

# SHARON PARK HOMEOWNERS ASSOCIATION

SHARON PARK DRIVE ♦ MENLO PARK ♦ CALIFORNIA

**TO: ALL SHARON PARK HOMEOWNERS**

**FROM: THE BOARD OF DIRECTORS**

**SUBJECT: 1) AMENDED & RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
2) AMENDED & RESTATED BYLAWS**

**DATE: MAY 13, 2002**

Enclosed please find your copies of the following documents:

- *The Amended and Restated Declaration of Covenants, Conditions and Restrictions (CC&R's) of Sharon Park Homeowners Association.*
- *The Amended and Restated Bylaws of Sharon Park Homeowners Association.*

These documents are now the official documents for the Association. Therefore, please discard any previous sets you may have of them. Keep these documents with your other Association records for your easy reference and for availability in the event that you should sell or refinance your Sharon Park home.

Encl.

7:10pm aed@sharonparkdecccrs&bylaws2002.sp

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND  
AMENDED AND RESTATED  
BYLAWS  
OF  
SHARON PARK  
HOMEOWNERS ASSOCIATION**

If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.



# SHARON PARK HOMEOWNERS ASSOCIATION

SHARON PARK DRIVE • MENLO PARK • CALIFORNIA

Date: June 17, 2005  
To: All Sharon Park Owners  
From: Stephen Fox, Association Manager  
Subject: First Amendment to the Amended & Restated CC&Rs

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Enclosed find your copy of the "First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sharon Park Homeowners Association" recorded on May 5, 2005.

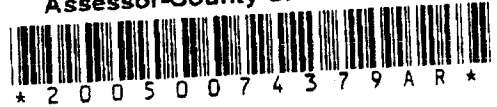
Please keep this copy with your other Association documents in a safe place for later reference or transfer should you decide to sell your Sharon Park home.

SHARON PARK HOMEOWNERS ASSOCIATION

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

LAW OFFICES OF KEVIN D. FREDERICK, ESQ.  
702 MARSHALL STREET, SUITE 620  
REDWOOD CITY, CA 94063  
(650) 365-9800

2005-074379  
02:40pm 05/05/05 DR Fee: 13.00  
Count of pages 3  
Recorded in Official Records  
County of San Mateo  
Warren Slocum  
Assessor-County Clerk-Recorder



FIRST AMENDMENT TO  
AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
SHARON PARK HOMEOWNERS ASSOCIATION

THIS FIRST AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this  
12th day of April, 2005, by SHARON PARK HOMEOWNERS  
ASSOCIATION, a California nonprofit corporation (hereinafter "Association").

*By*

RECITALS

A. On April 12, 1976, a Declaration of Covenants, Conditions and Restrictions  
was recorded at 60190-AJ, Book 7095, page 78 in the Office of the Recorder of San Mateo  
County, for the Association and its members applicable to all that certain real property more  
particularly described as a Resubdivision of Parcel "A" of Resubdivision of Sharon Heights Unit  
No. 9, Menlo Park, San Mateo County, California, which Map was filed in the Office of the  
Recorder of the County of San Mateo, State of California on April 13, 1972, in Book 75 of Maps,  
pages 17 to 22, inclusive.

B. On March 10, 1978, an amendment to the Declaration was recorded at  
Document No. 40527AM in the Office of the Recorder of San Mateo County, State of California.

C. On April 14, 1982, an amendment to the Declaration was recorded at  
Document No. 82034197 in the Office of the Recorder of San Mateo County, State of California.

D. On April 19, 1983, an amendment to the Declaration was recorded at Document No. 83036336 in the Office of the Recorder of San Mateo County, State of California.

E. On April 24, 2002, an Amended and Restated Declaration of Covenants, Conditions and Restrictions was recorded in the Office of the Recorder of San Mateo County, State of California, at Document No. 2002-079999.

F. Association now desires to make a First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions pursuant to Article 13.1, thereof, as hereinafter provided.

NOW, THEREFORE, Association hereby amends and modifies said Amended and Restated Declaration of Covenants, Conditions and Restrictions as follows:

1. Article 6.7 is amended to read as follows:

In Condominiums, it shall be mandatory for all Unit Owners above the first floor to keep all floor areas padded and carpeted, except the kitchen, laundry room and bathrooms. Any Owner who wants to replace carpeting with any other floor covering in these areas must first apply for and receive the prior written approval of the Board. All applications must be in writing. All floor coverings shall meet the minimum noise insulation standards set forth in the most recent edition of the Uniform Building Code and California Building Code. The Board may enact Rules to implement this section, including, but not limited to, design, material and installation requirements and prototypes.

IN WITNESS WHEREOF, this First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions is executed by the President of the Association.

SHARON PARK HOMEOWNERS ASSOCIATION

BY: *Dick Desautel*  
DICK DESAUTEL, President

I hereby certify and declare, under penalty of perjury, that the foregoing Amendment has been approved by the percentage of owners required by the Declaration.

Executed at *Menlo Park*, California, on the *28* day of *April*, 2005.

*Dick Desautel*  
DICK DESAUTEL, President

State of California )  
                                  ) ss.  
County of San Mateo )

On *April 28*, 2005, before me, *Clifford Ross Chernick*, a Notary Public, personally appeared, DICK DESAUTEL, President of SHARON PARK HOMEOWNERS ASSOCIATION personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

*Clifford R. Chernick*



RECORDED AT REQUEST OF  
When Recorded, return to:  
David L. Strong, Esq.  
BRANSON, FITZGERALD & HOWARD  
643 Bair Island Road, Suite 400  
Redwood City, CA 94063  
(415) 365-7710

MEMORANDUM OF SETTLEMENT AGREEMENT AND RELEASE

This is a memorandum of an unrecorded Settlement Agreement, Mutual Release and Covenant Not to Sue (the 'agreement') dated July 31, 1989, entered into by and between SHARON PARK HOMEOWNERS ASSOCIATION, on the one hand, and ALPHA LAND COMPANY, I & D FILE COMPANY, IRVING CASTER, INC. and IRVING CASTER, AIBD (collectively referred to herein as "releasees"), on the other hand, concerning all that certain property and the improvements thereon in the City of Menlo Park, County of San Mateo, State of California, generally referred to as Sharon Park and more specifically described in:

That certain Condominium Map entitled "1200 Sharon Park, Menlo Park, California," filed for record on February 17, 1977, in Maps 94 at pages 3 through 10, inclusive, in the office of the Recorder of the County of San Mateo, State of California.

Including, without limitation, all common areas and individual units contained therein.

For good and valuable consideration, the association released and forever discharged releasees and all persons, firms, associations and/or corporations connected with them of and from any and all known or unknown claims, demands, causes of action and damages which the association had, or might thereafter have, against releasees by reason of any matter, cause or thing arising out of or connected with the Sharon Park project in that

EXHIBIT C

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certain action No. 256780 filed in the Superior Court of the State of California, County of San Mateo, entitled Alpha Land Company v. F & D File Company, et al., and all related cross-actions therein (the "action"), including, without limitation, any and all financing, planning, designing, engineering, development, rehabilitation, renovation, construction, observation, inspection, testing, supervision, recommendation, consultation, approval, performance of services in the design, specification, manufacture, distribution, sale and/or provision of any material, component and/or system at the Sharon Park development, and any and all conversion, ownership, operation, maintenance, use, repair, sale, transfer or conveyance of same, including any representation, misrepresentation and/or omission in connection with any of the above; and any and all claims for incidental, consequential and/or resulting damage therefrom; prosecution of cross-complaints as well as any and all matters raised and/or which could have been raised in the action, or as a result of the action.

For good and valuable consideration, the association also covenanted and agreed never to commence, aid in any way, and/or in any manner to prosecute against releasees any legal action and/or proceeding based in whole or in part upon the above-referenced released claims and/or any repairs and/or maintenance previously or

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Page 3

thereafter performed, not performed, and/or improperly performed by the association or on the association's behalf at Sharon Park.

Due to its length, the agreement itself has not been recorded. However, a copy is available at the offices of the secretary of the association.

The association consented to the recording of this memorandum in the Official Records of the County of San Mateo, State of California. This memorandum is not, nor is it intended to be, a complete summary of the agreement provisions and this memorandum shall not be used in interpreting the provisions of the agreement. In the event of a conflict between this memorandum and the unrecorded agreement, the unrecorded agreement shall control.

Executed this 31<sup>st</sup> day of July, 1989, at Menlo Park, California.

SHARON PARK HOMEOWNERS ASSOCIATION

By *Karen Clementson*

83106729  
83106729  
RECORDED AT REQUEST OF

Approved as to form:

JAMES R. HAGAN, P.J.

By *James R. Hagan*  
James R. Hagan  
Attorney for SHARON PARK  
HOMEOWNERS ASSOCIATION

RF	6
CO	
LN	
MF	1
AT	4
EB	11

1989 AUG 14 P 3:25

WASPEN COUNTY RECORDER  
SAN MATEO COUNTY  
OFFICIAL RECORDS

83106729

State of California  
County of San Mateo } ss.

On this the 31st day of July 1989 before me,

Joan T. Sullivan

the undersigned Notary Public, personally appeared

FLORENCE CLEMENTSON

personally known to me  
 proved to me on the basis of satisfactory evidence  
to be the person(s) who executed the within instrument as  
Secretary or on behalf of the corporation therein

named, and acknowledged to me that the corporation executed it.  
WITNESS my hand and official seal.

Joan T. Sullivan  
Notary's Signature



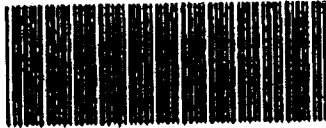
68106729

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Recording requested by:  
WELLS FARGO BANK, N.A.

When recorded return to:

Wells Fargo Bank, N.A.  
Attn: Lien Perfection  
P.O. Box 5140  
Portland, OR 97208-5140



OFFICIAL RECORDS OF SAN MATEO COUNTY  
ASSESSOR-COUNTY CLERK-RECORDER  
WARREN SLOCUM

Recorded at Request of  
FIDELITY NATIONAL TITLE

86-110427 07/14/98 08:00

Recording Fee: 13 BSMELLING

State of California  
FLAG NO. 26671

**SHORT FORM DEED OF TRUST**  
(With Future Advance Clause)

1007700 8001  
18981660815170

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1. **DATE AND PARTIES.** The date of this Short Form Deed of Trust ("Security Instrument") is  
06-30-1998 and the parties are as follows:  
TRUSTOR ("Grantor"):

JOHN M. JULIUS, TRUSTEE OF THE JOHN M. JULIUS AND ERMA L. JULIUS, TRUST  
DATED MAY 24, 1978

whose address is:  
4914 CALVIN AVE TARZANA, CA 91356

TRUSTEE: AMERICAN SECURITIES COMPANY  
18700 NW Walker Rd., Bldg. 92  
Beaverton, OR 97006

BENEFICIARY ("Lender"): WELLS FARGO BANK, N.A.  
18700 NW Walker Rd., Bldg. 92  
Beaverton, OR 97006

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Grantor's performance under this Security Instrument, Grantor irrevocably grants, conveys and sells to Trustee, in trust for the benefit of Lender, with power of sale, all of that certain real property located in the County of SAN MATEO, State of California, described as follows:  
THE LEGAL DESCRIPTION IS ATTACHED HERETO AND MADE A PART HEREOF

with the address of 1290 SHARON PARK DR #48 MENLO PARK, CA 94026  
and parcel number of 111-080-260 together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above.

3. **MAXIMUM OBLIGATION AND SECURED DEBT.** The total amount which this Security Instrument will secure shall not exceed \$125,000.00 together with all interest thereby accruing, as set forth in the promissory note, revolving line of credit agreement, contract, guaranty or other evidence of debt ("Secured Debt") of even date herewith, and all amendments, extensions, modifications, renewals or other documents which are incorporated by reference into this Security Instrument, now or in the future. The maturity date of the Secured Debt is 30 years from the date of the Secured Debt, or such lesser period as may be provided. The Secured Debt is a revolving line of credit.

98-110427

**PARCEL ONE:**

UNIT NO. 48 OF LOT 3, AS DELINEATED UPON THAT CERTAIN MAP ENTITLED, "1200 SHARON PARK, MENLO PARK, CALIFORNIA", FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON FEBRUARY 17, 1977 IN BOOK 94 OF MAPS AT PAGES 3 THROUGH 10.

EXCEPTING THEREFROM ANY PORTION OF THE COMMON AREA LYING WITHIN THE UNIT.

**PARCEL TWO:**

AN UNDIVIDED ONE-SIXTY FOURTH (1/64TH) INTEREST IN AND TO LOT 2 THROUGH 6, INCLUSIVE, AS SHOWN AND DEFINED ON SAID CONDOMINIUM MAP EXCEPTING THEREFROM;

(A) UNITS 24 THROUGH 87 AS SHOWN UPON SAID CONDOMINIUM MAP.

