection of Work by Committee. Inspection of the work relating to any approved Improvement and correction of defects therein shall proceed as follows:

(a) During the course of construction, representatives of the Committee shall have the right to inspect the job site to confirm that the work of Improvement is proceeding in accordance





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with the approved plans and specifications. The Committee shall be entitled to initiate a stop-work order on any project that is being built contrary to approved plans.

(b) Upon the completion of any work for which Committee approval is required under this Article V, the Owner shall give the Committee a written notice of completion.

(c) Within thirty (30) days thereafter, the Committee, or its duly authorized representative, may inspect the Improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approved plans. If the Committee finds that the Improvement was not done in substantial compliance with the approved plans, then within the thirty (30) day inspection period the Committee shall give the Owner a written notice of noncompliance detailing those aspects of the project that must be modified, completed or corrected.

(d) If the Owner fails to remedy any noticed noncompliance within thirty (30) days from the date of such notification, the Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing date shall be not more than thirty (30) days nor less than fifteen (15) days after the notice of the noncompliance is given by the Board to the Owner, to the Committee and, at the discretion of the Board, to any other interested party. In the event that legal action is deemed necessary or appropriate to remedy the noncompliance the Board shall proceed in the manner provided in Article XIII, below, and in accordance with Civil Code Section 5925 *et seq.* Furthermore, and without limiting the generality of the foregoing, the Board shall be entitled, after providing the Owner with notice and an opportunity to be heard, to record in the Office of the County Recorder a "Notice of Noncompliance" against the Owner's property, which notice shall contain the correct legal description for the property and a description of the noncomplying work of Improvement. Upon correction or removal of any noncomplying or unapproved Improvement, the Board shall promptly record a Withdrawal of the Notice of Noncompliance.

(e) At the hearing, the Owner, a representative(s) of the Committee and, at the Board's discretion, any other interested party may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Board shall require the Owner to remedy or remove the Improvement or its noncomplying components or elements within such period or within any extension of such period as the Board, at its discretion, may grant. If the Owner fails to take corrective action after having a reasonable opportunity to do so, the Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not properly repaid by the Owner to the Association, the Board shall recover such expenses through the levy of a Special Individual Assessment against such Owner.

(f) If for any reason the Committee fails to notify the Owner of any noncompliance within thirty (30) days after receipt of the Owner's notice for completion, the Improvement shall be deemed to have been constructed in accordance with the approved plans and specifications.



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Section 5.13. Nonresponsibility for Defects. Notwithstanding the approval by the Architectural Review Committee of any plans or specifications for any structure or Improvement as provided above, each person submitting such plans or specifications shall be solely responsible for the sufficiency thereof. Accordingly, by acceptance of a grant deed to any Lot, the grantee and his successors or assigns release the Committee, the Association and their agents and employees (collectively "Released Parties") from any and all claims, demands and causes of action for loss or damage arising from or relating to any defect or alleged defect in such plans and specifications; and the grantee further waives, as to said Released Parties the benefit of section 1542 of the California Civil Code relating to the release of unknown claims. Also, the grantee agrees to indemnify, hold harmless, and defend the Committee, the Association, and the agents, employees and independent contractors of each from any claim asserted by third parties arising out of any such defects.

Section 5.14. Association Common Areas.

(a) Works of Improvement Generally. No Improvement, excavation or work which in any way alters any part of the Common Areas from their natural or existing state shall be made or undertaken except upon strict compliance with, and within the restrictions and limitations of, the following provisions of this Section:

(i) No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any Improvement upon, or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Areas. The limitations of this subparagraph (i) shall apply to the installation of mail-boxes, lighting, signs or any other Improvement in the area between the road pavement and the front property line of any Lot, absent prior Board approval.

(ii) The Association may at any time, and from time to time:

(A) Reconstruct, replace, or refinish any Common Facility or other improvement or portion thereof upon Common Areas in accordance with the original design, finish or standard of construction of such improvement of such Common Facility which was approved by the governmental entity having jurisdiction.

(B) Replace destroyed trees or other vegetation and plant trees, shrubs, and ground cover upon any portion of Common Areas.

(C) Place and maintain within the Common Areas such signs as the Association may deem necessary for the identification of the development and of roads, the regulation of traffic (including parking), the regulation and use of Common Areas and Common Facilities and for the health, welfare and safety of Owners, tenants and guests.



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Section 5.15. Nonwaiver. The approval by the Architectural Review Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner.

Section 5.16. Variances. The Committee, with approval of the Board, shall be entitled to allow reasonable variances in any procedures specified in this Article V or in any minimum improvement standards set forth in Article VI, below, in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided the following conditions are met:

(a) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise be applicable under this Declaration, the Committee must conduct a public hearing on the proposed variance after giving at least ten (10) days' prior written notice to the Board and to all Owners residing within three hundred feet (300') of the subject Parcel. The Owners receiving notice of the proposed variance shall have fifteen (15) days in which to submit to the Committee written comments or objections with respect to the variance. No decision shall be made with respect to the proposed variance until the fifteen (15) day comment period has expired.

(b) The Committee must make a good faith written determination that: (i) the requested variance does not constitute a material deviation from the overall plan and scheme of development within the Development or from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (ii) that the variance relates to a requirement hereunder that is unnecessary or burdensome under the circumstances; or (iii) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance, with respect to any other Lot, Common Area or Owner within the Development.

Section 5.17. Compliance Certificate. Within thirty (30) days after a written request is delivered to the Architectural Review Committee by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Board), the Committee shall record a Compliance Certificate, executed by any two of its members, certifying (with respect to any Parcel owned by the requesting Owner) that as of the date of that the Certificate is issued, either: (i) that all Improvements made and other work completed by said Owner on his or her property comply with this Declaration and the Architectural Guidelines, or (ii) that such Improvements or work are not in compliance, in which event the Certificate shall also identify with reasonable specificity the noncomplying Improvements or work and set forth with particularity the bases of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in the Lot or Unit that is the subject of the Certificate, shall be entitled to rely on the Certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, the Committee, all Owners and any persons deriving any interest through them.

Section 5.18. Compliance With Governmental Regulations. Review and approval by the Architectural Review Committee of any proposals, plans or other submittals pertaining to



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Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Lot Owner who desires to construct, install, or modify the Improvement.

## ARTICLE VI MINIMUM IMPROVEMENT STANDARDS

Unless a variance is requested from, and granted by, the Architectural Review Committee in accordance with Section 5.16, above, Improvements constructed on any Lot shall conform to the following minimum improvement standards:

Section 6.01. Minimum Size of Residences. No Residence shall be constructed with less than one thousand five hundred (1,500) total square feet of living area. Minimum area on at least one level shall be one thousand (1,000) square feet. One level may include split-level construction. The living area shall not include roofed or unroofed porches, terraces, a garage and other buildings. In the case of duplex units having two stories, each story shall have a minimum of six hundred (600) square feet of living area.

Section 6.02. Set-Back Requirements. All improvements shall be constructed in accordance with applicable building set back provisions set forth on the Subdivision Map. No structure may be erected on any Lot nearer than twenty feet (20') from the front street line. No structure may be erected on any Lot nearer than ten feet (10') on any side or rear Lot line. No Owner may use the area on ten feet (10') of either side of an easement line for any purpose which will interfere with such an easement.

Section 6.03. Prohibition of A-Frame or Dome Designs. No Residence shall be constructed which utilizes an "A-Frame" or "geodesic dome" design or wood shake or shingle roofing materials.

Section 6.04. On-Site Parking Requirements. Each Lot shall provide for at least four hundred (400) square feet of uncovered paved parking. All driveways shall be paved.

Section 6.05. Fencing Requirements. No property shall be fenced in its entirety. No perimeter or Lot boundary fences may be constructed, reconstructed, or maintained without previous approval of the Architectural Review Committee. No fence situated within twenty feet (20') on the front street line may be constructed or maintained at a height exceeding thirty inches (30"). Furthermore, no fence in excess of thirty inches (30") in height shall be constructed or maintained within ten feet (10') of any property line. All fences, including dog runs, should be consistent in appearance with the Residence on the Lot and not more than six feet (6') in height (this limitation is not to have priority over the height requirements for fences located in the setbacks of Lots).

