

**MEMORANDUM OF UNDERSTANDING BETWEEN the TAHOE REGIONAL PLANNING AGENCY and the TAHOE KEYS PROPERTY OWNERS' ASSOCIATION**

**Concerning Structures and Activities in the Tahoe Keys Lagoon Areas**

**THIS MEMORANDUM OF UNDERSTANDING** ("MOU") is entered into this 7<sup>th</sup> day of October, 2021 by and between the Tahoe Keys Property Owners' Association ("the Association" or "TKPOA") and the Tahoe Regional Planning Agency ("TRPA") (collectively referred to as "the Parties").

**RECITALS**

- A. The Association is a non-profit mutual benefit corporation and a common interest development whose members are the record owners of real property located in the City of South Lake Tahoe, County of El Dorado, State of California, which real property (hereinafter referred to as the "Tahoe Keys Properties") is described in Exhibits B and C to the Association's First Restated Declaration of Covenants, Conditions, and Restrictions ("CC&Rs"), recorded June 11, 1991 as Document Number 31385 at Book 3570, Page 131 in the official records of the Recorder of El Dorado County. Use of the Tahoe Keys Properties (including the lagoons situated therein) is subject to the Associations CC&Rs, which also generally governs its operations. Among other things, the CC&Rs authorize the Association to regulate all works of improvement as defined in Article VII, Section 2 thereof, which includes the construction, installation, addition, alteration, reconstruction or remodeling or changes to, or removal of, structures or improvements within the Tahoe Keys Properties. Article VII of the CC&Rs also establishes an Architectural Control Committee ("ACC") whose written approval is required prior to the construction, installation, addition, alteration, reconstruction or remodeling or changes to, or removal of, structures or improvements within the Tahoe Keys Properties. Article VII of the CC&Rs further authorizes the ACC to adopt and from time to time amend Architectural Control Committee Rules ("ACC Rules") to implement its regulatory authority and the regulatory authority of the Association under the CC&Rs provided such rules are not inconsistent with the CC&Rs. Article VIII of the CC&Rs also imposes limitations on the use of property within the Tahoe Keys Properties with respect to, among other things, maintenance and improvements. A true and correct copy of the CC&Rs is attached to this MOU as Exhibit A and incorporated into this MOU by reference.
- B. This MOU is intended to establish a cooperative and comprehensive approach to the implementation of the Lake Tahoe Shorezone Plan including the regulation of certain specified improvements within the lagoon areas of the Tahoe Keys Properties; this MOU does not apply to structures or improvements within the shorezone of Lake Tahoe or upland of the lagoon areas. The Parties agree that an MOU best serves the intent stated above. This MOU recognizes the unique design and purposes of the original TKPOA development as a water-based boating community. The TKPOA Board of Directors (BOD) and Architectural Control Committee (ACC) seek to maintain the discretion and flexibility granted under the TKPOA Governing Documents necessary to resolve the many complex design challenges that exist relative to the development and use of individual Lots and Common

Area, and, as between individual property owners and the Association regarding the design and intended uses of the properties.