**PARCEL THREE:**

THE EXCLUSIVE EASEMENT TO USE FOR VEHICLE PARKING PURPOSES, THE PARKING SPACE DESIGNATED ON SAID CONDOMINIUM MAP, THE BALCONY AREA DESIGNATED ON SAID CONDOMINIUM MAP. THE STORAGE AREA DESIGNATED ON SAID CONDOMINIUM MAP; AND

**PARCEL FOUR:**

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER LOT 1, AS SHOWN ON CONDOMINIUM MAP; AND

**PARCEL FIVE:**

THE RIGHT TO USE, OCCUPY AND ENJOY THE RECREATIONAL FACILITIES AND LANDSCAPED PORTIONS OF LOT 1, AS SHOWN ON CONDOMINIUM MAP; AND

**PARCEL SIX:**

THE RIGHT TO USE PUBLIC SEWERS, SEWERS DISPOSAL SYSTEMS, STORM WATER DRAINS, LAND DRAINS AND PIPES, WATER SYSTEMS, SPRINKLING SYSTEMS, WATER HEATING AND GAS LINES OR PIPES, AND ANY ALL EQUIPMENT IN CONNECTION THEREWITH.

When Recorded return to:

PML Management Corporation  
655 Mariners Island Blvd. #301  
San Mateo, CA 94404



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**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
SHARON PARK HOMEOWNERS ASSOCIATION**

If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
SHARON PARK HOMEOWNERS ASSOCIATION**

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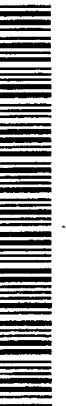
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**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
SHARON PARK HOMEOWNERS ASSOCIATION**

**INTRODUCTION**

This amended and restated Declaration, made on the date hereinafter set forth, pursuant to the affirmative vote of at least fifty-one percent (51%) of the total voting power of the Association, is made with reference to the following facts:

1. The Association and its Members are the Owners of certain Property located in the City of Menlo Park, County of San Mateo, State of California that is more particularly described in Exhibits "A" and "B" to the Plan.

2. Covenants, conditions and restrictions have previously been imposed upon the Property as recorded on April 12, 1976 in Book 7095, page 78 of the Official Records of San Mateo County, California as Document No. 60190-AJ; and Amendments on March 10, 1978 as Document No. 40527AM, on April 14, 1982 as Document No. 82034197, and on April 19, 1983 as Document No. 83036336, all recorded in the Official Records of San Mateo County, California.

NOW, THEREFORE, Association hereby declares that the Property shall continue to be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the prior declarations and to these covenants, conditions and restrictions, all of which are imposed as equitable servitudes pursuant to a general plan for the purpose of improving and protecting the value and attractiveness of the Property, and every part thereof. All of these covenants, conditions and restrictions, including the prior declarations, shall constitute covenants which shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in or to any part of the Property.

**ARTICLE I  
DEFINITIONS**

1.1 "Articles" shall mean the Articles of Incorporation of SHARON PARK HOMEOWNERS ASSOCIATION and amendments.

1.2 "Assessment" shall mean any annual, capital, special or reimbursement assessment made or assessed by the Association against an Owner.

1.3 "Association" shall mean the SHARON PARK HOMEOWNERS ASSOCIATION, its successors and assigns, incorporated as a non-profit corporation under the laws of the State of California.

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

1.5 "Budgeted Gross Expenses" shall mean the total operating expense contained in the annual budget of the Association for the year in question, excluding expenditures budgeted to be paid from the Association's reserve funds.

1.6 "Bylaws" shall mean the Bylaws of the Association and amendments.

1.7 "Common Area" shall mean that portion of the Property not included in Units or Townhouses as defined in this Declaration and as shown in the Plan.

1.8 "Condominium" shall mean a building, which contains Units.

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1.9. "Unit interest" shall mean an estate in real property, as defined in California Civil Code §§783 and 7851(f), consisting of an undivided interest as a tenant in common in the Common Area, together with a separate fee interest in a Unit and any other separate interests in the real property as described in this Declaration, in the Plan, or in the deed conveying the Unit Interest. Unit Interest does not include any interests that are less than estates in real property, such as exclusive and nonexclusive easements.

1.10. "Declarant" shall mean SHARON PARK HOMEOWNERS ASSOCIATION and all its successors and assigns.

1.11. "Declaration" shall mean this Declaration, as amended or added to from time to time.

1.12. "Exclusive Use Common Area" shall mean that portion of the Common Area that is reserved for the exclusive use of Owners of Units as described in Section 2.4. Each such Exclusive Use Common Area shall be appurtenant to the Owner's Unit and may not be conveyed or transferred apart from the Unit. The boundaries or location of and limitations on the Exclusive Use Common Area are described in the Plan. Except as expressly provided in this Declaration, no other portion of the Property is an Exclusive Use Common Area. The Association, acting on behalf of all Unit Interest Owners may reserve to Unit Interest Owners in the name of all Unit Interest Owners as their attorney-in-fact (or in the name of the Association for any property to which the Association holds title) Exclusive Use Common Areas for any purpose not inconsistent with the rights of other Unit Interest Owners under this Declaration.

1.13. "Governing Documents" shall mean this Declaration, the Bylaws, the Articles of Incorporation and any amendments, restatements, modifications and/or supplements and any rules, regulations, resolutions and decisions adopted by the Board or Association.

1.14. "Townhouse" shall mean lots 1-23 in block 1 as shown and described in Exhibit B to the Plan.

1.15. "Member" or "Members" shall mean an "Owner" or "Owners".

1.16. "Mortgage" shall mean a deed of trust as well as a mortgage.

1.17. "Mortgagee" shall mean a beneficiary under, or holder of, a deed of trust as well as a mortgagee.

1.18. "Owner" or "Owners" shall mean the record holder, whether one (1) or more persons or entities, of a fee simple title to any Unit or Townhouse, but excluding those persons or entities having an interest merely as security for the performance of an obligation. If a Unit or Townhouse is sold under a contract of sale and the contract is recorded, the purchaser, rather than the fee owner, will be considered the "Owner" from and after the date the Association receives written notice of the recorded contract.

1.19. "Plan" refers to certain maps that describe the real property owned by the Association or the Members entitled as follows:

- A. "**1200 SHARON PARK CONDOMINIUMS**" filed in the Office of the Recorder of San Mateo County, California, on February 17, 1977, in Volume 94 of maps at pages 3 through 10, Exhibit "A".
- B. "**RESUBDIVISION OF PARCEL "A" OF RESUBDIVISION OF SHARON HEIGHTS UNIT NO. 9**", filed in the Office of the Recorder of San Mateo County, California, on April 13, 1972 in Volume 75 of maps at pages 17 through 22, with the exception of the Common Area and Units, Exhibit "B".

1.20. "Property" shall mean all the real property described in the Plan and all improvements thereon, subject to the Governing Documents.

1.21. "Unit" shall mean Units 24-87 as shown on the Plan (Exhibit A) and shall mean the elements of a Condominium that are not owned in common with the other owners of Unit Interests in the Property; such

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Units and their respective boundaries being shown and particularly described in the Plan, deeds conveying Unit Interests, and this Declaration. Wherever reference to a Unit is made in this Declaration, in the Plan, in any deed, or elsewhere, it shall be presumed to refer to the Unit as a whole, including each of its component elements, unless the context otherwise requires. The boundaries of a Unit are: (1) the interior unfinished surfaces (exclusive of paint, paper, wax, tile, enamel or other finishing) of its floors and ceilings at their respective elevations as shown on the Plan, and (2) the interior unfinished surfaces (exclusive of paint, paper, wax, tile, enamel, or other finishing) of its perimeter walls, windows and window frames, doors and door frames, and trim. To the extent that the following are located inside its perimeter, the Unit includes space and water heating equipment, ducts, flues, pipes, conduits, wires and other utility installations, and excludes bearing wall and structural frame work to their unfinished surfaces. Each Unit includes both the portions of the building so described and the air space. In interpreting deeds and plans, the physical boundaries of a Unit or of a Unit reconstructed in substantial accordance with the Plan existing at the time such deeds and plans are being interpreted shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Plan, regardless of minor variance between boundaries shown on the plan or in the deed and such physical boundaries and regardless of settling or lateral movement of the building.

1.22 "Unit No. 9" shall mean the Sharon Heights Unit No. 9 Association as created by that certain declaration recorded in the Office of the Recorder of San Mateo County, California on April 20, 1965, in volume 4936 at pages 687 to 704.

## **ARTICLE II** **THE PROPERTY**

2.1 Property Subject to Declaration. All of the real property described in the Plan is hereby declared to be subject to this Declaration.

2.2 Owners' Nonexclusive Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Areas within the Property (other than portions thereof which are Exclusive Use Common Areas of other Owners), including ingress and egress to and from his or her Unit or Townhouse, which shall be appurtenant to and shall pass with the title to every Unit or Townhouse, subject to the following rights and restrictions:

A. The right of the Association to assign, rent, license, lease, charge reasonable admission and other fees for, and to otherwise designate and control the use of any unassigned parking and storage spaces within the Common Area and to charge reasonable admission and other fees or to limit the number of guests of Members who may use any recreational common facilities;

B. The right of the Association to adopt reasonable rules and regulations governing the use, maintenance and administration of the Common Area and for the health, comfort, safety and general welfare of persons using the Common Area; and

C. The right of the Association to borrow money for the purpose of improving the Common Area, including common facilities, and to Mortgage said Property; provided, however, that the rights of any Mortgagee in the properties shall be subordinate to the rights of the Owners; and further provided that any indebtedness shall be considered an obligation of the Association (and not an obligation of any individual Owner) for all purposes, including the purposes of the special Assessment provisions stated herein.

2.3 Persons Subject to Governing Documents. All present and future Owners, tenants, guests, and occupants of Units or Townhouses within the Property shall be subject to, and shall comply with, each and every provision of the Governing Documents, as they shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons (i.e., Owners, tenants, etc.). The acceptance of a deed to any Unit or Townhouse, the entering into a lease, sublease or contract of sale with respect to any Unit or Townhouse, or the occupancy of any Unit or Townhouse shall constitute the consent and agreement of such Owner, tenant, guest or occupant that

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each and all of the provisions of this Declaration, as may be amended from time to time, shall be binding upon said person and that person will observe and comply with the Governing Documents.

2.4 Condominium Easements. There is reserved for the benefit of each Unit, an exclusive right of use to parking, balcony and storage areas that have been assigned, as shown on the Plan, as exclusive easements for the use and enjoyment of each Unit, to which the entire Property shall be subject.

2.5 Minor Encroachment Easement. There is reserved for the benefit of each Unit or Townhouse, an easement of maintenance and use, to which the Property shall be subject, for any and all encroachments resulting from roof, balcony, patio or deck overhangs, and any other causes attributable to the design and construction of structures and any and all encroachments resulting from construction errors, lateral shifting or settlement or any other similar cause and any and all encroachments resulting from construction of sewer, water and electrical lines and other utilities.

2.6 Recreational Use Easement. There is reserved for the benefit of each Unit or Townhouse an easement, in common with all other Units and Townhouses, for access to, and use and enjoyment of, any and all common facilities, subject to the Governing Documents.

2.7 Easements for Utilities. There is reserved for the benefit of each Unit or Townhouse, an easement over, under and through each residence Unit or Townhouse and the Common Area for installation, maintenance and repair of each and every utility service, including but not limited to, sewage, water, electricity, gas, telephone, television service, cables, lines, and computer services for the Property.

2.8 Easements for Maintenance and Repair. There is reserved for the benefit of each Unit or Townhouse, an easement for maintenance and repair of any Unit or Townhouse pipes, vents, outlets, wires, cables, or other structures serving another or more than one Unit or Townhouse. The Owner of each Unit or Townhouse so served shall have and enjoy a perpetual easement to the maintenance, repair and use of any such pipe, vent, outlet, wire, cable, or other structure.

2.9 Maintenance, Painting and Nonstructural Repair.

**A. Both Condominiums and Townhouses.**

The Association shall maintain, paint, and make nonstructural repair of the exterior surfaces of the Condominiums and the Townhouses, as it shall deem necessary, including but without limitation, replacement of trim, caulking, repairs of the roof covers, painting of fences, and other miscellaneous repairs not of a structural nature. In addition, the Association will make all necessary structural repairs to the Condominiums. In the event that the need for maintenance or repair is caused through the willful or negligent act of an Owner, his or her family, guests or invitees, the cost of such maintenance or repairs shall be a charge to said Owner.