Section 6.06. Prohibition of Reflective Finishes. No reflective finishes (other than glass) shall be used on exterior surfaces (other than surfaces of hardware fixtures), including but without limitation, the exterior surfaces of any of the following: roofs, all projections above roofs, retaining walls, doors, trim, fences, pipes, equipment, mailboxes and newspaper tubes. No exterior finishes shall be used without approval of the Architectural Review Committee.



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Generally, colors shall be restricted to those found in the immediate vicinity of the Residence and colors found in nature will be favored. Specifically, there shall be no white garage doors.

Section 6.07. Well or Storage Tanks. No well for the production of or from which there is produced water, oil or gas, shall be dug nor storage tanks or reservoirs, nor mines or quarries, nor any installation of power, telephone or other utility line (wire, pipe or conduit) be made or operated on any Lot except water wells, and works operated by public agencies or duly certified public utility companies.

Section 6.08. Cutting of Trees. No tree in excess of six inches in diameter (measured four feet above ground level) shall be removed or topped, or any part of that tree damaged by excavation or other work, without prior approval of the Architectural Review Committee. The Board shall be entitled to adopt a schedule of fines and penalties for violation of this restriction.

Section 6.09. Temporary Structures. No structure of a temporary character, trailer, mobile home, camper, tent, shack, or other outbuilding shall be used on any Lot at any time as a Residence, either temporarily or permanently, except where specifically designated by the Association.

Section 6.10. Antennas and Similar Devices. Outside television antenna, aerial, satellite dish or similar device for the transmission or reception of television, radio, satellite, or other signals of any kind are prohibited, except by approval of the Architectural Review Committee.

(a) The Declarant and the Association shall have the right, without obligation, to erect, place or install and maintain any such apparatus for the benefit of all or a portion of the Development.

(b) Antennas or satellite dishes that are one meter or less in diameter or diagonal measurement which are designed to receive video programming services via multi-point distribution services, including multichannel multipoint distribution services, instructional television fixed services and local multipoint distribution services (collectively "Permitted Device[s]") may be erected, placed or installed on a Lot, provided that:

(i) Any such Permitted Device is placed in the least conspicuous location on the Residence at which an acceptable quality signal can be received and is either not visible from neighboring property or is screened from the view from streets of any neighboring Lot or Common Area.

(ii) Reasonable restrictions which do not significantly increase the cost of installation of a Permitted Device or significantly decrease its efficiency or performance, including, without limitation, screening material, location or complimentary-color painting of the Permitted Device, may be imposed as part of the Architectural Guidelines. In no event can the Association or the Architectural Review Committee impose a pre-installation design review process so long as the Owner is installing a Permitted Device.



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Section 6.11. Solar Heating and Solar Electrical Systems. Subject to limitations imposed by California law, the Committee shall be entitled to adopt, as part of the Architectural Guidelines, reasonable regulations regarding the installation of solar heating or solar electrical systems. These rules may include limitations on placement and design to the extent necessary to avoid an unsightly appearance from neighboring Parcels.

Section 6.12. Service Yards. Each Residence located on a single family residential Lot shall include a fenced service yard to contain and conceal fuel tanks, piping, wiring, service connections and garbage cans. This area shall be screened from view by materials compatible with the Residence's exterior design and the surrounding area. Service areas shall not be located in any set back area of any Lot.

#### ARTICLE VII ASSOCIATION AND OWNER MAINTENANCE RESPONSIBILITIES

Section 7.01. Maintenance of Common Areas. The Association shall be solely responsible for all maintenance, repair, upkeep and replacement of landscaping, Common Facilities and other improvements within the Common Area. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any improvement upon, or shall make or create any excavation or fill or change the natural or existing drainage of the Common Area. In addition, no person shall destroy, remove or plant any tree, shrub or other vegetation upon the Common Area without the express approval of the Association.

Without limiting the foregoing, the Association shall be responsible for:

- (a) The reconstruction, replacement, or refinishing of any Common Facility or other improvements upon Common Area as necessary in accordance with the original design, finish or standard of construction of such improvement.
- (b) The construction, reconstruction, replacement, or refinishing of any road, driveway, trail or surface upon any portion of Common Area designated on a Subdivision Map as a private road or parking area, and all snow removal for the Common Area.
- (c) The replacement of trees or other vegetation and the planting of trees, shrubs and ground cover upon any portion of Common Area.
- (d) The placement and maintenance of such signs as the Association may deem necessary for the identification of the development and of roads, the regulation of traffic, including parking, the regulation and use of Common Area and Common Facilities and for the health, welfare and safety of Owners, tenants and guests. Any such signs to be placed within the street area shall be subject to County approval.

Section 7.02. Owner Maintenance Responsibilities. Each Owner shall be responsible for the maintenance and repair of his or her Lot, Residence, and any permitted outbuildings and other structures and fencing, as well as maintenance and upkeep of landscaping on the Owner's Lot. Without limiting the foregoing, vegetation and landscaping on any Lot shall be planted or



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maintained by the Owner or resident in such a manner as to reduce the risk of fire, prevent or retard shifting or erosion of soils, encourage the growth of indigenous ground cover, no house shall be abandoned or left in a state of disrepair, as determined by the discretion of Board. Maintenance of Condominium Units shall be governed by the Project Declaration that is applicable to the Condominium Project in which the Owner's Unit is located.

Section 7.03. Cooperative Maintenance Obligations. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area exteriors of Residences, including but not limited to recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representatives and, to the extent necessary or desirable to accomplish such maintenance, individual Owners shall cooperate with the Association and its agents in the prosecution of its work.

## ARTICLE VIII PROPERTY USE RESTRICTIONS

In addition to restrictions established by law or in the Association Rules, the following restrictions are hereby imposed upon the use of all Lots and Common Areas within the Development:

Section 8.01. Single Family Residential Use. The use of the individual Parcels in the Development are hereby restricted to Single Family Residential Use. In no event shall a Residence be occupied by more individuals than permitted by applicable zoning laws or governmental regulations and no residential Lot shall be used for a hotel or motel. Each Parcel shall be conveyed as a separately designated and legally described fee simple estate subject to this Declaration.

Section 8.02. Common Area. The Common Areas within Forest Meadows shall be preserved as open space and used for recreational purposes and other purposes incidental and ancillary to the use of Lots, Units and Parcels. Such use shall be limited to the private use for aesthetic and recreational purposes by the Association's Members, their tenants, families and guests subject to the regulations set forth in the Governing Documents. The character of the Common Area for such purposes is an essential part of the plan of development for Forest Meadows, and in addition to its other rights at law or in equity, the County of Calaveras shall have the right to enjoin or abate any addition to or alteration of the Common Areas which it has not approved as consistent with the character of the plan embodied in the original Development Plan for Forest Meadows.

Section 8.03. Prohibition of Noxious Activities. No illegal, noxious or offensive activities shall be carried on or conducted upon any Parcel or within any portion of the Common Areas, nor shall anything be done within the Development which is or may become an unreasonable annoyance or nuisance to the neighborhood. Without limiting the foregoing, no Owner shall permit noise, including, but not limited to the barking of dogs, the operation of air conditioners, the operation of exterior horns, whistles, bells or other sound devices except security devices used exclusively to protect the security of the Development, stereo amplifier systems, television systems, motor vehicles or power tools, to emanate from the Owner's Parcel, or the Common Area, which would unreasonably disturb the quiet enjoyment of other Owners and residents.



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Excessive noise levels may be determined at the sole discretion of the Board which may, but shall not be obligated to, rely on the standards established in the County Ordinances or other applicable governmental regulations dealing with such matters. Nor shall any exterior lighting of any sort be installed or maintained on any residential building, the light source of which is directed or shines on any neighboring Lot or Common Area unless approved by the Architectural Review Committee.

Section 8.04. Household Pets. The following rules shall govern and restrict pet ownership within the Forest Meadows development:

(a) A reasonable number of common household pets may be kept in each Lot so long as the same are not kept, bred or maintained for commercial purposes. No other animals, livestock, or poultry of any kind shall be kept, bred or raised in any Lot.

(b) Dogs shall only be allowed on roads and trails when they are leashed and otherwise under the supervision and restraint of their Owners. Dogs shall not be allowed within parks or pools within the Common Area.

(c) No household pet shall be left chained or otherwise tethered in front of a Lot within the Common Area.

(d) Each person bringing or keeping a pet on the Development shall be solely responsible for the conduct of such pets and the Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Declaration or otherwise) to any Owners, their Family members, guests, invitees, tenants and contract purchasers for any damage or injury to persons or property caused by any such pet. Owners are responsible for cleaning up after their pets, whether on own property, Common Areas, or other properties.

(e) Property owners shall have the right to build a dog run, not to exceed 250 sq. ft. in total size. The shape, location and building materials used must be submitted to the Architectural Review Committee for approval.

(f) In accordance with Section 3.08, above, the Board of Directors shall have the right to establish and enforce additional rules and regulations defining, in a uniform and nondiscriminatory manner, what constitutes a "reasonable number" of pets, depending on the size, nature and maintenance requirements of the particular pet and imposing standards for the reasonable control and maintenance of household pets in, upon and around the Development, to ensure that the same do not interfere with the quiet and peaceful enjoyment of the Development by the other Owners.

Section 8.05. Signs. No signs shall be displayed on any Parcel or posted within or upon any portion of the Common Area except such signs as may be required by legal proceedings, not more than one "For Rent," "For Lease" or "For Sale" signs of reasonable dimensions as are approved by the Board, or a committee thereof and during the time of construction of any building or other improvement, job identification signs having a maximum face area of six square feet per sign and of a type usually employed by contractors, subcontractors and tradesmen. All construction or For Sale signs shall be removed promptly following conclusion of the construction or sales activity.





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**Section 8.06. Business Activities.** No business or commercial activities of any kind whatsoever (including, without limitation, time-share plans, time-share estates or time-share uses, as defined in section 11212 of the California Business & Professions Code) shall be conducted in any building or in any portion of any Lot without the prior written approval of the Board; provided, however, that the foregoing restrictions shall not apply to: (a) the activities, signs or the maintenance of buildings, by the Association in furtherance of its powers and purposes as set forth herein; (b) leasing or rental of Residences in accordance with Section 2.04, above; (c) maintenance by an Owner of his personal library within his Residence; (d) keeping his personal business records or accounts therein; (e) conducting a home business through the use of computers, facsimile transmissions and other electronic media, so long as the business involves no signage, unusual noise, or customer traffic; or (f) conducting any other activities on the Owner's Lot otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or governmental regulations without the necessity of first obtaining a special use permit or similar specific governmental authorization, so long as any such activity does not involve exterior signage, unusual noise, or create customer traffic within the Development. The uses described in subparagraphs (b) through (f), above, are expressly declared to be customarily incidental to the principal residential use of an Owner's Lot and thus are not in violation of any provision of this Declaration.

**Section 8.07. Garbage.** No rubbish, trash, or garbage shall be allowed to accumulate on any Lot. Any rubbish, trash or garbage outside the interior walls of a Residence shall be stored entirely within appropriate covered disposal containers located within an enclosed garbage area. In addition, garbage cans should be put out the night before pick up and put away the day of pick up. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as is often generated upon vacating of premises or during construction or modification of improvements) shall be removed from the Development to a public dump or trash collection area by the Owner or tenant at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed in any manner inconsistent with this Section.

**Section 8.08. Storage.** Storage of personal property shall be maintained within the enclosed storage areas. No appliances, fixtures, furniture (other than patio furniture) or other goods and chattels, shall be stored in any building or open area or on any Parcel in such a manner that the material is visible from neighboring Parcels or from the Common Area. The Association shall have the right to establish and maintain on the premises appropriate storage yards and storage buildings for the maintenance of materials and equipment needed for planting, building, repair, maintenance and preservation of the structures, gardens and other improvements of the Parcels and the Common Areas.

**Section 8.09. Clotheslines.** No exterior clothesline shall be erected or maintained and there shall be no drying or laundering of clothes on the balconies, patios, porches or any yard or other areas that are visible from any neighboring Parcel or Common Area.

**Section 8.10. Fires.** Burning is permitted, subject to prior approval from the Board and in compliance with all local fire agency requirements. Barbecues in standard barbecue receptacles are not subject to these prior approval requirements. No Owner shall permit any condition on his Parcel which creates a fire hazard or is in violation of fire prevention regulations.



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Section 8.11. Basketball Standards. Basketball standards or fixed sports apparatus attached to any Residence, carport or garages shall be permitted, subject to receipt of the prior consent of the Architectural Review Committee.

Section 8.12. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the use, maintenance or construction of a private Residence or appurtenant structures within the Development.

Section 8.13. Diseases and Pests. No Owner shall permit any thing or condition to exist upon his Parcel which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

Section 8.14. Parking and Vehicle Restrictions.

(a) Except as provided in subparagraph (b) below, no Owner or occupant of any Parcel within the Development shall place, store, park, or keep any motor vehicles having a capacity in excess of one ton, any trailer, motor home, recreational vehicle, camper, boat, or other types of trailers on any Parcel or street within the Development except in locations designated by the Association. No motor vehicle shall be constructed, reconstructed or repaired within the Development and no dilapidated or inoperable vehicle including vehicles without wheel(s) or an engine, shall be stored on the Development; provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or routine tune-up maintenance performed within a garage. No commercial vehicles in excess of one ton shall be parked or stored on any Lot or carport or on the street within the Development, except for commercial vehicles providing services to Owners or the Association, and in that event only for the duration reasonably necessary to provide such service.

(b) Trailers, motor homes, boats, campers and other recreational or commercial vehicles may be kept on an Owner's Lot so long as such vehicles are kept in a closed garage and do not require the Owner or occupant to park his or her other vehicles on the street.

(c) The Board shall have the authority to tow or restrain (such as by use of a "Denver boot"), at the Owner's expense, any vehicle parked or stored in violation of this Section. The Board shall post such notices or signs within the parking area as may be required by law to effectuate this enforcement provision.

(d) Parking shall not be permitted on any street or on any Lot, except within garages, carports or designated parking areas.

(e) In accordance with Section 3.08, above, the Board shall have the authority to promulgate such further rules, regulations, and restrictions regarding the parking and vehicles within the Development as may be deemed prudent and appropriate.

Section 8.15. Drainage. No Owner shall do any work, construct any Improvement, place any landscaping or create the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the parcels or Common Area as established in connection with the



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approval of the final subdivision and parcel maps applicable to the Development by the County of Calaveras, except to the extent such alteration in drainage pattern is approved in writing by the Board, the County of Calaveras, and all other public authorities having jurisdiction.

Section 8.16. Activities Affecting Insurance. Nothing shall be done or kept on any Lot or within the Common Area which will increase the rate of insurance relating thereto without the prior written consent of the Association, and no Owner shall permit anything to be done or kept on his Lot or the Common Area which would result in the cancellation of insurance on any Residence or any part of the Common Area, or which would be in violation of any law

Section 8.17. Restriction on Further Subdivision and Severability. No Lot shall be further subdivided, nor shall less than all of any such Lot be conveyed by an Owner thereof, and no Owner of a Lot within the Development shall be entitled to sever that Lot from the Common Area portion of the Development. No easement or other interest in a Lot shall be given without the prior written approval of the Architectural Review Committee.

Section 8.18. Use of Private Streets in Common Area. No motorcycle, motorbike, ski mobile or recreational vehicle powered by an internal combustion engine may be operated within the Development except as authorized by the Association. In order to prevent accelerated deterioration of private roadways, the Association Board shall be entitled to collect deposits from Owners and/or contractors in connection with construction projects within the Development. Such deposits can be designated as nonrefundable or they can, at the Board's discretion, be applied to correct or repair specific damage caused by the construction.