An Owner is responsible to other Owners or the Association for both the direct and consequential damages arising from such Owner's failure to meet its maintenance obligations under this Declaration (e.g., termite damage caused by a Townhouse Owner not taking action to destroy infestations in his or her own Townhouse).

**B. Condominiums.**

Such exterior maintenance shall not include glass surfaces other than those that are part of the Common Area in the Condominiums.

**C. Townhouses.**

Such exterior maintenance shall not include glass surfaces, patios and deck surfaces. Townhouse Owners are responsible for structural repair of such things as wooden beams supporting the roof and for repair of termite damage to structural elements of the building.

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2.0 Public Agency Access. There is reserved for the benefit of all law enforcement, fire protection, welfare, other related public or county agencies, public utilities, and their vehicles and personnel, an easement for ingress and egress through the Common Area.

2.1 Rights of Entry and Use: The Units or Townhouses and Common Area shall be subject to the following rights of entry and use:

A. The right of the Association's agents to enter any Unit or Townhouse to cure any violation of the Governing Documents, provided that the Owner has received notice and hearing as required by the Bylaws (except in the case of an emergency) and the Owner has failed to cure the violation or to take steps necessary to cure the violation within thirty (30) days after the finding of a violation by the Association;

B. The right to access by the Association's agents to maintain, repair or replace improvements to Property located in the Common Area;

C. The right of the Association's agents to enter any Unit or Townhouse to perform maintenance as required by this Declaration; and

The right of the Association to enter any Unit or Townhouse is restricted to reasonable times and must be preceded by reasonable notice of not less than twenty-four (24) hours to the occupant, unless entry is required by an emergency.

2.12 Partition of Common Area. There shall be no subdivision or partition of the Common Area, nor shall any Owner seek any partition or subdivision. Notwithstanding any provisions to the contrary contained in this Declaration and in order to provide for a means of disbanding the Association in accordance with laws of the State of California if this should become necessary or desirable, on occurrence of any of the conditions allowing an Owner of a Unit or Townhouse to maintain an action for partition (as such conditions are presently set forth in California Civil Code Section 1359 or as such conditions in the future may be set forth in any amendment thereto or comparable provisions of law), two-thirds (2/3) of the Owners of Units and two-thirds (2/3) of the Owners of Townhouses shall have the right to petition the Superior Court having jurisdiction over the Property to (a) alter or vacate the recorded map of the Property under California Government Code Section 66499.21 et seq., or any comparable provisions of law, (b) vest title to the Property in Owners as tenants in common, and (c) order an equitable partition of the Property in accordance with the laws of the State of California. Nothing herein shall be construed to prohibit partition of a joint tenancy or co-tenancy in any Unit or Townhouse.

### **ARTICLE III**

### **MEMBERSHIP AND VOTING RIGHTS**

3.1 Membership. The Owner of a Unit or Townhouse shall automatically, upon becoming an Owner, become a Member of the Association and shall remain a Member until such time as the ownership ceases for any reason. Membership shall be appurtenant to and shall not be separated from ownership of a Unit or Townhouse. Membership shall be held in accordance with the Governing Documents of the Association. A Mortgagee does not have membership rights until it obtains title to the Unit or Townhouse by foreclosure or deed in lieu. Any attempt to make a prohibited transfer is void. No Member may resign his or her membership. Upon notice of a transfer of title to a Unit or Townhouse, the Association shall record the transfer on its books.

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

3.3 Voting. At any meeting of the Members, each of the Owners shall be entitled to cast one vote for each Unit or Townhouse owned by him or her. When more than one (1) person holds an interest in any Unit or Townhouse, all such persons shall be Members. The vote for such Unit or Townhouse shall be

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exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit or Townhouse.

## **ARTICLE IV POWERS AND DUTIES OF THE ASSOCIATION**

4.1 Duties. In addition to the duties enumerated in its Governing Documents and without limiting the generality thereof, the Association shall perform the following duties:

A. Powers Generally. The Association shall have the responsibility of managing and maintaining the Common Areas 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 non profit 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 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. The Association 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;

B. Association as Attorney-in-Fact for Owners. Without limiting the generality of the foregoing, the Association is hereby irrevocably appointed as the attorney-in-fact for the Owners of each and every Unit or Townhouse to (1) manage, control and deal with the interest of such Owners in the Common Area so as to permit the Association to fulfill all of its duties and obligations and to exercise all of its rights; (2) make decisions regarding Association assets upon their destruction or obsolescence; and (3) deal with and handle insurance and insurance proceeds, and condemnation and condemnation awards, as provided hereunder. The acceptance by any person or entity of any interest in any Unit or Townhouse shall constitute an appointment of the Association as the Owner's attorney-in-fact;

C. Assessments. The Association shall fix, levy, collect, and enforce Assessments;

D. Budget. The Association shall prepare an annual budget.

E. Discharge of Liens. The Association shall discharge by payment, if necessary, any lien against the Common Area, and charge the cost to any Member or Members responsible for the existence of the lien after notice and a hearing, as provided in the Governing Documents;

F. Insurance. The Association shall maintain such policy or policies of insurance as are required by the Governing Documents;

G. Payment of Expenses. The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

H. Utilities. The Association shall pay for water, sewage, garbage, electrical, gas, telephone and other necessary utility service for the Common Area and (to the extent not separately metered or charged) for the Units and Townhouses.

4.2 Powers. In addition to the powers enumerated in its Governing Documents and without limiting the generality thereof, the Association shall have the following powers:

A. Access. For the purpose of performing construction, maintenance, or emergency repair for the benefit of the Common Area or the Owners in common, the Association's agents or employees shall have the right to enter any portion of the Common Area and, after reasonable notice (not less than seventy-two (72) hours except in emergencies) to the Owner, to enter any Unit or Townhouse or at

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reasonable hours. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused shall be repaired at the Association's expense;

B. Acquisition and Disposition of Property. The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Association. Any transfer of Common Area shall be approved by a two-thirds (2/3) majority of the total voting power of the Association;

C. Adoption of Rules. The Board for the Association may adopt reasonable rules not inconsistent with this Declaration relating to the use of the Common Area and all facilities thereon and the conduct of Owners and their tenants and guests with respect to the Property and other Owners;

D. Appointment of Trustee. The Association, or the Board acting on behalf of the Association, has the power to appoint or designate a trustee to enforce Assessment liens by sale as provided in this Declaration and Civil Code Section 1367(b);

E. Assessments, Liens and Fines. The Association shall have the power to levy and collect Assessments in accordance with the Governing Documents. The Association may impose fines or take disciplinary action against any Owner for failure to pay Assessments or for violation of any provision of the Governing Documents. Penalties may include but are not limited to: fines, temporary suspension of voting rights and/or rights to use the recreational facilities, or other appropriate discipline, provided the Member is given notice and a hearing by the Board of Directors prior to the imposition of any fine or disciplinary action;

F. Contracts. The Association shall have the power to contract for goods and/or services for the Common Area and interests of the Association, subject to the limitations of the Governing Documents;

G. Delegation. The Association, through the Board, shall have the power to delegate its authority and powers to committees, officers, or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility:

(1) To make expenditures for capital additions or improvements chargeable against the funds reserved therefore;

(2) To conduct hearings or authorize the taking of enforcement action concerning compliance by an Owner or his tenant, lessee, guest, or invitee with the Governing Documents;

(3) To make a decision to levy monetary fines, impose special Assessments against individual Units or Townhouses, temporarily suspend an Owner's rights as a Member of the Association, or otherwise impose discipline;

(4) To make a decision to levy regular or special Assessments; or

(5) To make a decision to bring suit, record a claim of lien, or institute foreclosure proceedings for default in payment of Assessments.

H. Easements. The Association shall have the authority, by a majority of the total voting power of the Association, to grant easements in addition to those shown in the Plan, where necessary for utilities, cable television, sewer facilities, water, electricity, gas, telephone, television service, cables, lines, and computer services over the Common Area to serve the Common Area and the Units or Townhouses;

I. Enforcement. The Association shall have the authority to enforce the Governing Documents;

J. Inspection of Association Books and Records. Any Owner, or that Owner's duly appointed representative, shall have access to the Association's membership register, books of account, and

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minutes (except executive session minutes) from any meeting of the Owners, the Board, or any committee or or appointed by the Board in order to inspect and copy such records for any purpose reasonably related to his or her interest as an Owner. Access shall be at any reasonable time at the office of the Association or such other place within the Property as the Board prescribes. The Board shall establish rules regarding the notice the Owner must give to the custodian of the records to obtain access, the hours and days of the week when the records may be inspected and copied, and the charges imposed by the Association for copying records requested by the Owner. Any Member of the Board may, without charge, at any reasonable time inspect, copy, or make extracts of any books, records, and documents of the Association and inspect the physical properties owned or controlled by the Association;

K. Limitations on Authority of Board or Association. The Board shall not take any of the following actions except with the assent, by vote at a meeting of the Association or by written ballot without a meeting, pursuant to Corporations Code Section 7513, of a simple majority of the Members constituting a quorum consisting of more than 50 percent of the voting power of the Association:

(1) Incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the Budgeted Gross Expenses of the Association for that fiscal year;

(2) Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the Budgeted Gross Expenses of the Association for that year;

(3) Pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business, provided that the Board may reimburse a Board member for expenses incurred in carrying on the business of the Association; or

(4) Enter into a contract with a third person to furnish goods or services for the Common Area or the Association for a term longer than one (1) year, with the following exceptions:

a. A management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration;

b. A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission, provided the term does not exceed the shortest term for which the supplier will contract at the regulated rate;

c. Prepaid casualty or liability insurance policies not to exceed three year's duration provided the policy permits for short rate cancellation by the insured;

d. Agreements for cable television services and equipment or satellite dish television services and equipment not exceeding five (5) years' duration;

e. Agreements for sale or lease of burglar alarm and fire alarm equipment, installation, and services not exceeding five (5) years' duration; and

f. A contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause, penalty, or other obligation on 90 days' written notice of termination to the other party.

L. Limitation on Liability of Officers and Directors. No director, officer, committee member, employee, or other agent of the Association, shall be liable to any Owner or any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of any such person if such person has acted in good faith and in a manner such person reasonably believed to be in the best interests of the Association;

M. Loans. The Association shall have the power to borrow money to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred only with the assent (by vote or written consent) of a majority of the total voting power of the Association;

N. Manager. The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties

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and responsibilities of the Association, except for the responsibility to levy fines, impose discipline, hold hearings, file suit, record or foreclose liens, or make capital expenditures, provided that any contract with a firm or person appointed as a manager or managing agent shall not exceed a one (1) year term, and shall provide for the right of the Association to terminate the same upon sixty (60) days' written notice;

O. Use of Recreational Facilities. The Association shall have the power to limit the number of an Owner's tenants or guests who may use the recreational facilities after notice and hearing;

P. Other Powers. In addition to the powers contained herein, the Association may exercise the powers granted to a nonprofit mutual benefit corporation under California Corporations Code Section 7149.

## **ARTICLE V ASSESSMENTS**

5.1 Creation of the Lien and Personal Obligation of Assessments. All Assessments, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall be a charge to the Unit or Townhouse and shall be a continuing lien upon the Unit or Townhouse against which each such Assessment is made, the lien to become effective upon recordation of a notice of delinquent Assessment pursuant to Section 5.12 hereof. Each Assessment, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Unit or Townhouse at the time when the Assessment fell due. Each Owner of any Unit or Townhouse, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees: (1) to pay to the Association annual Assessments or charges, and special Assessments, such Assessments to be established and collected as provided herein; and (2) to allow the Association to enforce any Assessment lien by nonjudicial proceedings under a power of sale or by any other means authorized by law. No Owner shall be exempt from liability for payment of Assessments by waiver of the use or enjoyment of any of the Common Area or by the abandonment of the Owner's Unit or Townhouse

5.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the economic interests, recreation, health, safety, and welfare of all the Members in the Association, and to provide insurance, improvement, replacement, protection and maintenance of the Common Area for the common good of the Property.

5.3 Annual Assessment. The Board shall establish and levy annual Assessments in an amount that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year.

A. The annual Assessment shall include a portion for reserves in such amounts as the Board in its discretion considers appropriate to meet the costs of the future replacement or addition to the Property.

B. Reserve funds shall be deposited in separate accounts and the signatures of at least two (2) persons who shall be members of the Board shall be required to withdraw monies from the reserve accounts. Reserve funds may not be expended for any purpose other than replacing, restoring, maintaining or adding to the Property, except with the consent of Owners holding a majority of the voting power.