Section 8.19. Multiple Family Residential Lots. Each Lot designated Multiple Family Residential Lot on the Subdivision Maps shall be used exclusively for residential purposes. Each of the Lots shall have no more than a designated number of family units constructed on that Lot, whether the development of said multiple family residential Lot is developed as apartments or as a condominium project in accordance with this Declaration. The designation of maximum allowable family units for the multiple family residential Lots in Unit 1 are as follows:

Lot 16 - maximum family units: 16;  
Lot 29 - maximum family units: 14;  
Lot 48 - maximum family units: 20;  
Lot 111 - maximum family units: 20;  
Lot 150 - maximum family units: 16;  
Lot 153 - maximum family units: 16;  
Lot 164 - maximum family units: 16;  
Lot 176 - maximum family units: 30;  
Lot 270 - maximum Family units: 32.

The designation of maximum allowable family units for the multiple family residential lots in Unit 2 are as follows:

Lot 236 - maximum family units: 80;  
Lot 237 - maximum family units: 30;  
Lot 238 - maximum family units, 30;



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Lot 239 - maximum family units: 24;  
Lot 240 - maximum family units: 16;  
Lot 241 - maximum family units: 14;  
Lot 242 - maximum family units: 30;  
Lot 244 - maximum family units: 30;  
Lot 245 - maximum family units: 12.

Section 8.20. Variances. Upon application by any Owner, the Board of Directors shall be authorized and empowered to grant reasonable variances from the property use restrictions set forth in this Article VIII if specific application of the restriction will either cause an undue hardship to the affected Owner or fail to further or preserve the common plan and scheme of development contemplated by this Declaration. In considering and acting upon any request for a variance, the Board shall follow the procedures set forth in Section 5.16 above, for the granting of architectural variances by the Architectural Review Committee.

Section 8.21. Enforcement of Property Use Restrictions. The objective of this Declaration shall be to promote and seek voluntary compliance by Owners and tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of an architectural or property use infraction that does not necessitate immediate corrective action under Section 13.06, below, the Owner, lessee or tenant responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the noncomplying condition request that the Owner, lessee, or tenant correct the condition within a reasonable time specified in the notice, and advise the Owner, lessee, or tenant of his or her appeal rights.

## ARTICLE IX EASEMENTS

Section 9.01. Maintenance Easements. An easement is hereby granted to the Association, its officers, agents and employees, and to any management company selected by the Association to enter in or to cross over the Common Area and any Lot to perform the duties of maintenance and repair of the Residences or Common Areas provided for herein.

Section 9.02. Water Rights. The Association shall have the right to exercise all riparian water rights attributable to all Lots and Common Areas; provided, however, that no development, distribution or use of water pursuant to such water rights shall be undertaken except by Calaveras County Water District (or another public entity or public utility company approved by the County of Calaveras) in accordance with a contract between the Association, as agent for the Owners, and said public entity utility.

Section 9.03. Boundary Changes. An easement shall exist for use and maintenance as Common Area over any portion of a Lot which, because of a change in the boundary of a private structure (including a fence, wall or patio) at the time of original construction, lies between that boundary and a Lot line abutting the Common Area.

Section 9.04. Blanket Utility Easement. There is hereby created a blanket easement upon, across, over and under all of the Development for ingress, egress, installation, replacing,



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repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, drainage and electricity and a master television antenna or cable television system, if any. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities within the Common Area. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated on said Development except as initially designed and approved by the Declarant or thereafter approved by the Association's Board of Directors. The easements provided for in this Section 9.04 shall in no way affect any other easement appearing on any Subdivision Map covering any portion of the Development.

Section 9.05. Street Easements. Each Owner and the Association shall have and is hereby granted a nonexclusive easement for street, roadway and vehicular traffic purposes over and along the streets and for purposes consistent with the hiking and riding trails within the Development, subject to termination of such easement and the rights and restrictions set forth in this Declaration. Each Owner shall be required to ensure that there is no obstruction of hiking and riding trails which extend onto or traverse his Lot in such manner that there is interference with the free use thereof or circulation of foot traffic, except such obstructions as may be reasonably required in connection with repairs of such trails.

Section 9.06. Other Easements. Each Parcel and its Owner, and the Association, as the case may be, is hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Development and each Parcel as shown on the Subdivision Maps.

Section 9.07. Priority of Easements. Wherever easements granted to the County are, in whole or in part, coterminous with any other easements, the easements of the County shall have and are hereby granted priority over said other easements in all respects.

## ARTICLE X INSURANCE

Section 10.01. Insurance Coverage. The Association shall purchase, obtain and maintain, with the premiums therefor being paid out of Common Funds, the following types of insurance, if and to the extent they are available:

(a) Public Liability and Property Damage Insurance. A policy of comprehensive public liability insurance insuring the Association, each member of the Association Board of Directors, any manager and the Owners and occupants of Parcels, against any liability incident to the ownership or use of the Common Areas and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than One Million Dollars (\$1,000,000.00) covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for nonowned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location, and use.



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(b) Fire and Casualty Insurance. A policy of fire and casualty insurance naming as parties insured the Association and any Mortgagee of the Common Area, and containing the standard extended coverage and replacement cost endorsements and such other or special endorsements as will afford protection and insure, for the insurable, current replacement cost (excluding foundations and excavation, but without deduction for depreciation) as determined annually by the insurance carrier, all Common Facilities and the personal property of the Association for or against the following risks:

- (i) Loss or damage by fire or other risks covered by the standard extended coverage endorsement.
- (ii) Loss or damage from theft, vandalism or malicious mischief.
- (iii) Such other risks, perils or coverage as the Board of Directors may determine. Such policy or the endorsement made a part thereof shall, if and to the extent available, provide that the insurer issuing the policy agrees to abide by the decision of the Association made in accordance with the provisions of Article XI, below, as to whether or not to repair, reconstruct or restore all or any damaged or destroyed portion of the Common Facilities.

The Association shall not be obligated to carry or maintain fire and casualty insurance on any Condominium structures. Instead, said structures shall be insured in accordance with the terms of the Project Declaration.

(c) Directors' and Officers' Liability Insurance. The Association shall maintain individual liability insurance for its directors and officers providing coverage for negligent acts or omissions in their official capacities. The minimum coverage of such insurance shall be at least One Million Dollars (\$1,000,000.00).

(d) Additional Insurance and Bonds. To the extent such insurance is reasonably obtainable, the Association may also purchase with Common Funds such additional insurance and bonds as it may, from time to time, determine to be necessary or desirable, including, without limiting the generality of this section, demolition insurance, flood insurance, and workers' compensation insurance. The Board shall also purchase and maintain fidelity bonds or insurance in an amount not less than ten percent (10%) of each year's estimated annual operating expenses and shall contain an endorsement of any person who may serve without compensation. The Board shall purchase and maintain such insurance on personal property owned by the Association and any other insurance that it deems necessary or desirable to protect the interests and property of the Association and its Members.

Section 10.02. Coverage Not Available. In the event any insurance policy, or any endorsement thereof, required by Section 10.01 is for any reason unavailable, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage hereinabove described. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage.



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Section 10.03. Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time.

Section 10.04. Trustee. All insurance proceeds payable under section 10.01, above, may, in the discretion of the Board of Directors, be paid to a trustee to be held and expended for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear. Said trustee shall be a commercial bank in the County that agrees in writing to accept such trust.

Section 10.05. Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Section 10.01, above. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

Section 10.06. Annual Review of Association Insurance and Disclosure to Members. The Board shall review the adequacy of all insurance, including the amount of liability coverage and the amount of property damage coverage, at least once every year. At least once every three (3) years, the review shall include a replacement cost appraisal of all insurable Common Area Improvements without respect to depreciation. The Board shall adjust the policies to provide the amounts and types of coverage and protection that are customarily carried by prudent owners' associations operating in similar common interest developments in the greater Sacramento region. In accordance with California Civil Code Section 5310(a)(7), annually the Association shall distribute to its Members a summary of the Association's property, general liability, and flood insurance (if any), such distribution to be made within sixty (60) days prior to the beginning of the Association's fiscal year.

Section 10.07. Board's Authority to Revise Insurance Coverage. The Board shall have the power and right to deviate from the insurance requirements contained in this Article X in any manner that the Board, in its reasonable business discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this Article X, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least (30) days prior to the effective date of the reduction. The Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain any insurance required hereunder because the insurance is no longer available; or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances; or the Members fail to approve any Assessment increase needed to fund the insurance premiums.

Section 10.08. Required Notifications to Owners Regarding Insurance Maintained by the Association.

(a) Annual Notice Requirements. The Association shall provide its Members with a summary of the Association's property, general liability, earthquake, flood, and fidelity insurance policies not less than thirty (30) nor more than ninety (90) days prior to the beginning of the Association's fiscal year, that includes all of the following information about each policy: (i) the



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name of the insurer; (ii) the type of insurance; (iii) the policy limits of the insurance; and (iv) the amount of deductibles, if any, to the extent that any of the information required to be included in the annual insurance disclosure is included in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing the page to its Members. The annual insurance summary shall also contain a statement, in at least 10-point bold face type that states as follows:

"This summary of the Association's policies of insurance provides only certain information, as required by Civil Code Section 5310(a)(7) and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association Member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property, or, real property improvements to or around your Lot and Residence, or personal injuries or other losses that occur within or around your Lot and Residence. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association Members should consult their individual insurance broker or agent for appropriate additional coverage."

(b) Notice of Cancellation of Insurance. The Association shall, as soon as reasonably practicable, notify its Members by first-class mail if any of the policies described in subparagraph (a) have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or policy limits or an increase in the deductible for any policy. If the Association receives any notice of non-renewal of a policy described in subparagraph (a), above, the Association shall immediately notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse.

Section 10.09. Limitation on Liability Regarding Insurance Matters. The Association and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain the insurance required hereunder because the insurance is no longer available or, in the alternative, can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances, or the Members fail to approve any Assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any Mortgagee entitled to notice that the insurance will not be obtained or renewed.

Section 10.10. Owner's Insurance. An Owner may carry whatever personal liability, property damage liability, fire and casualty insurance with respect to the Owner's Lot and Residence that the Owner desires and the Association shall have no responsibility for the adequacy of such coverage. In the case of Condominium Units, the Project Declaration may contain additional or different insurance requirements for Owners and their Units.





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## ARTICLE XI DAMAGE OR DESTRUCTION

### Section 11.01. Damage or Destruction of Common Area.

(a) Insurance Proceeds Less Than Twenty Thousand Dollars (\$20,000.00). If any portion of the Common Area is damaged or destroyed by fire or other casualty, then if the insurance proceeds initially offered or paid by the insurer do not exceed the sum of twenty thousand dollars (\$20,000.00); and if the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than twenty thousand dollars (\$20,000.00); then the insurance proceeds shall be paid to the Association, to be held and disbursed as provided in Section 11.01(b), below. The Association shall thereupon contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original condition thereof. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Association shall levy a Special Assessment on all Members to make up any deficiency.

#### (b) Disbursement of Insurance Proceeds.

(i) All insurance proceeds shall be paid to an insurance trustee designated by the Board, to be held for the benefit of the Members as their respective interests shall appear;

(ii) The Board shall obtain firm bids (including a performance bond premium) from two or more responsible contractors to rebuild the Common Area substantially in accordance with its original condition. As soon as the Board has obtained bids, it shall call a special meeting of the Members to consider the bids. At such meeting, the Members may, by vote of sixty six and two-thirds percent (66-2/3%) of the total Voting Power entitled to vote thereat, elect to reject all of such bids. Failure to reject all such bids shall authorize the Board to accept the bid it considers most favorable;

(iii) If all such original bids are rejected, the Board may prepare and present to the Members various alternative plans for repair and reconstruction. Before presenting any such plan to the Members, however, the Board shall obtain approval of an appointed Committee and obtain firm bids (including a performance bond premium) from two or more responsible contractors to perform the work of repair or reconstruction in accordance with each such plan. Such bids shall be considered at a meeting of the Members subject to Special Assessment as soon as possible after they have been obtained. The Members may, by sixty six and two-thirds percent (66-2/3%) vote, elect to reject all of such bids, or by a vote of the Members that would be sufficient to defeat approval of a Special Assessment pursuant to Section 4.03 of this Declaration, elect to reject all such bids involving a total cost exceeding the amount of available insurance proceeds by more than twenty thousand dollars (\$20,000.00). Failure to reject all of such bids shall authorize the Board to accept the bid it considers most favorable;

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(iv) If a bid is acceptable, the Board shall levy a Special Assessment against the Members to make up any deficiency between the total insurance proceeds and the contract price for such repair or rebuilding, and such Assessment and all insurance proceeds whether or not subject to liens or mortgages, shall be paid to said insurance trustee to be used for such rebuilding. If any Member shall fail to pay the Special Assessment within thirty (30) days after the levy thereof, the Board shall make up the deficiency by payment from the Maintenance Fund. Upon payment, the Board shall award the contract to the successful bidder;

(v) If no such bid is accepted within eighteen (18) months after the date such damage or destruction occurs, the Board shall use any insurance proceeds to demolish and remove all damaged or destroyed structures or improvements from the Common Area and level and landscape the sites thereof. In the event that all of the said insurance proceeds are not required, the excess funds shall be deposited in the Maintenance Fund. In the event the insurance proceeds are not sufficient to accomplish such demolition and removal and site finishing, the Board shall levy a Special Assessment against the Members to make up the deficiency.

Section 11.02. Damage or Destruction of Residences.

(a) In the event of damage or destruction by fire or other casualty affecting a Residence or any multiple family residential structure (including, without limitation, a Condominium building), the Owner or Owners thereof shall, within six (6) months thereafter either:

(i) Diligently commence to rebuild the same in accordance with the terms hereof; or

(ii) Clear and level the Lot, removing all wreckage, debris and remains of the Residence or Residences therefrom and leaving the same in a level, clean condition.

(b) Upon reconstruction, the Residence or multiple family residential structure shall be rebuilt substantially in accordance with the original plans and specifications therefore; provided, however, that the exterior appearance thereof shall substantially resemble the appearance in form and color prior to such damage and destruction. Notwithstanding the foregoing, however, the Owner(s) of such damaged Residence or structure may reconstruct or repair the same in accordance with the new or changed plans and specifications with the prior written consent of the Architectural Review Committee. Any new Improvement project that is proposed by an Owner shall be subject to the review and approval process set forth in Article V, above.



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## ARTICLE XII CONDEMNATION

Section 12.01. Sale by Unanimous Consent or Taking. If an action for condemnation of all or a portion of the Development is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all of the Owners and all institutional Mortgagees, the Development, or a portion thereof, may be sold and conveyed to the condemning authority by the Board or its designees acting as the attorney-in-fact of all Owners under an irrevocable power of attorney, which each Owner, by accepting a deed to a Lot in the Development, hereby grants and which shall be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Board. If the requisite number of Owners or institutional Mortgagees do not consent to a sale of all or a portion of the Development, and the condemning authority institutes condemnation proceedings, the court shall fix and determine the condemnation award.

### Section 12.02. Distribution and Sale Proceeds of Condemnation Award.

(a) Total Sale or Taking. A total sale or taking of the Development means a sale or taking: (i) that renders more than fifty percent (50%) of the Lots uninhabitable (such determination to be made by the Board in the case of a sale and by the court in the case of a taking); or (ii) that renders the Development as a whole uneconomical as determined by the vote or written consent of sixty-six and two-thirds percent (66-2/3%) of those Owners and their respective institutional Mortgagees whose Lots will remain habitable after the taking. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. The proceeds of any such total sale or taking of the Development, after payment of all expenses relating to the sale or taking, shall be paid to all Owners and to their respective Mortgagees in the proportion that the fair market value of each Lot bears to the fair market value of all Lots within the Development. The fair market value of Lots shall be determined in the condemnation action, if such be instituted, or by an appraiser.