5.4 Special Assessments: The Board, at any time, may levy a special Assessment in order to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or such other purposes as the Board in its discretion considers appropriate. Special Assessments shall be allocated among the Units or Townhouses in the same manner as annual Assessments, except in the case of an Assessment levied by the Board against a Member to reimburse the Association for costs incurred in bringing the Member and his Unit or Townhouse into compliance with provisions of the Governing Documents ("Reimbursement Assessment").

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5.5 Special Assessment for Capital Improvements. In addition to the annual Assessments authorized above, the Association may levy, in any fiscal year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such Assessment shall have the vote or written assent of fifty-one percent (51%) of the vote of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Any action authorized under this section 5.5 which requires a vote of the membership shall be taken at a meeting called for that purpose. Written notice of the meeting shall be personally delivered or sent to all Members not less than ten (10) nor more than ninety (90) days in advance of the meeting specifying the place, day, and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken. The action may also be taken without a meeting by written ballot pursuant to the provisions of California Corporations Code Section 7513. For the purposes of this section, quorum means more than fifty percent (50%) of the Owners.

5.6 Restrictions on Annual or Special Assessments: The Board may not impose an annual Assessment on any Unit or Townhouse which is more than twenty percent (20%) greater than the annual Assessment for the immediately preceding fiscal year or levy a special Assessment which in the aggregate exceeds five percent (5%) of the Budgeted Gross Expenses of the Association for that fiscal year, without the vote or written assent of Members casting a majority of the votes at a meeting of the Association at which a quorum is present. For purposes of this section, a "quorum" means more than fifty percent (50%) of the Members of the Association. Any meeting of the Association for purposes of complying with this section shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code, which authorizes voting by proxy. However, the Board, without membership approval, may increase annual Assessments or levy special Assessments necessary for an emergency situation. For purposes of this section, an emergency situation is one of the following:

- A. An extraordinary expense required by an order of a court;
- B. An extraordinary expense necessary to repair or maintain the Property or any part of it for which the Association is responsible where a threat to personal safety or an imminent threat to the Property is discovered; or
- C. An extraordinary expense necessary to repair or maintain the Property or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the proforma operating budget, provided, however, that prior to the imposition or collection of the Assessment, 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 and the resolution shall be distributed to the Members with the notice of the Assessment. This section incorporates the statutory requirements of Civil Code Section 1365(b). If this section of the Civil Code is amended in any manner, this section automatically shall be amended in the same manner without the necessity of amending this Declaration.

5.7 Division of Assessments. Each Assessment levied upon any Unit Interest Owner imposed in order to pay for expenses or improvements to the Condominiums shall be equal to the Assessment levied upon all other Unit Interest Owners and shall be used exclusively for the expenses or improvements to the Condominiums. Each Assessment levied upon any Townhouse Owner imposed in order to pay for expenses or improvements to the Townhouses shall be equal to the Assessments levied upon all Townhouse Owners and shall be used exclusively for the expenses or improvements to of the Townhouses. The Assessments to pay for expenses or improvements to the Common Area and Unit No. 9 shall be levied equally among all Unit Interest Owners and Townhouse Owners. Reimbursement Assessments shall be levied in accordance with section 5.4 hereof.

5.8 Annual Assessment: Due Date. The Board shall use its best efforts to fix the amount of the annual Assessment against each Unit or Townhouse and send written notice to every Owner at least thirty

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(30) and no more than sixty (60) days prior to the commencement of each fiscal year of the Association, provided that failure to comply with the foregoing shall not affect the validity of any Assessment levied by the Association. Each Owner shall be obligated to pay annual Assessments in equal monthly installments on or before the first day of each month commencing with the first month of the applicable fiscal year, or in such other reasonable manner as the Board shall determine. Special Assessments may be collected in one (1) payment or in installments as the Board shall determine to be reasonable.

5.9 Effect of Nonpayment of Assessments. Any Assessment, or any monthly installment of an annual Assessment, shall be delinquent on the last day of the month in which it is due. Delinquent amounts shall bear interest at the maximum rate allowed by law commencing with the date upon which it becomes delinquent until paid, and shall be subject to a late payment penalty equal to the greater of \$10.00 or ten percent (10%) of the delinquent amount.

5.10 Transfer of Unit or Townhouse by Sale or Foreclosure. Sale or transfer of any Unit or Townhouse shall not affect the validity, enforceability or priority of any Assessment lien, except that the sale of any Unit or Townhouse pursuant to foreclosure of a first Mortgage shall extinguish the lien of such Assessments (including attorney's fees, late charges, or interest) as to payments that became due prior to such sale or transfer except for Assessment liens recorded prior to the Mortgage. No sale or transfer (including a sale or transfer pursuant to foreclosure) shall relieve the owner of a Unit or Townhouse from liability for any Assessments becoming due or from a lien arising subsequent to such sale or transfer. With respect to the foregoing:

A. No person acquiring title to a Unit or Townhouse as a result of a foreclosure by the holder of a first Mortgage, its successor and assigns, shall be liable for any Assessments chargeable to the Unit or Townhouse which became due prior to the effective date of the foreclosure sale, except for Assessments covered by any Assessment lien with priority over the subject Mortgage. No amendment to the preceding sentence may be made without the consent of (1) Owners of Units or Townhouses to which at least sixty-seven percent (67%) of the votes in the Association are allocated, and (2) first Mortgage holders holding first Mortgages on Units or Townhouses comprising fifty-one percent (51%) of the Units or Townhouses subject to first Mortgages. Such unpaid Assessments shall be deemed to be common expenses collectible from all of the Unit or Townhouse Owners including the acquirer, his successors or assigns.

B. In any transfer of a Unit or Townhouse, a grantor shall remain liable to the Association for all unpaid Assessments against the Unit or Townhouse up to the date of the transfer. The grantee shall be entitled to a statement from the Association dated as of the date of transfer, setting forth the amount of the unpaid Assessments against the grantor due the Association, and the Unit or Townhouse transferred shall not be subject to a lien for the unpaid Assessments in excess of the amount set forth in the statement, provided, however, the grantee shall be liable for any such Assessments that become due after the date of the transfer.

5.11 Priorities, Enforcement, Remedies. If an Assessment is delinquent, the Association may record a notice of delinquent Assessment that shall establish a lien against the Unit or Townhouse of the delinquent Owner as provided in Section 5.1. Such lien shall be prior and superior to all other liens except (1) all taxes, bonds, Assessments, and other levies which, by law, are superior, and (2) the lien of any first Mortgage of record (meaning any recorded Mortgage or deed of trust with first priority over other Mortgages or deeds of trust) made in good faith and for value and recorded prior to recording of the notice by the Association. The notice of delinquent Assessment shall state the amount of the Assessment, collection costs, attorney's fees, late charges, and interest, a description of the Unit or Townhouse against which the Assessment and other sums are levied, the name of the record Owner, and the name and address of the trustee authorized by the Association to enforce the lien by sale. Any officer of the Association or any management agent retained by the Association shall sign the notice.

A. An Assessment 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 California Civil Code Section 2934(a). Any sale shall be conducted in accordance

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with the provisions of Sections 2924, 2924b, 2924c, 2924f, 2924g, and 2924h of the California Civil Code, or any successor statutes, applicable to the exercise of powers of sale in Mortgages, or in any other manner permitted by law. Nothing herein shall preclude the Association from bringing an action directly against an Owner for breach of the personal obligation to pay Assessments. Suit to recover a money judgment for unpaid common expenses, rent, and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

B. Fines and penalties for violation of Association rules and regulations are not Assessments, and are not enforceable by Assessment lien.

C. The Association, acting on behalf of the Unit or Townhouse Owners, shall have the power to bid for the Unit or Townhouse at foreclosure sale, and to acquire and hold, lease, Mortgage, and convey the same. Where such a purchase of a Unit or Townhouse will result in a five- percent (5%) or greater increase in Assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Association. During the period a Unit or Townhouse is owned by the Association following foreclosure: (1) no right to vote shall be exercised on behalf of the Unit or Townhouse; (2) no Assessment shall be assessed or levied on the Unit or Townhouse; and (3) each other Unit or Townhouse shall be charged, in addition to its usual Assessment, its share of the Assessment that would have been charged to such Unit or Townhouse had it not been acquired by the Association as a result of foreclosure.

D. After acquiring title to the Unit or Townhouse at foreclosure sale, the Association may execute, acknowledge, and record a deed conveying title to the Unit or Townhouse which deed shall be binding on the Owners, successors, and all other parties.

E. The Board may temporarily suspend the voting rights and the right to use recreational facilities of a Member who is in default in payment of any Assessment, after notice and hearing, as provided in the Bylaws.

5.12 Unallocated Taxes. If any taxes are assessed against the Common Area, or the personal property of the Association, rather than against the Units or Townhouses, such taxes shall be included in the Assessments. If necessary, a special Assessment may be levied against the Units or Townhouses in an amount equal to said taxes, to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

## ARTICLE VI USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the Property and each Unit or Townhouse therein is subject to the following:

5.13 Antennae. There shall be no individually owned outside television or radio antennas constructed, installed or maintained on the Common Area. Satellite antennas, satellite dishes, off-the-air television antennas, multipoint distribution service (MDS) antennas, direct broadcast satellite (DBS) receiving devices, transmission only antennas, or other communication systems, and necessary masts, less than one meter in length and/or diameter are permitted within Units (including Exclusive Use Common Areas) and Townhouses. Individual antennae or masts are not permitted in or on the Common Area. In Condominiums, antennas or masts cannot extend beyond the Exclusive Use Common Area into the Common Area airspace. Screening of these devices may be required by the Association to minimize visual intrusion.

5.14 Awnings or Screening Materials. No awnings or screening material of any kind shall be installed, constructed or placed on any building or in or on the balconies or decks of any Unit without the prior written consent of the Association. The Association has the right to specify the materials to be used for any awnings or screens approved.

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6.3 Buildings. No outbuilding, basement, tent, shack, garage, trailer, shed or temporary building of any kind shall be used temporarily or permanently as a residence.

6.4 Common Area. Nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Association.

6.5 Construction Work: Condominiums. In Condominiums, construction or repair workers shall not interfere with normal use of elevators, hallways or stairways. The Association shall have the right to establish rules and regulations governing the scheduling and specifying the times during which construction work may be performed.

6.6 Dividers. No fence, hedge, wall or other dividing instrumentality over six (6) feet in height measured from the ground on which it stands shall be constructed or maintained on any Unit or Townhouse without the prior written consent of the Association.

6.7 Floor Areas: Condominiums. In Condominiums, it shall be mandatory for all Unit Owners above the first floor to keep all floor areas padded and carpeted, except the kitchen and laundry rooms.

6.8 Parking Spaces. Each Unit Owner shall keep his or her parking spaces in a neat and orderly condition.

6.9 Garbage. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any Unit or Townhouse or Common Area except in sanitary containers located in an appropriate area screened and concealed from view.

6.10 Guests. The Association shall have the right to limit the number of Owners guests who may use the recreational facilities.

6.11 Sales. Garage sales, estate sales and the like require advance Board approval.

6.12 Hallways: Condominiums. Nothing shall be placed or stored in the halls, stairways or landings of Condominiums without prior written consent of the Board.

6.13 Landscape. No Owner shall paint, decorate, remodel, alter, add to, landscape or adorn any part or parcel of the Common Area, nor paint, decorate, remodel, alter, or add to the exterior walls or surfaces or roof of any building or other structure without the prior written approval of the Association. No Owner shall alter the landscaping within the Common Area without the prior written approval of the Association.

6.14 Leasing. No Owner shall be permitted to lease less than all of his or her Unit or Townhouse. No Unit or Townhouse shall be leased or rented for less than a one-year period. Any lease or rental agreement shall be in writing and shall be subject to and incorporate the Governing Documents. Each lease shall provide that any failure of the tenant to comply with the Governing Documents shall be a default under the lease. In the event of any such default, the Owner immediately shall take all action to cure the default in compliance with the Governing Documents including, if necessary, eviction of the tenant. All Owners leasing their Units or Townhouses shall promptly notify the Association in writing of the names of all tenants and members of tenant's family occupying such Unit or Townhouse and of the address and telephone number where such Owner can be reached.

Any Unit or Townhouse acquired in any fashion by a new Owner after the adoption of this restated Declaration shall not be rented or leased by the purchaser(s) thereof, unless the total number of Units or Townhouses then rented or leased is less than twenty percent (20%) of the total number of Units or twenty percent (20%) of the total number of Townhouses on the property respectfully. The Board shall have the power to enact rules to implement this paragraph, including exceptions due to special circumstances, and to adopt changes as required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

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6.15 Maintenance of Condominiums. Each Owner of a Unit shall be responsible for maintaining his Unit, including the equipment and fixtures in the Unit and the interior walls, ceilings, windows and doors of the Unit in a clean, sanitary, workable, and attractive condition.