(b) Partial Sale or Taking. In the event of a partial sale or taking of the Development, meaning a sale or taking that is not a total taking as determined in subparagraph (a), above, the proceeds from the sale or taking shall be paid or applied in the following order of priority, and any judgment of condemnation shall include the following provisions as part of its terms:

(i) To the payment of expenses of the Association in effecting the sale or to any prevailing party in any condemnation action to whom such expenses are awarded by the Court to be paid from the amount awarded; then

(ii) To Owners and to their respective Mortgagees, as their interests may appear, of Lots within the Development whose Lots have been sold or taken, an amount up to the fair market value of such Lots as determined by the court in the condemnation proceeding or by an appraiser, less such Owners' share of expenses paid pursuant to Section 12.02(b)(i) (which share shall be in proportion to the ratio that the fair market value of each Owner's Lot bears to the fair market value of all Lots). After such payment, the recipient shall no longer be deemed an Owner and the Board or individuals authorized by the Board, acting as



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attorney-in-fact of all Owners, shall amend the Subdivision Maps and this Declaration to eliminate from the Development the Lots so sold or taken; then

(iii) To any remaining Owner and to his or her Mortgagees, as their interest may appear, whose Lot has been diminished in value as a result of the sale or taking disproportionate to any diminution in value of all Lots, as determined by the Court in the condemnation proceeding or by an appraiser, an amount up to the total diminution in value; then

(iv) To all remaining Owners and to their respective Mortgagees, as their interest may appear, the balance of the sale proceeds or award in proportion to the ratio that the fair market value of each remaining Owner's Lot bears to the fair market value of all remaining Owners' Lots as of a date immediately prior to commencement of condemnation proceedings, as determined by the Court in the condemnation proceeding or by an appraiser.

Section 12.03. Appraiser. Wherever in this Article reference is made to a determination of the value or fair market value of one or more Lots by an appraiser, this shall mean an appraisal by an independent appraiser selected by the Board, who shall be a member of the Society of Real Estate Appraisers (SREA) or other nationally recognized appraiser organization and who shall apply the SREA or other national appraisal organization's standards in determining the value or fair market value of each Lot. The costs of such appraisals shall be paid from the condemnation proceeds as an expense of the Association.

### ARTICLE XIII BREACH AND DEFAULT

Section 13.01. Remedy at Law Inadequate. Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Lot, or any portion of the Common Area or Common Facilities, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by the Declarant, any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest. The Association may employ the services of a compliance officer to assist the Board in its efforts to enforce this Declaration in a consistent, fair and equitable fashion.

Section 13.02. Nuisance. Without limiting the generality of the foregoing Section 13.01, the result of every act or omission whereby any covenant or restriction contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 13.03. Attorneys' Fees. Reasonable attorneys' fees and costs shall be awarded to the prevailing party in any procedure to enforce the Governing Documents or a party's rights arising under the Governing Documents. Such enforcement procedures include an action brought



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in any court of competent jurisdiction, as well as any alternative dispute resolution procedure implemented pursuant to the Governing Documents or pursuant to California Civil Code Section 5925 (as such sections may be renumbered or revised from time to time). In any enforcement procedure, such as mediation in which there is no agreement between all of the parties that attorneys will represent them, recoverable costs are limited to attorneys' fees and costs incurred in providing the notices required under such statute.

Section 13.04. Cumulative Remedies. The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.

Section 13.05. Failure Not a Waiver. The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association, the Board, or any of its officers or agents.

Section 13.06. Rights and Remedies of the Association.

(a) Rights Generally. Except as otherwise provided in Section 4.10, above, (Assessment Collections) in the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family, or the Owner's guests, employees, invitees, licensees, or tenants, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey the Association Rules, covenants, or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including, but not limited to, the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use recreation Common Facilities or suspension of the Owner's voting rights as a Member of the Association; provided, however, the Association's right to undertake disciplinary action against its Members shall be subject to the conditions set forth in this Section.

The decision of whether it is appropriate or necessary for the Association to take enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Association's Board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement pursuant to California Civil Code Section 5975 or otherwise by law.

(b) Schedule of Fines. The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or illegally parked vehicles). Once imposed, a fine or penalty may be collected as a Special Individual Assessment, subject to the limitation on the use of lien and foreclosure remedies stated in Section 4.10(b)(ii),



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above. Whenever a fine schedule is adopted or revised, the Board of Directors shall distribute to each Member, by personal delivery or first-class mail, a copy of the fine schedule.

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

(d) Limitations of Disciplinary Rights.

(i) Limitations on Right of Forfeiture. The Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Lot due to the failure by the Owner (or his or her family members, tenants, guests or invitees) to comply with any provision of the Governing Documents or of any duly enacted Association Rule except where the loss or forfeiture is the result of the judgment of a court of competent jurisdiction, a decision arising out of arbitration or a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Association, or where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents, so long as the Association's actions satisfy the due process requirements of subparagraph (iii), below.

(ii) Monetary Penalties Imposed by the Association. The Association may impose monetary penalties: (A) for failure of a Member to comply with the Governing Documents; (B) as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the Common Area or Common Facilities allegedly caused by a Member; or (C) in bringing the Member and his or her Lot into compliance with the Governing Documents. Such penalties may not be characterized nor treated as an Assessment which may become a lien against the Member's Lot enforceable by a sale of the Lot in nonjudicial foreclosure; provided, however, that this limitation on the Association's lien rights shall not apply to charges imposed against an Owner consisting of reasonable late payment penalties to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in the Association's efforts to collect delinquent Assessments.

(iii) Notice and Hearing Requirements for Disciplinary Actions. No disciplinary action, penalty or temporary suspension of rights shall be imposed pursuant to this Article unless the Owner alleged to be in violation is given at least ten (10) days prior notice by personal delivery or first-class mail, that the Board of Directors will be meeting to consider imposing such discipline. The notice shall



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include, at a minimum, the date, time, and place of the meeting, the nature of the alleged violations for which the Owner may be disciplined, and a statement that the Owner has a right to attend and address the Board at the hearing. The Board shall meet in executive session if requested by the Owner.

If disciplinary action is taken, the Board shall notify the accused Owner, in writing, either by personal delivery or first-class mail, of the Board's decision within fifteen (15) days following conclusion of the hearing.

In accordance with Civil Code Section 4820, disciplinary action shall not be effective against an Owner unless the Board fulfills the requirements of this Section. The Association shall also adopt hearing and disciplinary procedures that comply with the requirements set forth in Civil Code Section 5910.

Notwithstanding the foregoing, under circumstances involving conduct that constitutes: (A) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; (B) a traffic or fire hazard; (C) a threat of material damage to, or destruction of, the Common Area or Common Facilities; or (D) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as late payment of Assessments or parking violations), the Board of Directors, or its duly authorized agents, may undertake immediate corrective or disciplinary action and, upon request of the offending Owner (which request must be received by the Association, in writing, within five (5) days following the Association's disciplinary action), or on its own initiative, conduct a hearing as soon thereafter as reasonably possible.

If the Association acts on its own initiative to schedule a hearing, notice of the date, time and location of the hearing shall accompany the notice of disciplinary action. If the accused Owner desires a hearing, a written request therefor shall be delivered to the Association no later than five (5) days following the date when the fine is levied.

The hearing shall be held no more than fifteen (15) days following the date of the disciplinary action or fifteen (15) days following receipt of the accused Owner's request for a hearing, whichever is later. Under such circumstances, any fine or other disciplinary action shall be held in abeyance and shall only become effective if affirmed at the hearing.

At the hearing, the accused shall be given the opportunity to be heard, including the right to present evidence and to present or question witnesses. The Board shall notify the accused Owner, in writing, of the Board's decision within five (5) business days following conclusion of the hearing. In no event shall the effective date of any disciplinary action commence sooner than five (5) days following conclusion of the hearing unless: (i) the hearing merely affirms summary disciplinary action initiated pursuant to the immediately preceding paragraph; or (ii) earlier commencement is necessary to preserve the quiet enjoyment of other residents or to prevent further damage to, or destruction of, the Lots or any portion thereof.