6.16 Noxious Activities. No noxious, illegal, or seriously offensive activities shall be carried on, in or upon any Unit or Townhouse, or in any part of the Property, nor shall anything be done thereon which may be or may become a serious annoyance or nuisance to, or which may in any way interfere with, the quiet enjoyment of an Owner's Unit or Townhouse or which shall in any way increase the rate of any policy of insurance on the Property or cause any insurance policy to be canceled or cause a refusal to renew the same, or which will impair the structural integrity of any building.

6.17 Painting. No Unit or Townhouse Owner shall repaint any part of the exterior of his or her residence without receiving the prior written consent of the Association.

6.18 Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or Townhouse or the Common Area, other than usual and ordinary household pets, which may be kept in Units or Townhouses subject to the Governing Documents, provided that they are not kept, bred or maintained for any commercial purpose. The Association shall have the authority to limit the number of pets that may be kept in Units or Townhouses. After notice and hearing to the Owner, any pet causing or creating unreasonable noise or disturbance shall be removed from the Property upon three (3) days written notice from the Association. Pets may not be allowed outside a Unit or Townhouse unless on leash accompanied by an Owner or occupant. Stray pets may be removed to a licensed animal shelter by the Association and the Owner will be charged for all expenses incident to that removal.

6.19 Removal of Vehicles. The Association and local fire and police departments shall have the right to move or remove any or all vehicles that are parked in front of fire hydrants or any area that interferes with vehicular movement or activities of the police, fire or emergency services. The Association shall comply with the requirements of the law. Any expenses incurred by the Association or municipal police or fire department in the moving or removal of an Owner's vehicle shall be a charge to the Owner. The Owner shall also be responsible for his or her guests' vehicles, and the Owner shall be charged for any additional expenses incurred by the removal of his or her guests' vehicles.

6.20 Residence. No Unit or Townhouse shall be occupied and used except for residential purposes by the Owners, their tenants and social guests and no trade or business shall be conducted which shall disturb the residential character of the community.

6.21 Signs. There shall be no signs placed in the Common Area and no sign of any kind shall be displayed to the public view on any Unit or Townhouse without the prior written consent of the Association, except for a sign, no larger than 12 inches by 18 inches, advertising the Unit or Townhouse for sale, lease, or exchange. This sign may only be placed in a window of the Unit or Townhouse and may not be affixed to or placed upon the exterior walls or roof of the Unit or Townhouse or on the Common Area.

6.22 Sports Apparatus. No basketball standards or fixed sports apparatus shall be attached to any Unit or Townhouse or garage without the prior written consent of the Association.

6.23 Structural Alterations. No structural alterations of any building shall be made and no plumbing or electrical work within any bearing or common walls shall be performed by any Owner without the prior written consent of the Association.

6.24 Time-Share. No Unit or Townhouse or any portion of the Property shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time sharing agreement, plan, program, or arrangement, including, without limitation, any so-called "vacation license", "travel club", "extended vacation", or other membership or time interval ownership arrangement. The term "time sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement under which the right to use, occupy, or possess the Units or Townhouses or any portion of

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the Property rotates among various persons, either corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like kind use privileges, according to a fixed or floating interval or period of time of one hundred eighty (180) consecutive calendar days or less. This section shall not be construed to limit the personal use of any Unit or Townhouse or any portion of the Property by any Owner or his or her or its social or familial guests.

6.25 Vehicles. No Owner of a Unit or Townhouse shall park, store or keep any vehicle except wholly within the Owner's garage or assigned parking space or spaces. No Owner shall park, store, or keep any truck, camper, boat, trailer or aircraft or any vehicle other than a private passenger vehicle upon any uncovered parking space or driveway. No truck larger than a 1/2 ton pick up shall be parked, stored or kept in any parking space and no parked vehicle shall extend from a parking space or driveway into a street. No Owner of a Unit or Townhouse shall repair, overhaul, restore or service any motor vehicle, boat, trailer, aircraft, or other vehicle upon any portion of any Unit or Townhouse or upon the Common Area except for emergency repairs necessary to enable movement to a proper repair facility. The Owner of each Unit or Townhouse shall not be permitted to have or maintain more than two (2) motor vehicles on the Property and then only in proper parking areas. The Board of Directors shall have the power to enact parking rules for the Property. The Association shall have the power to tow any vehicle parked on the Property in violation of the State of California Vehicle Code and the Governing Documents at the expense of the vehicle owner or Unit or Townhouse Owner involved.

6.26 Visibility. No tower, pole, antenna, mast, air conditioning unit or wiring for electrical or television installations shall be erected, constructed or maintained on any Unit or Townhouse located in such a manner as to be visible from the exterior of the Unit or Townhouse, except as pursuant to Section 6.1. No exterior clotheslines may be erected. Clothes may not be hung out to dry on balconies, patios, porches, windows, or any other area unless the clothing is not visible from the street or from any other Unit or Townhouse.

6.27 Window Coverings. No temporary or makeshift coverings of any kind shall be allowed in or on windows or sliding glass door areas. The exterior surface of all window and/or sliding glass door coverings shall be neutral in color so that the covering visible from the exterior creates a uniform color pattern. Windows can only be covered by drapes, shutters, or shades and cannot be painted or covered by foil, cardboard, or similar materials. Each Owner also shall be responsible for repair, replacement, and cleaning of the windows and glass of his/her Unit or Townhouse.

6.28 Condominium Fireplaces. Only natural gas may be used in Unit fireplaces. Use of wood or any other material except natural gas is STRICTLY PROHIBITED. Owners will be held responsible for any damage to the building structure or other Units

## **ARTICLE VII**

### **ARCHITECTURAL CONTROL**

7.1 No Changes Without Prior Written Approval. No building, fence, wall or structure or alterations, repainting, repairs, changes and/or additions to existing structures, buildings or fences shall be commenced, erected or maintained upon the Property, including replanting, until the plans and specifications showing the nature, kind, shape, height, materials, colors, and locations of the same, which must be in harmony with the Property design and architecture, have been submitted to and have been approved in writing by the Association. In the event an Owner shall do any work for which permission of the Board of Directors is needed but not obtained, the Board of Directors may take whatever action is necessary to correct the situation, at the expense of the Owner, including the removal of any building or structure wrongfully erected.

7.2 Authority to Withhold Approval. In considering the requests for approval, the Association shall withhold approval if the requested alteration adversely affects (1) the exterior appearance of residence Units or Townhouses (2) the structural integrity of any building, (3) the sound control materials installed between floors, ceilings and residence Units or Townhouses, or (4) the numbers of parking spaces provided or their usability.

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8.0 Compliance with Appropriate Governmental Laws. Before commencement of any alteration or improvements approved by the Board, the Owner shall comply with all appropriate governmental laws and regulations. Approval by the Board does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

## **ARTICLE VIII INSURANCE**

8.1 Insurance. The Association shall obtain and maintain the following insurance:

A. A master casualty policy insuring the full replacement value of all Condominium, Townhouse and Common Area improvements and fixtures.

B. A comprehensive general liability policy insuring the Association, its agents, and the Owners and their respective family members against any liability incident to the ownership or use of the Common Area or any other Association owned or maintained real or personal Property

C. Workers' compensation insurance to the extent required by law;

D. Fidelity bonds or insurance covering officers, directors, and employees that have access to any Association funds;

E. Officers and directors liability insurance; and

F. Such other insurance as the Board in its discretion considers necessary or advisable.

8.2 Amount, Term and Coverage. The amount, term, and coverage of any policy, including the type of endorsements, the amount of the deductible, the named insureds, the loss payees, standard Mortgage clauses, and notices of changes or cancellations shall satisfy the minimum requirements imposed for this type of property by the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC) or any successor thereto. If the FNMA or FHLMC requirements conflict, the more stringent requirement shall be met. If FNMA and FHLMC do not impose requirements on any policy required by Section 8.1, the term, amount, and coverage of such policy shall be no less than that which is customary for similar policies on similar properties in the area.

8.3 Designation of Association. Each Owner appoints the Association or any insurance trustee designated by the Association to act on behalf of the Owners in connection with all insurance matters arising from any insurance policy maintained by the Association, including, without limitation, representing the Owners in any proceeding, negotiation, settlement, or agreement.

8.4 Waiver of Subrogation for Association. Any insurance maintained by the Association shall contain "waiver of subrogation" as to the Association and its officers, directors, and Members, the Owners and occupants of the Units or Townhouses and Mortgagees, and, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured.

8.5 Waiver of Subrogation for Individuals. All individually carried insurance shall contain a waiver of subrogation by the carrier as to the other Owners, the Association, and the Mortgagees of such Unit or Townhouse.

8.6 Liability Insurance. The Association, and its directors, and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, it is unable to obtain the liability insurance required because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or if 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 liability insurance will not be obtained or renewed.

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9.7 Annual Review. Annually, the Board shall review all insurance policies maintained by the Association to determine the adequacy of the coverage and to adjust the policies accordingly.

## **ARTICLE IX RECONSTRUCTION AND INSURANCE DISTRIBUTION**

9.1 Destruction: Proceeds Exceed 85 Percent of Reconstruction Costs. If there is a total or partial destruction of any of the improvements on the Property, and if the available proceeds of the insurance carried are sufficient to cover not less than eighty-five percent (85%) of the costs of repair and reconstruction, the improvements shall be promptly rebuilt, unless, within ninety (90) days from the date of destruction, Owners then holding at least seventy-five percent (75%) of the total voting power of the Association present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that repair and reconstruction shall not take place. If such a meeting is called, the Association shall solicit and obtain bids from at least two reputable contractors to return the Property to its design immediately prior to the destruction and shall present this information to the Owners at the meeting. If repair and reconstruction is to take place, the Association shall be required to execute, acknowledge, and record in the Office of the County Recorder of the County not later than one-hundred twenty (120) days from the date of destruction, a certificate declaring the intention of the Association to rebuild.

9.2 Apportionment of Assessments for Reconstruction of Condominiums. If any Condominium or the improvements therein are to be rebuilt, all Unit Owners shall be obligated to contribute an equal share of the cost of reconstruction or restoration over and above the available insurance proceeds. If any Unit Interest Owner fails or refuses to pay his or her share, the Board may levy a special Assessment against the Unit of such Owner, which may be enforced under the lien provisions contained herein, or in any other manner provided in this Declaration.

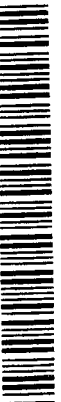
9.3 Apportionment of Assessments for Reconstruction of Townhouses. If a Townhouse or group of attached Townhouses or the improvements therein are to be rebuilt, the Owners of all Townhouses in such group shall be obligated to contribute such funds as shall be necessary to pay their equal share of the cost of rebuilding or reconstruction, over and above the available insurance proceeds. If any Townhouse Owner fails to pay his or her share, the Association may levy a special Assessment against the Townhouse of such Owners, which may be enforced under the lien provisions contained herein or in any other manner provided in the Governing Documents.

9.4 Apportionment of Assessments for Reconstruction of Common Area. If the improvements of the Common Area are to be rebuilt, each Unit Interest and Townhouse Owner shall be obligated to contribute funds as shall be necessary to pay their equal share to the cost of rebuilding or reconstruction, over and above the available insurance proceeds. . If any Unit Interest Owner or Townhouse Owner fails to pay his or her share, the Association may levy a special Assessment against the Unit or Townhouse of such Owner, which may be enforced under the lien provisions contained herein or in any other manner provided in the Governing Documents.

9.5 Rebuilding Contract. If rebuilding is authorized, the Association or its authorized representative shall, after having obtained bids from at least two reputable contractors as required above, award the repair and reconstruction work to the lowest bidder that otherwise meets the requirements set forth by the Association in soliciting bids. The Association shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds shall be disbursed to the contractor according to the terms of the contract. It shall be the obligation of the Association to take all steps necessary to assure the commencement and completion of authorized rebuilding at the earliest possible date.

9.6 Authority to Effect Changes. If any building or portion of it containing Units or Townhouses is damaged or destroyed or in need of renovation or rehabilitation, the building may be repaired or

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reconstructed in a manner that alters the boundaries of the Units or Townhouses or Common Area, provided the following conditions are satisfied:

A. The alteration has been approved by the Board of Directors, by Members holding a majority of the total voting power of the Association, and by the holders of any first Mortgages to the extent required in this Declaration.

B. The Board has determined that the alteration is necessary in order to comply with current building code requirements, to meet current building construction standards and procedures, or to improve the conditions and quality of the building.

C. The alteration does not materially change the location of any Unit or Townhouse or materially change the size of any Unit or Townhouse without the consent of the Unit or Townhouse Owner and the holders of any first Mortgages on that Unit or Townhouse. For purposes of this Declaration, a material change in the size of the Unit or Townhouse shall mean any alteration that increases or decreases the square footage of the interior floor space of the Unit or Townhouse by more than five percent (5%) from the square footage as shown in the Plan.

D. The Board has determined that any alteration that will relocate or reduce the Common Area will not reasonably interfere with the rights of the Owners and occupants to use and enjoy the Common Area.

E. The Plan is amended to reflect the alteration to the Units or Townhouses, Common Area, or Association Property.

F. Appointment of Attorney-in-Fact. Each Owner irrevocably appoints the Association as that Owner's attorney-in-fact and irrevocably grants to the Association the full power in the name of the Owner to effect any alteration to any Unit or Townhouse or Common Area as authorized above, including, but not limited to, the execution, delivery, and recordation of any map amendments, deeds, or other instruments.

9.7 Election Not to Rebuild, Association Purchase of Uninhabitable Townhouses or Units. If the Owners determine not to rebuild, and if, prior to the expiration of one-hundred twenty (120) days from the date of destruction, Owners holding seventy-five percent (75%) of the total voting power consent in writing by vote, in person or by proxy, at a duly constituted meeting and seventy-five percent (75%) of first Mortgagees with Mortgages encumbering Units in the Property consent, the Association shall have the right to purchase those Townhouses or Units which were rendered uninhabitable by such damage or destruction, as determined by an appraiser, using the available proceeds of insurance for such purchase.

A. Any shortage of insurance proceeds shall be made up by a special Assessment levied against all remaining Owners (but without the consent or approval of Owners, despite any contrary provisions in the Declaration). The Board's decision as to whether a Townhouse or Unit is uninhabitable shall be final and binding on all parties. Any payment of the purchase price shall be made jointly to the selling Owner and all Mortgagees of that Owner's Townhouse or Unit, and each Owner, by accepting a deed to a Townhouse or Unit, agrees to be bound by these provisions and to sell his or her Townhouse or Unit and to convey it by grant deed to the Association as provided in this clause.

B. Concurrently with such purchase, the Association or individuals authorized by the Board, acting as attorney-in-fact of all Owners, shall amend the Plan (if necessary), and this Declaration to eliminate from the Property the Townhouses or Units so purchased and to adjust the undivided Ownership interest of the remaining Owners to reflect the reduced number of Townhouses or Units in the Property. The Association shall convey to each remaining Owner a proportionate share of the undivided interests in the Common Area represented by the Townhouses or Units purchased. This proportion shall be in the ratio that each remaining Owner's undivided interest in the Common Area bears to all remaining Owner's undivided interest in the Common Area.

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C. Notwithstanding the determination not to rebuild uninhabitable Townhouses or Units, if the uninhabitable Townhouses or Units are to be purchased by the Association, then any Townhouses or Units that have not been rendered uninhabitable shall be repaired and restored to a condition as near as possible to their condition immediately before such damage or destruction. Such repair and restoration shall be paid for, first from the insurance proceeds, if any, remaining after the purchase of the Townhouses or Units, and second, from a special Assessment levied against all remaining Owners (but without the consent or approval of Owners, despite any contrary provisions in the Declaration.)

9.8 Distribution of Proceeds: If the Owners elect not to rebuild, and if the required seventy-five percent (75%) of all Owners and institutional first Mortgagees entitled to vote do not consent to purchase the Units or Townhouses which were rendered uninhabitable, then, subject to the rights of Mortgagees, any insurance proceeds then available for such rebuilding shall instead be distributed to the Owner or Owners of such Units or Townhouses based on the fair market value of the Units or Townhouses. The Association, within one-hundred twenty (120) days of the date of such destruction, shall execute, acknowledge, and record in the Office of the County Recorder of San Mateo County, a certificate declaring the intention of the Association not to rebuild. On recordation of the certificate, the right of any Owner to partition through legal action shall revive immediately.

9.9 Common Area Damage or Destruction: In the case of damage or destruction to the Common Area, and if the Owners determine not to rebuild or repair the damage or destruction in accordance with the provisions of this document, the insurance proceeds shall be distributed to the Owners equally. The Association, within one-hundred twenty (120) days of the date of such destruction, shall execute, acknowledge, and record in the Office of the County Recorder of San Mateo County, a certificate declaring the intention of the Association not to rebuild. On recordation of the certificate, the right of any Owner to partition through legal action shall revive immediately.

9.10 Minor Repair and Reconstruction. The Association shall have the duty to repair and reconstruct improvements, without the consent of Owners and irrespective of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed Fifty Thousand Dollars (\$50,000.00) such amount to be adjusted based on the Bay Area CPI from the date of adoption of this amended and restated Declaration. The Association is empowered to levy a special Assessment for the cost of repairing and reconstructing such damage to the extent insurance proceeds are not available.

9.11 Fair Market Value as Appraisal Standard. Whenever reference is made to a determination of the relative fair market value of one or more Units or Townhouses by an appraiser, this means the relative fair market value of such Units or Townhouses as of a date immediately prior to any damage or destruction, as determined by an appraisal by an independent appraiser selected by the Board, who shall be a member of the Society of Real Estate Appraisers or other nationally recognized appraisal organization and who shall apply its or such other organization's standards in determining the value or fair market value of each Unit or Townhouse. The costs of such appraisals shall be paid from the sale or insurance proceeds, as the case may be.

9.12 Sale by Unanimous Consent or Taking. If an action for condemnation of all or a portion of the Property is proposed or threatened by any governmental agency having the right to eminent domain, then, on unanimous written consent of all of the Owners and institutional Mortgagees, the Property, or a portion of it, may be sold and conveyed to the condemning authority by the Association or its designees acting as attorney-in-fact for all Owners under an irrevocable power of attorney, which each Owner by accepting a deed to a Unit or Townhouse in the Property grants to the Association 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 institutional Mortgagees do not consent to a sale of all or a portion of the Property, and the condemning authority institutes condemnation proceedings, the court shall fix and determine the condemnation award.

## **ARTICLE X**

### **SUBSTANTIAL DESTRUCTION OR CONDEMNATION**

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10.1 Consent to Action. Except as provided by statute or by other provisions of the Governing Documents, in case of substantial destruction or condemnation of the Property:

A. The consent of sixty-seven percent (67%) of the Owners and sixty-seven percent (67%) of first Mortgage holders shall be required to terminate the legal status of the Property;

B. The consent of sixty-seven percent (67%) of the Owners and the approval of sixty-seven percent (67%) of first Mortgage holders shall be required to add or amend any material provisions of the Articles, Bylaws or this Declaration which establish, provide for, govern, or regulate any of the following: (1) voting; (2) Assessments, Assessment liens or the priority of such liens; (3) reserve for maintenance, repair and replacement of the Common Area; (4) insurance or fidelity bond; (5) rights to use of Common Areas; (6) responsibility for maintenance and repair of the several portions of the Property; (7) expansion or contraction of the Property or the addition, annexation, or withdrawal of the Property; (8) redefinition of boundaries of any Unit or Townhouse; (9) reallocation of the interests in the general or restricted Common Area; (10) convertibility of Units or Townhouses into Common Areas or of Common Areas into Units or Townhouses; (11) leasing of Units or Townhouses; (12) imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit or Townhouse; and (13) any provisions which are for the express benefit of first Mortgage holders; and (14) restoration or repair of the Property after a hazard damage or partial condemnation in a manner other than specified herein;

C. Any addition or amendment to the Governing Documents shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. A first Mortgage holder who receives a written request to approve additions or amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request, provided the notice to the Mortgage holder was delivered by certified or registered mail, with a return receipt requested.

10.2 Limitations. Except as provided by statute, in case of condemnation or substantial destruction to the Units or Townhouses and/or the Common Area of the Property, unless sixty-seven percent (67%) of the Owners and sixty-seven percent (67%) of first Mortgage holders have given their prior written approval, the Association and/or the Owners shall not be entitled to:

A. By act or omission, seek to abandon or terminate the Common Area except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

B. Change the pro rata interest or obligations of any individual Unit or Townhouse for the purposes of (1) levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (2) determining the pro rata share of Ownership of each Unit or Townhouse in the Common Area;

C. Partition or subdivide any Unit or Townhouse;

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

E. Use hazard insurance proceeds for losses to any portion of the Property (whether to Units or Townhouses or to Common Area) for other than the repair, replacement or reconstruction of such Property

10.3 Right to First Refusal. The right of a Unit or Townhouse Owner to sell, transfer, or otherwise convey his or her Unit or Townhouse shall not be subject to any right of first refusal or similar restriction.

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10.4 Restoration or Repair. Any restoration or repair of the Property, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original plans and specifications, unless other action is approved by first Mortgage holders holding Mortgages on Units or Townhouses which have at least sixty-seven percent (67%) of the votes of Units or Townhouses subject to eligible holder Mortgages.

10.5 Reallocation of Interests. No reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of the Property may be effected without the prior approval of first Mortgage holders holding Mortgages on all remaining Units or Townhouses whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Units or Townhouses subject to first holder Mortgages.

## **ARTICLE XI**

### **RIGHTS OF FIRST MORTGAGE HOLDERS**

11.1 Rights of First Mortgage Holders. No breach of any of the covenants, conditions and restrictions, or the enforcement of any lien provisions, shall render invalid the lien of any first Mortgage. All of these covenants, conditions and restrictions shall be binding on and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise. Notwithstanding any provision in this Declaration to the contrary, first Mortgage holders shall have the following rights:

A. Copies of Association Documents. The Association shall make available to Owners and first Mortgage holders at a reasonable cost, current copies of the Governing Documents, and the books, records, and financial statements of the Association. "Available" means available for inspection and copying, upon request, during normal business hours or under other reasonable circumstances;

B. Audited Statement. Any first Mortgage holder shall be entitled, on written request, to have an audited financial statement for the immediately preceding fiscal year, prepared at its expense if one is not otherwise available. Such statement shall be furnished within a reasonable time following such request;

C. Notice of Action. On written request to the Association, identifying the name and address of the first Mortgage holder and the Unit or Townhouse number or address, such first Mortgage holder will be entitled to timely written notice of: (1) any condemnation loss or any casualty loss which affects a material portion of the Property or any Unit or Townhouse on which a first Mortgage held is held by such first Mortgage holder, as applicable; (2) any default in performance of obligations under the Governing Documents or delinquency in the payment of Assessments or charges owed by an Owner of a Unit or Townhouse subject to a first Mortgage, which remains uncured for a period of sixty (60) days; (3) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and (4) any proposed action which would require the consent of a specified percentage of first Mortgage holders. The Association shall discharge its obligation to notify eligible holders by sending written notices required herein to such parties, at the address given on the current request for notice, in the manner prescribed herein.

## **ARTICLE XII**

### **GENERAL PROVISIONS**

12.1 No Discrimination. No Owner shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing, or mortgaging, or occupancy of his or her Unit or Townhouse to any person of a specified race, sex, age, marital status, color, religion, ancestry, physical handicap, or national origin.

12.2 Waiver. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property as a common interest development. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision.

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12.3 Severability. These provisions shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion shall not affect the validity or enforceability of any other provision.

12.4 Successors and Assigns. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Unit, Townhouse or other portion of the Property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this amended and restated Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by sixty-seven (67%) of the then Owners of the Units or Townhouses, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change these covenants and restrictions in whole or in part, or to terminate the same.

12.5 Notice. Any notice permitted or required by the Governing Documents may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the secretary of the Board, or addressed to the Unit or Townhouse of an Owner if no address has been given to the secretary.

12.6 Entry Road and Golf Club Easements.

A. Road Committee. By virtue of the recordation of a Declaration of the Establishment of Regulations, Covenants and Conditions recorded April 20, 1965, in Book 4936 of the Official Records of San Mateo County, at page 687, file 39949Y (the "Unit No. 9 Declaration"), the Owners of Townhouses and Units are subject to certain obligations to maintain the existing private roadways that service the Property, as well as adjoining properties not part of the Property. The Unit No. 9 Declaration, which is hereby incorporated by reference, generally provides for a committee (the "Road Committee") to be chosen from the Owners who use said road to provide for maintenance of the road together with the power of Assessment to provide funds for its maintenance. Every Owner shall be entitled to participate in the affairs of this committee, including the right to vote and hold office on the committee. The costs related to maintaining and repairing these roadways is divided seventy-five percent (75%) to the Association and twenty-five percent (25%) to the 1100 Sharon Park Drive condominiums.

B. By virtue of the Mutual Declaration of Covenants recorded September 16, 1975, in Volume 6935, Pages 709 to 725 of the Official Records of San Mateo County, at page 687, file 8966A1, which is hereby incorporated by reference, the Sharon Heights Golf and County Club has a nonexclusive easement for a right of way over a portion of the Property. This easement encumbers the Common Area and the easement shall run with the land.