(iv) Inapplicability of Section 13.06(d) Procedures to Assessment Collection Actions. The notice and hearing procedures set forth in this Section 13.06 shall not apply to any actions by the Association or its duly authorized



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agents to collect delinquent Assessments. Assessment collections shall be subject to the prior notification and other procedural requirements set forth in Section 4.10, above, and any other notice, hearing and/or dispute resolution requirements or procedures as may be specifically applicable by law to Association Assessment collection.

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

(f) Rules Regarding Disciplinary Proceedings. The Board, or an appropriate committee appointed by the Board to conduct and administer disciplinary hearings and related proceedings, shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings, so long as such rules meet the minimum requirements of Civil Code Section 4340 *et seq.* Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

Section 13.07. Court Actions. Court actions to enforce the Governing Documents may only be initiated on behalf of the Association by resolution of the Board. Prior to the filing of any court action seeking declaratory or injunctive relief to interpret or enforce the Governing Documents (including either such action coupled with a claim for monetary damages not in excess of Five Thousand Dollars (\$5,000.00)), the Association shall first comply with the provisions of California Civil Code Section 5925 *et seq.* relating to alternative dispute resolution. The Association's own notice and hearing procedures may be drafted to satisfy these statutory requirements.

#### ARTICLE XIV PROTECTION OF MORTGAGEES

Section 14.01. Assessment Lien Subordinated. Any lien created or claimed under the provisions of Article IV, above, shall be subject and subordinate to the lien of any first Mortgage given in good faith and for value. No such Mortgagee who acquires title to any Lot or Unit by judicial foreclosure or by exercise of power of sale contained in the Mortgage shall be obligated to cure any breach of this Declaration by a former Owner of such Lot or shall be liable for any unpaid Assessments made against the Lot or Unit that accrued prior to the date the Mortgagee acquired such title. No lien created or claimed under the provisions of Section 4.10(b), above, shall in any way defeat, invalidate or impair the rights of any Mortgagee under any such Recorded Mortgage.

Section 14.02. Superiority of Mortgage to Condemnation Proceeds. If any Lot, Unit, or portion thereof, or the Common Area, or any portion thereof, is made the subject of any condemnation or eminent domain proceeding, the lien of any first Mortgage shall be prior and superior to the claims of the Owners of said Lots/Units or Common Area with respect to any distribution of the proceeds of any condemnation award or settlement.





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Section 14.03. Breach of Covenants Shall Not Affect Mortgage Liens. No breach of any of the foregoing covenants and restrictions set forth in this Declaration shall cause any forfeiture of title or reversion, or bestow any rights of re-entry whatsoever, but, violation of any one or more of these covenants or restrictions may be enjoined or abated by the Association, by action of any court of competent jurisdiction, and damages may also be awarded against such violations; provided, however, that any such violation shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to said property or any part thereof, but said covenants and restrictions shall be binding upon and effective against any Owner of said property, or portion thereof, whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

#### ARTICLE XV NOTICES

Section 15.01. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

If to any Owner: To the street address of his or her Lot or to such other address as he or she may from time to time designate in writing to the Association for purposes of notice.

If to the Association: Forest Meadows Owners' Association  
46 Forest Meadows Drive  
Murphys, CA 95247 (or to such other address as the Association may from time to time designate in writing to the Owners).

Nothing in this Section 15.01 is intended to preclude the use of any other means of delivering notices to Members or Owners (other than by personal service or mail) if other methods of delivery are authorized by this Declaration by Civil Code Section 4040, Section 4045, or by other provisions of the Davis-Stirling Common Interest Development Act (California Civil Code Section 4000 *et seq.*) that reference Civil Code Section 4040 or Section 4045.

Section 15.02. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the co-Owners of any Lot, to any general partner of a partnership which is the Owner of Record of the Lot, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Lot, shall be deemed delivered to all such co-Owners, to such partnership, or to such corporation, as the case may be.

Section 15.03. Deposit in United States Mails. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four (4) days after deposit in the United States mail in the County.



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ARTICLE XVI  
AMENDMENT OF DECLARATION

Section 16.01. Limited Authority of the Board of Directors to Adopt Certain Amendments to this Declaration. The Board of Directors may, by a vote of a two-thirds (2/3) majority of all directors, adopt amendments to this Declaration when an amendment is needed to conform a particular provision or provisions of the Declaration to changes in applicable California state statutory law, and the amended provision was drafted to accurately state the statutory law as previously in effect. Before entertaining a motion to approve any such amendments the following three conditions must be satisfied:

(a) The Board shall have received a written opinion from the Association's legal counsel confirming that a change or changes in California statutory law necessitate(s) a corresponding amendment to this Declaration in order to make the provision(s) an accurate statement of the underlying statutory requirement(s) and that the revised or newly enacted statutory laws pertain to matters that the Association is bound to observe;

(b) At least thirty (30) days prior to the date of the meeting of the Board of Directors at which action is scheduled to be taken on the proposed amendment(s) the Board shall post notice at the Association's principal office of the Board's intention to adopt the amendment and provide each Owner (by first-class mail or personal delivery) with a copy of the notice of intended action, the text of the proposed amendment, and a copy of the opinion of counsel.

(c) Following expiration of the thirty (30) day notice period, action on the amendment shall be taken at a duly noticed regular meeting of the Board that is open to attendance by the Members, following an opportunity at the meeting for any Member to speak in support of, or in opposition to, the proposal. The notice of said Board meeting shall clearly indicate that action on the proposed amendment is scheduled to be taken.

(d) In the event that any changes are made to the text of the proposed amendment as a result of comments or recommendations received from any Member, following recordation of the amendment a new copy of the recorded document shall be distributed to all Members.

Section 16.02. Amendments Approved by the Members. Except as otherwise provided in Section 16.01, above, this Declaration may be amended or revoked in any respect by the vote or assent by written ballot of the holders of not less than a majority of the Voting Power of the Members.

Section 16.03. Effective Date of Amendment. The amendment shall be effective upon the approval by the County of Calaveras and recording thereof in the Office of the Recorder of Calaveras County of an instrument setting forth the terms thereof duly certified and executed by the President and Secretary of the Association. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any first deed of trust or Mortgage recorded prior to the recording of such amendment. If the consent or approval of any governmental authority, Mortgagee, or other person, agency or entity is required under this Declaration with respect to any amendment or the revocation of any provision of this Declaration, no such amendment or revocation shall be effective unless such consent or approval is obtained.



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Section 16.04. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

## ARTICLE XVII MISCELLANEOUS

Section 17.01. Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Parcels and the Common Area as herein provided, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors, and its officers and agents, and their respective successors in interest, until December 31, 2030, after which time the same shall be automatically extended for successive periods of ten (10) years each unless, within six (6) months prior to the expiration of the initial term or any such ten-year (10) extension period, a recordable written instrument, approved by Owners entitled to vote and holding at least a majority of the Voting Power of the Association terminating the effectiveness of this Declaration shall be filed for recording in the Office of the County Recorder of Calaveras County, California.

### Section 17.02. Annexation of Additional Property.

(a) Additional real property may be annexed to the Development and brought within the general plan and scheme of this Declaration upon the approval by vote or written consent of Members entitled to exercise not less than sixty-six and two-thirds percent (66 2/3%) of the Voting Power of the Association held by Members other than the Declarant. If any annexation proposal is presented to the Members for approval, the solicitation materials shall, at a minimum, include the following: (i) an identification of the property to be annexed by legal description, total acreage and location in respect to the Development; (ii) a discussion of the anticipated impact, if any, that the proposed annexation (and any subsequent development of the annexed property) will have on Association Assessment rates or usage of Association Common Areas and Common Facilities; and (iii) specification of the total number of Residences proposed for development on the annexed property. Upon obtaining the requisite approval pursuant to this subparagraph (a), the owner of any real property who desires to annex it to the Development and add it to the general plan and scheme of this Declaration and subject the property to the jurisdiction of the Association, shall file with the Office of the County Recorder a Declaration of Annexation as more particularly described in subparagraph (b) below.

(b) Any addition authorized under subparagraph (a), above, shall be made by filing with the Office of the County Recorder a Declaration of Annexation, or other similar instrument, with respect to the additional real property which shall be executed by the Declarant or other owner of the subject property and shall extend the general plan and scheme of this Declaration to such real property. The filing of a Declaration of Annexation shall constitute and effectuate the annexation of the additional real property described therein, and thereupon said real property shall become and constitute a part of the Development, become subject to, and encompassed within, the general plan and scheme of this Declaration. Lots within the annexed property shall thereupon become subject to Assessment by the Association and to the functions, powers and jurisdiction of the Association, and the Owners of Parcels within the annexed real property shall automatically become Members of the Association.



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The Declaration of Annexation may contain such additions to, and modifications of, the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added real property, or as the owner of the annexed property may deem appropriate in the development of such real property, so long as: (i) the supplemental restrictions are consistent with the general plan and scheme of this Declaration and all applicable laws and governmental regulations; and (ii) the proposed modifications are approved by the Members in connection with their approval of the proposed annexation. In no event, however, shall any Declaration of Annexation revoke, modify or add to the covenants, conditions or restrictions established by this Declaration as the same pertain to any portion of the Development already subject to the Governing Documents.

Section 17.03. Construction.

(a) Restrictions Construed Together. All of the covenants, conditions and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of Forest Meadows as set forth in the recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

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

(c) Gender and Number. As used in this Declaration, the singular shall include the plural and the plural the singular, unless the context requires the contrary, and the masculine, feminine or neuter gender shall each be deemed to include the others whenever the context so indicates.

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

(e) Exhibits. All exhibits attached hereto shall be deemed to be incorporated herein by reference.



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**EXHIBIT "A"**

**Legal Description of Property Comprising the  
Forest Meadows Development**

That certain real property in the County of Calaveras, State of California, which is more particularly described as follows:

Forest Meadows Unit No. 1, Tract No. 220, as set forth on the Official Map thereof, filed for record October, 2, 1972, in Book 4 of Maps, Page 15, Calaveras County Records, excepting therefrom Lots 1 and 273 and Parcel C;

Forest Meadows Unit No. 1A, Tract No. 259, being a subdivision of Lot NO. 176 of Unit No. 1, as set forth in the Official Map thereof, filed for record September 20, 1977, in Book 4 of Maps, Page 40, Calaveras County Records;

Forest Meadows Unit No. 1B, Tract No. 257, being a subdivision of Lot No. 164 of Unit No. 1, as set forth on the Official Map thereof, filed for record July 11, 1977, in Book 4 of Maps, Page 37, Calaveras County Records;

Forest Meadows Unit No. 1C, Tract No. 263, being a subdivision of Lot No. 111 of Unit No. 1, as set forth on the Official Map thereof, filed for record July 11, 1977, in Book 4 of Maps, Page 35, Calaveras County Records;

Forest Meadows Unit No. 1D, Tract No. 258, being a subdivision of Lot No. 150 of Unit No. 1, as set forth on the Official Map thereof, filed for record July 11, 1977, in Book 4 of Maps, Page 34, Calaveras County Records;

Forest Meadows Unit No. 1E, Tract No. 264, being a subdivision of Lot No. 29 of Unit No. 1, as set forth on the Official Map thereof, filed for record July 11, 1977, in Book 4 of Maps, Page 36, Calaveras County Records;

Forest Meadows Unit No. 1F, Tract No. 260, being a subdivision of Lots 2, 3, 270, 271, and 272 of Unit No. 1, as set forth on the Official map thereof, filed for record September 20, 1977, in Book 4 of Maps, Page 39, and the Amended Map of Forest Meadows, Unit 1F, filed for record November 1, 1977, in Book 4 of Maps, Page 42, Calaveras County Records;



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Forest Meadows Unit No. 1F-A, Tract No. 260, being a subdivision of Lot 9 of Unit 1F and Lot AA of Unit No. 2 and a portion of NW ¼ of SW ¼ of Section 26, as set forth on the Official Map thereof, filed for record November 1, 1977, in Book 4 of Maps, Page 41, Calaveras County Records;

Forest Meadows Unit No. 2, Tract No. 231, as set forth on the Official Map thereof, filed for record December 3, 1974, in Book 4 of Subdivisions, Page 20, Calaveras County Records, excepting therefrom Lots B, C, CC, DD, EE, 243, 247, 249, 250, 251, 252, 253, and 254 and the portion of Lot AA as shown on the Map of Unit 1F-A;

Forest Meadows Unit No. 2B, Tract no. 282, being a resubdivision of Lots 237, 238, 239, 240, 241, 246 and 248 of Unit 2, as set forth on the Official Map thereof, filed for record January 16, 1980, in Book 5 of Subdivisions, Page 12, Calaveras County Records;

Forest Meadows Unit No. 2E, Tract No. 295, being a resubdivision of Lot D of Unit 2 and Lot 2B-22 of Unit 2B, as set forth on the Official Map thereof, filed for record January 16, 1980, in Book 5 of Subdivisions, Page 13, Calaveras County Records;

Forest Meadows Unit 2G, Tract No. 90-848, being a subdivision of Lot 242 of Unit 2, as set forth on the Official Map thereof, filed for record October 30, 1996, in Book 7 of Subdivisions, Page 26, Calaveras County Records.

Forest Meadows Unit No. 4, as described in that certain Declaration of Annexation Forest Meadows Unit No. 4 recorded December 28, 1982, in Book 635, Page 332, and in that certain declaration of Annexation recorded January 6, 1982, in Book 636, Page 249, Calaveras County records, as follows:

BEGINNING at the Northwest corner of the Northwest Quarter of the Southwest Quarter of said Section 25, as said corner is shown on that certain Record of Survey map, filed in the Office of the County Recorder of said Calaveras County in Book 7 of Record of Surveys, Page 193, thereof, said corner being the true point of beginning; thence North 88°42'20," East 1324.06 feet to the Northwest corner of the Northwest Quarter of the Southwest Quarter of said Section 25; thence South 0°02'42," West, 1323.52 feet to the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 25; thence South 88°29'48" West, along the South line of the Northwest Quarter of the Southwest Quarter of said Section 25, 862.89 feet; thence leaving said South line, North 13°39'23" West, along the West line 359.71 feet to the



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true point of beginning as shown on that certain Final Map filed in the Office of the Recorder of said Calaveras County on October 2, 1972, in Book 4 of Subdivisions at Page 15 thereof excepting therefrom that portion conveyed to the Calaveras County Water District, in deed recorded February 6, 1976, in Book 410 of Official Records, Page 261, Calaveras County Records;

Forest Meadows Unit No. 4, Tract No. 328, Phase 1, being a subdivision of a portion of the NW ¼ of the SW ¼ of Section 25, T 4 N, R 14 E, MDB&M, as set forth on the Official Map thereof, filed for record January 16, 1986, in Book 6 of Subdivisions, Page 20, Calaveras County Records;

Forest Meadows Unit No. 5, being Lot 1 as shown on that certain Record of Survey Map filed for record September 2, 1988, in Book 5 of Record of Surveys, Page 114, Calaveras County Records.

**Commercial Lots:**

Lot 273, as shown on that certain Map entitled, "Forest Meadows Subdivision, Unit No. 1, Tract No. 220," filed for record on October 2, 1972 in Book 4 of Subdivision Maps, Page 15, Calaveras County Records.

Lot 1 of Forest Meadows, Unit No. 1, as shown on the Official Map thereof, filed for record October 2, 1972, in Book 4 of Subdivision Maps, at Page 15, Calaveras County Records.

Parcel A, as shown on Record of Survey of Boundary Line Adjustment, Recorded December 23, 1994, in Book 19 of Record of Surveys at Page 6.