**ARTICLE XIII  
AMENDMENT**

13.1 Amendment. This Declaration may be amended or restated only by the affirmative vote (in person or by proxy) or written consent of Members representing sixty-seven percent (67%) of the total voting power of the Association. The percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be certified in a writing executed and acknowledged by the President or Vice President and Secretary of the Association and recorded in the Recorder's Office of the County of San Mateo. No amendment shall adversely affect the rights of the holder of any Mortgage of record prior to the recordation of such amendment.

**ARTICLE XIV  
ENFORCEMENT**

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14.1 Enforcement. The Association, or any Owner, shall have the right (but not the obligation) to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, rules, liens, and charges now or hereafter imposed by the provisions of the Governing Documents, and in such action shall be entitled to recover reasonable attorneys' fees as ordered by the court. Failure by the Association or by any Owner to enforce the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.

IN WITNESS WHEREOF, this amended and restated Declaration is executed by the President of the Association.

**SHARON PARK HOMEOWNERS ASSOCIATION**

By: [Signature]  
President

Geraldine A. Stocker  
Secretary

**CERTIFICATE OF AMENDMENT**

I hereby certify and declare under penalty of perjury, that the foregoing amended and restated Declaration has been approved by the percentage of Owners required by the Declaration.

Executed at Menlo Park, California, on the 15 day of APRIL, 2002.

**SHARON PARK HOMEOWNERS ASSOCIATION**

By: [Signature]  
President

Geraldine A. Stocker  
Secretary

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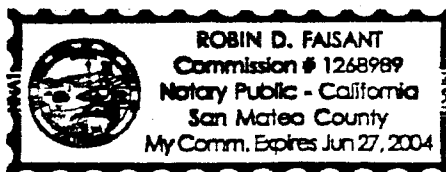
ACKNOWLEDGMENT

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN MATEO )

On APRIL 15, 2002, before me, ROBIN D. FAISANT Notary Public,  
personally appeared W. FRANK R. SOMMER personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the persons whose names are subscribed to the within instrument and  
acknowledged to me that he/she executed the same in her/his authorized capacity and that by her/his  
signature on the instrument the persons, or the entity upon behalf of which the persons acted, executed  
the instrument

WITNESS my hand and official seal.

Robin D. Faisant



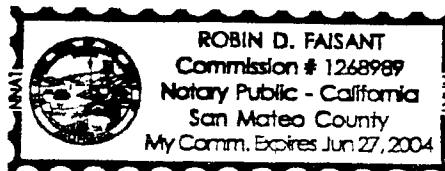
ACKNOWLEDGMENT

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN MATEO )

On APRIL 15, 2002, before me, ROBIN D. FAISANT Notary Public,  
personally appeared GERALDINE A. STUCKER personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the persons whose names are subscribed to the within instrument and  
acknowledged to me that he/she executed the same in her/his authorized capacity and that by her/his  
signature on the instrument the persons, or the entity upon behalf of which the persons acted, executed  
the instrument.

WITNESS my hand and official seal.

Robin D. Faisant



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AMENDED AND RESTATED  
BYLAWS  
OF  
SHARON PARK  
HOMEOWNERS ASSOCIATION

If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.



**AMENDED AND RESTATED BYLAWS  
OF  
SHARON PARK HOMEOWNERS ASSOCIATION**

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**AMENDED AND RESTATED BYLAWS  
OF  
SHARON PARK HOMEOWNERS ASSOCIATION**

**ARTICLE I  
NAME AND LOCATION**

The name of the corporation is SHARON PARK HOMEOWNERS ASSOCIATION, hereinafter referred to as the "Association". The principal office of the Association shall be located in the City of Menlo Park, San Mateo County, California, or at such other place as may be designated by the Board.

**ARTICLE II  
DEFINITIONS**

2.1 Incorporated by Reference. The definitions contained in the Declaration are incorporated by reference herein.

2.2 Declaration. "Declaration" shall mean and refer to the Amended and Restated Declaration of Covenants, Conditions and Restrictions applicable to the Property recorded on the 24 day of APRIL, 2002 as Document Number 2002-079449, Official Records, San Mateo County, and subsequent amendments thereto.

**ARTICLE III  
MEETINGS OF MEMBERS AND VOTING**

3.1 Annual Meeting. The annual meeting of the Members of the Association shall be held within thirty (30) days of March 15th, at a date, time and place to be set by the Board.

3.2 Special Meetings. Special meetings of the Members shall be promptly scheduled at any time by the Board in response to the vote of a majority of the Board of Directors, or in response to a request by the President, or upon written request of the Members representing five percent (5%) of the total voting power of the Association.

3.3 Notice and Place of Meetings. Written notice of each meeting of the Members, annual or special, shall be given by, or at the direction of, the Secretary, by personal delivery or mailing a copy of such notice, first class mail, postage prepaid, at least ten (10) days but not more than forty-five (45) days before such meeting to each first Mortgagee requesting notice and to all Members, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. If action is proposed to be taken at any meeting for approval of any proposals, the notice shall also state the general nature of the proposal. Member action on the following items is invalid unless the notice or written waiver of notice states the general nature of the proposal(s): (a) removing a director without cause; (b) filling vacancies in the Board of Directors by the Members; (c) amending the Articles of Incorporation; (d) approving a contract or transaction in which a director has a material financial interest. Meetings shall be held within the Property or at a meeting place within the same county, as close to the Property as possible.

3.4 Quorum. The presence either in person or by proxy, at any meeting, of Members entitled to cast fifty-one percent (51%) of the total voting power of the Association (excluding the number of votes as to which voting rights are suspended at the time of the subject meeting), shall constitute a quorum for any action except as otherwise provided in the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, a majority of the Members entitled to vote thereat shall have power to adjourn that meeting to a date not less than five (5) and not more than thirty (30) days later, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented. If a time and place for the adjourned meeting is not fixed by those in attendance at the

original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings

A. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken shall be approved by a majority of the Members required to constitute a quorum.

E. For purposes of obtaining Membership approval of special assessments or increases in annual Assessments as may be required by the Declaration, a "quorum" means more than fifty percent (50%) of the Members of the Association.

3.5 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Unit or Townhouse, or upon receipt of written notice by the Secretary of the Board of the death or judicially declared incompetence of a Member prior to the counting of the vote, or upon the expiration of eleven (11) months from the date of the proxy. Any form of proxy distributed by any person to the Membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon. The proxy shall provide that, where the Member specified a choice, the vote shall be cast in accordance with that choice. The proxy also shall identify the person or persons authorized to exercise the proxy and the length of time it will be valid. In addition, voting by proxy shall comply with any other applicable requirements of California Corporations Code Section 7514 and 7613.

3.6 Membership. Membership shall be held as provided in the Declaration. Each Unit or Townhouse shall be entitled to one vote.

3.7 Conduct of Meetings. All meetings of Members shall be conducted in accordance with a recognized system of parliamentary procedure or any parliamentary procedures the Association may adopt.

3.8 Action by Unanimous Consent. Any action required or permitted to be taken by the Members may be taken without a meeting if all the Members consent in writing to the action. The written consent shall have the same force and effect as a unanimous vote of the Members. The written consents shall be filed with the minutes of the proceedings of the Members.

3.9 Action by Written Ballot. Any action that may be taken at any meeting of the Members, except the election of directors, may be taken by written ballot if the following requirements are satisfied:

A. The Association distributes a written ballot to each Member entitled to vote on the matter. The ballot shall be given personally, or by first-class, registered, or certified mail addressed to the Member at the address of such Member appearing on the books of the Association or given by the Member to the Association for the purpose of notice. The ballot shall provide a reasonable time within which to be returned. If ballots are distributed to 10 or more Members and the Association has 100 or more Members, the requirements of California Corporations Code Section 7514 shall be satisfied;

B. Each ballot shall set forth: (1) the proposed action, (2) an opportunity to specify approval or disapproval of any proposal, (3) the time by which the ballot must be received by the Association in order to be counted, (4) the number of responses needed to meet the quorum requirement, and (5) the percentage of approvals necessary to approve the proposed action;

C. The proposed action shall be considered approved by written ballot if (1) within the time period specified the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and (2) the number of approvals equal or exceed the number of votes that

would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot:

D. A written ballot may not be revoked.

#### ARTICLE IV DIRECTORS

4.1 Number. The affairs of this Association shall be managed by a Board of five (5) directors, who shall be Members of the Association.

4.2 Term. In even numbered years, three (3) directors shall be elected. In odd numbered years, two (2) directors shall be elected. The term of each director shall be two years. Unless vacated sooner, each director shall hold office until the director's term expires and a successor is elected.

4.3 Removal; Vacancies. Unless the entire Board is removed from office by the vote of Association Members, an individual director shall not be removed prior to the expiration of his or her term of office if the votes cast against the director's removal would be sufficient to elect the director if voted cumulatively at any election at which the same total number of votes were cast and the entire number of directors authorized at the time of the most recent election of directors were then being elected. If the director dies or resigns, the vacancy shall be filled by approval of the Board at a duly held meeting, or by the sole remaining director. The successor director shall serve for the unexpired term of his or her predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors. A vacancy created by the removal of a director can be filled only by election of the Members.

4.4 Compensation. No director shall receive compensation for any service rendered to the Association. However, any director may be reimbursed for his actual expenses, if reasonable, incurred in the performance of his duties.

4.5 Indemnification of Corporate Agents. The Association shall indemnify any present or former Director, officer, employee or other agent of the Association to the fullest extent authorized under California Corporations Code Section 7237, or any successor statute, and may advance to such person funds to pay expenses that may be incurred in defending any action or proceeding on receipt of an undertaking by or on behalf of such person to repay such amount, unless it is ultimately determined that such person was not entitled to indemnification under this provision.

#### ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

5.1 Nomination. Nomination for election to the Board of Directors shall be made by a nominating committee. Notice to the Members of the meeting shall include the names of all those who are nominees at the time the notice is sent. Nominations may also be made from the floor at the annual meeting. The nominating committee shall consist of three (3) or more Members of the Association. The nominating committee shall be appointed by the Board of Directors not less than sixty (60) days prior to each annual meeting of the Members, to serve until the close of such annual meeting. The nominating committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. All candidates shall have reasonable opportunity to communicate their qualifications to Members and to solicit votes.

5.2 Election. The election of the Board shall be conducted at the annual meeting of the Association. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. All Members shall be entitled to cumulate their votes for one (1) or more candidates for the Board. Voting for Directors shall be by secret written ballot.

ARTICLE VI  
MEETINGS OF DIRECTORS

6.1 Regular Meetings. Regular meetings of the Board of Directors shall be held monthly or as often as deemed necessary by the Board at such place within the Property, and at such day and hour as may be fixed from time to time by resolution of the Board. Notice of the time and place of meeting shall be posted at a prominent place within the Common Area, and shall be communicated to Directors not less than four (4) days prior to the meeting, provided, however, that notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

6.2 Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President or Secretary of the Association, or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered.

A. The notice shall be given to each Director by one of the following methods: (1) by personal delivery; (2) written notice by first class mail, postage prepaid; (3) by telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; (4) by telegram, charges prepaid; or (5) by electronic communication.

B. All such notices shall be given or sent to the Directors addresses or telephone numbers as shown on the records of the Association. Such notice shall be posted at a prominent place within the Common Area not less than seventy-two (72) hours prior to the scheduled time of the meeting. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, telegraph or by electronic means shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

6.3 Quorum. A majority of the Directors then in office (but not less than three) shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by a majority of the required quorum for that meeting.

6.4 Open Meetings. All meetings of the Board shall be open to all Members. Any Member of the Association may speak at any meeting, subject to reasonable time limits established by the Board.

6.5 Executive Session. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

6.6 Telephone Meetings. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, so long as all Directors participating in the meeting can hear one another, and all such Directors shall be deemed to be present in person at such meeting. An explanation of the action taken shall be posted at a prominent place within the Common Area within three (3) days after the meeting.

6.7 Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall

also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

6.3 Action Without Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all Members of the Board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. An explanation of the action taken shall be, posted at a prominent place or places within the Common Area within three (3) days after the written consents of all Board Members have been obtained.

## ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

7.1 Duties The following are the duties of the Board of Directors:

- A. Maintenance: Perform or have performed the maintenance described in the Declaration;
- B. Insurance: Maintain insurance as required by the Declaration;
- C. Discharge Liens: Discharge by payment, if necessary, any lien against the Common Area and assess the cost thereof to the Member or Members responsible for the existence of said lien after notice and hearing as required by these Bylaws;
- D. Assessments: Fix, levy, collect and enforce Assessments as required by the Declaration.
- E. Expenses and Obligations: Pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the Property of the Association;
- F. Records: Cause to be kept a complete record of all its actions and business affairs and to present a statement to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members; keep adequate and correct books and records of account, minutes of proceedings of its Members, Board and committees, and a record of its Members giving their names and addresses;
- G. Supervision: Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- H. Enforcement: Enforce the Governing Documents;
- I. Review of Financial Records: Review on at least a quarterly basis a current reconciliation of the Association's operating and reserve accounts, the current year's actual reserve revenues and expenses compared to the current year's budget and an income and expense statement for the Association's operating and reserve accounts. In addition, the Board shall review the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts. For purposes herein, "reserve accounts" shall mean moneys that the Association's Board has identified from its annual budget to defray the future replacement of, or additions to, those major components which the Association is obligated to maintain;
- J. Reserve Account Withdrawal Restrictions: Require that at least two (2) Board signatures are needed for the withdrawal of moneys from the Association's reserve accounts;
- K. Requirements of the Law: All studies, budgets, disclosure, and other matters shall be made as required by law.

L. Committees: The Board of Directors, at its discretion, in addition to the finance committee, architectural committee, and "Unit No. 9", which are specifically identified in Article IX, may appoint special committees for the purpose of assisting with the management and overview of specific areas, such as landscaping, pool area, clubhouse, etc. With the exception of "Unit No. 9", which has its own board of directors, all of these committees will be comprised of at least one Board Member and one or more Owners. These committees and "Unit No. 9", in performing their designated tasks, may make recommendations to the Board.

(1) Prior to acting upon committee recommendations for expenditures, the Board must first submit them to the finance committee to determine whether such expenditures are within the appropriate operating or capital reserve budgets specifically set up for such expenditures. If requested funds are not available, recommended expenditures must be deferred until funds are available, either by accumulation under a specific reserve line item or levied by special assessment. Under no circumstances, other than in an extreme emergency (as defined by law) may these funding requests be financed from funds not specifically designated as either operating expense items or specified reserve funds for the recommended application. All operating and reserve funds pertaining to the respective Condominium, Townhouse, and Common Area shall be accounted for separately on the books of the Association. Operating and reserve funds may not be commingled but must be kept in separate bank and/or investment accounts. Consequently, any excess of operating funds shall be reimbursed to the owners or transferred to the appropriate Condominium, Townhouse, or Common Area operating accounts at the end of each year. Furthermore, no reserve funds may be transferred to or borrowed from one reserve budget line item to another without a specific recommendation to do so by the finance committee.

7.2 Powers. The Board of Directors shall have power to:

- A. Manager: Employ a manager or a management company;
- B. Adoption of Rules: Adopt rules in accordance with the Governing Documents relating to the use of the Common Area and all facilities, and the conduct of Owners and their tenants and guests with respect to the Property and other Owners;
- C. Assessments, Liens and Fines: Levy and collect Assessments and impose fines;
- D. Enforcement (Notice and Hearings): Enforce Governing Documents provided that at least fifteen (15) days prior notice of any charges (other than Assessments) or potential discipline or fine and the reasons are given to the Member affected, and that an opportunity is provided for the Member to be heard, orally or in writing not less than five (5) days before the imposition of the discipline or fine. The hearing shall be before the Board. Any notice required herein shall be given by any method reasonably calculated to provide actual notice. Any notice given by mail shall be given by first class or registered mail sent to the last address of the Member as shown on the Association's records;
- E. Contracts: Contract for goods and/or services in accordance with the Declaration;
- F. Delegation: Delegate its authority and powers to committees, officers or employees of the Association or to a manager employed by the Association. The Board may not delegate to the manager the authority to make expenditures for capital additions or improvements chargeable against the reserve funds; to conduct hearings concerning compliance by an Owner or his tenant, lessee, guest or invitee with the Governing Documents, or to make a decision to levy monetary fines, impose special assessments against individual Unit or Townhouses, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline following any such hearing; to make a decision to levy regular or special assessments; or to make a decision to bring suit, record a claim of lien, or institute foreclosure proceedings for default in payment of Assessments. The Board may delegate to a manager any of its other duties, powers or functions. Any such delegation shall be revocable by the Board at any time. Any such manager may be either a person or firm. The Members of the Board, individually or collectively, shall not be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated by written instrument executed by a majority of the Board;

G. Use of Recreational Facilities: Limit the number of an Owner's guests who may use the recreational facilities;

H. Appointment of Trustee: Appoint a trustee to enforce Assessment liens by power of sale as provided in the Declaration and in Civil Code Section 1367(b);

I. Other Powers: In addition to any other powers, the Association may exercise the powers granted to a nonprofit mutual benefit corporation as enumerated in Corporations Code Section 7140.

7.3 Prohibited Acts. The Board of Directors shall not take any of the following actions, except with the vote or written consent of a majority of the total voting power of the Association:

A. Enter into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one (1) year with the following exceptions:

(1) A management contract, the terms of which have been approved by the Federal Housing Administration or the Department of Real Estate;

(2) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(3) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured;

(4) Agreements for cable television services and equipment, or satellite dish television services and equipment of not to exceed five (5) years' duration;

(5) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five (5) years duration;

B. Incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

C. Sell during any fiscal year Property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

D. Pay compensation to Members of the Board or to the officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Member or officer to be reimbursed for the actual expenses, if reasonable, that are incurred in the performance of his or her duties.

E. Levy special assessments which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

## ARTICLE VIII OFFICERS AND THEIR DUTIES

8.1 Enumeration of Officers. The officers of this Association shall all be Members of the Board of Directors.

8.2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

8.3 Term. The officers of this Association shall be elected annually by the Board and each shall hold his office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

8.4 Resignation and Removal. Any officer may be removed from office (but not from the Board) either with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect at the date of receipt of such notice or at any later time specified, and unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

8.5 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve the remainder of the term of the officer he replaces.

8.6 Duties. The duties of the officers are as follows:

A. President. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall sign all promissory notes. The President shall have the general powers and duties of management usually vested in the office of the President of a California nonprofit mutual benefit corporation, and shall have such powers and duties as may be prescribed by the Board or by the Governing Documents;

B. Vice President. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board;

C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by the Board of Directors; shall sign all promissory notes of the Association; shall keep or have kept proper books of account; shall prepare and shall distribute budgets and financial statements to each Member as follows:

(1) A pro forma operating budget for each fiscal year shall be distributed not less than forty-five (45) nor more than sixty (60) days before the beginning of the fiscal year consisting of at least the following: (a) estimated revenue and expenses on an accrual basis; (b) the identification of the total cash reserves of the Association currently set aside; (c) an estimate of the current replacement costs of, and the estimated remaining useful life of, and the methods of funding used to defray the future repair, replacement, or additions to, those major components which the Association is obligated to maintain; (d) a general statement addressing the procedures used, for the calculation and establishment of those reserves to defray the future repair, replacement or additions to those major components that are attributable to the areas which the Association is obligated to maintain.

(2) In lieu of the distribution of the financial statement, the Board may elect to distribute a summary of the statement to all the Members, with written notice that the statement is available at the business office of the Association or at another suitable location within the boundaries of the development and that copies will be provided upon request and at the expense of the Association. If any Member requests a copy of the financial statement required by subdivision (1) to be mailed to the Member, the Association shall provide the copy to the Member by first class United States mail at the expense of the Association and delivered within five days. The written notice that is distributed to each of the Association Members shall be in at least 10-point bold type on the front page of the summary of the financial statement.

(3) A reporting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year: (a) A balance sheet as of the end of the fiscal year; (b) An operating (income) statement for the fiscal year; (c) A statement of cash flows for the fiscal year; (d) For each fiscal year, a copy of an audit of the financial statement of the Association prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy; (e) Any information required to be reported under Section 8322 of the California Corporations Code; (f) A supplementary statement of excess (deficit) revenue over expenses segregated as to Townhouses, Condominiums and Common Area.

(4) A statement describing the Association's policies and practices in enforcing lien rights, or other legal remedies for default in payment of its Assessments against its Members, and a statement of the place where the names and addresses of the current Members are located shall be annually distributed to the Members during the sixty (60) day period immediately preceding the beginning of the Association's fiscal year.

9.7 Delegation. The foregoing duties may be delegated to a manager appointed and directed by the Board.

## ARTICLE IX COMMITTEES

9.1 Finance Committee. The Board of Directors must appoint a finance committee. This committee will be comprised of one Board Member (the Treasurer, who will be the committee chairperson) and three other Owners. A principal duty of the committee is to review the annual operating budget, reserve fund requirements and budgets and related Assessments for the Condominiums, Townhouses, and Common Areas (including "Unit No. 9"), which comprise the Association, and recommend action to the Board. The Association Manager is responsible for developing the annual operating budget and, based upon this budget, calculating the required annual and monthly assessments for the Condominium and Townhouse Owners reflecting operating and reserve funding requirements for their respective groups and the Common Area. The committee may request the Board to contract with an outside organization to assist in the preparation and review of any of these documents. Prior to Board approval of expenditures, the committee must review expenditure requests that are not specifically included in either the operating or reserve budgets to ascertain that sufficient funds are available to finance such requests. The Board will apply the following criteria when considering expenditure requests:

A. Operating Expenses - The committee must review a request for operating fund expenditures before Board action may be taken if the proposed expenditure will cause the total annual expenditure under the line item in question to exceed 10% of the annual budget, or if there is no expenditure included in the annual budget.

B. Reserve Expenditures - The committee must review a request for reserve fund expenditures before Board action may be taken if the proposed expenditure either:

(1) exceeds 10% of the actual funding in the reserve account; or

(2) exceeds the actual funding in the reserve account by \$1,000.00, whichever is greater, or if there are no funds in the reserve account. If specific budget line item funding is not available, the committee must recommend that the spending be deferred or that the necessary funds be accumulated by increased Assessments, by transfer between budget line items or by special assessment.

9.2 Architectural Control and Other Committees. An architectural control committee may be appointed, as provided in the Declaration and a nominating committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose. No committee, regardless of Board resolution, may:

- A. take any final action on matters which, under the nonprofit corporation law of California, also requires Members' approval;
- B. fill vacancies on the Board of Directors or in any committee;
- C. amend or repeal bylaws or adopt new bylaws;
- D. amend or repeal any resolution of the Board of Directors;
- E. appoint any other committees of the Board of Directors or the Members of those committees;
- F. approve any transaction to which the Association is a party and in which one or more directors have a material financial interest.

ARTICLE X  
BOOKS AND RECORDS

10.1 Inspection by Members. Any Member of the Association, or his duly appointed representative, at any reasonable time and for a purpose reasonably related to his interest as a Member, may inspect, copy, or make extracts of any books, records, and documents, including but not limited to, the Membership register (including names, mailing addresses, and voting rights), books of account and minutes of meetings of the Members of the Association and the physical properties owned or controlled by the Association, at the office of the Association or other such place within the Property as the Board shall prescribe.

10.2 Rules for Inspection. The Board shall establish reasonable rules with respect to:

- A. Notice to be given to the custodian of the records by the Member desiring to make the inspection;
- B. Hours and days of the week when such an inspection may be made;
- C. Payment of the cost of reproducing copies of documents requested by a Member.

10.3 Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents, at the expense of the Association.

10.4 Documents Provided By Board. Upon written request, the Board shall, within (10) days of the mailing of the request, provide the Owner of a Unit or Townhouse with a copy of the Governing Documents of the Property, a copy of the most recent financial budget and statements of the Association and a true statement in writing from an authorized representative of the Association as to the amount of any Assessments levied upon the Unit or Townhouse, which are unpaid on the date of the statement including late charges, interest, and cost of collection which, as of the date of the statement, are or may be made a lien upon the Owner's Unit or Townhouse. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

ARTICLE XI  
MISCELLANEOUS

11.1 Amendment of Bylaws. These Bylaws may be amended by an affirmative vote (in person or by proxy) or written consent of Members representing fifty-one percent (51%) of the total voting power of the Association. However, the percentage of voting power necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

11.2 Conflicts. In the case of any conflict between the Articles of Incorporation and the Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

11.3 Fiscal Year. The fiscal year shall begin on the first day of January and end on the thirty-first (31) day of December of every year.

**SECRETARY'S CERTIFICATION**

I, the undersigned, the duly elected and acting Secretary of SHARON PARK HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation, do hereby certify:

That the within and foregoing Bylaws were adopted as the Bylaws of said corporation on the 15 day of April, 2002 and that the same do now constitute the Bylaws of said corporation.

This certificate is executed under penalty of perjury under the laws of the State of California on the 15 day of April, 2002 at Menlo Park, California.

Geraldine A. Stocker  
Secretary