- C. Among other things, the CC&Rs give the Association the authority to regulate the design, construction, modification, and rebuilding of boat docks and accessory structures to be installed within the Tahoe Keys Properties and permit the same only with the written approval of the ACC in accordance with the CC&Rs and the ACC Rules. The CC&Rs also give the Association the authority to regulate the use of lagoons within the Tahoe Keys Properties including, without limitation, the alteration or present lagoon contours, dredging, rock removal, installation of any type of retaining wall, fill, or rip-rap, all of which are prohibited without Association approval. This MOU does not (1) include activities associated with the alteration or regulate the alteration, modification or improvement of lagoon contours, dredging, rock removal, installation of any type of retaining wall, fill, bulkhead or rip-rap; and, (2) change, alter or modify the CC&Rs with respect to the Association's authority to regulate the alteration, modification or improvement of lagoon contours, dredging, rock removal, installation of any type of retaining wall, fill, bulkhead or rip-rap.
- D. Since recordation of the first Declaration of Protective Restrictions (ultimately superseded by the CC&Rs) for each subdivision within the Tahoe Keys Properties in the early 1960s, as each such Tahoe Keys subdivision became annexed into the Association, the Association has been generally authorized by the CC&Rs to exercise architectural authority over property located within each subdivision, including docks and lagoons, and the Parties hereto have no reason to doubt that in fact the Association exercised such authority in a manner generally consistent with its authority as vested in the CC&Rs.
- E. TRPA is a bi-state regional environmental planning agency. Through its Goals and Policies and its Regional Plan, which includes its Plan Area Statements, Community Plans, Area Plans and Code of Ordinances, TRPA regulates, among other things, land use, density, rate of growth, land coverage, excavation, and scenic impacts in the Lake Tahoe Basin.
- F. In 2018, TRPA adopted its Shoreline Plan and implementing code provisions. TRPA Code section 84.2.1, states: "All projects and activities in the nearshore, foreshore, or in lagoons of Lake Tahoe shall comply with the standards and provisions set forth in this Chapter, with the exception that the standards and provisions set forth in this Chapter shall not apply to the lagoons within the Tahoe Keys Homeowners Association. Development Standards for the lagoon area within the Tahoe Keys Homeowners Association will be established in a memorandum of understanding between TRPA and the Homeowners Association."
- G. Through execution of this MOU, the Parties intend to set forth their respective responsibilities with regard to regulation of the specified improvements, structures, and activities in the lagoon areas of the Tahoe Keys Properties. The execution of this Agreement by the Association shall not operate to nullify or supersede any rights or responsibilities of the individual Tahoe Keys Property Owners under the CC&Rs with respect to the property which is the subject of this MOU.

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**IN CONSIDERATION OF THE ABOVE RECITALS**, it is mutually agreed upon and understood by and among TRPA and the Association that:

## **AGREEMENT**

### Section I.

#### **STANDARDS AND ROLES FOR REVIEW OF ACTIVITIES**

- A. For the purposes of this Agreement, shorezone activities and structures shall be classified as they are defined in the TRPA Code of Ordinances and ACC Rules and related forms from time to time maintained or modified by TRPA and the Association.

#### **ACTIVITIES**

- A. This MOU allows the continued control and regulation of the TKPOA Lagoons by the TKPOA Board of Directors and ACC. Based upon current TKPOA Architectural Control Rules, TKPOA will continue to allow improvements and modifications within the Tahoe Keys properties and waterways.
- B. TKPOA Properties are exempted from the TRPA dock application and permit approval process if applicants complete TKPOA's dock application "Form 13" and review process with its Architectural Control Committee and Board of Directors as applicable. TRPA and TKPOA understand, acknowledge, and agree that TKPOA Board and ACC have continuing authority under TKPOA Governing Documents to modify, amend and/or update Form 13, from time to time, as they deem necessary and appropriate. TKPOA shall provide notice to TRPA of any modifications, amendments or updates to Form 13 within thirty (30) days of their approval by TKPOA. Current existing dock structures within the Tahoe Keys and Lake Tallac are not required to complete Form 13 and are exempt from the TRPA application and permit approval process, as long as annual mooring registration fees are paid in accordance with the requirements described in Section III below. The intent of this provision is to recognize existing structures are not subject to retroactive permitting requirements. TRPA recognizes structures existing in the lagoons as legally existing structures, provided the structure has not been unserviceable beyond the time limits set forth in subsection 82.7.4 of the TRPA Code of Ordinances.

## LOCATION, DESIGN, AND CONSTRUCTION STANDARDS

- A. Reference Exhibit C: TKPOA Architectural Control Rules – Section 13
- B. Reference Exhibit D: TKPOA Architectural Control Rules – Section 19

## VARIANCES

- A. Reference Exhibit E: TKPOA Architectural Control Rules Section 18 and CC&Rs, Article VII Architectural Control, Section 13.

## VIOLATIONS

- A. TKPOA is solely responsible for addressing violations of its CC&Rs and Architectural Control Rules. **TRPA may also request a copy of TKPOA's current schedule of Fees and Fines for ACC violations.**

### Section III.

## REGISTRATION OF MOORINGS/BOATING IMPACT FEES

- A. Beginning in 2021 and continuing each year thereafter TKPOA within thirty (30) days of receipt of an invoice from TRPA shall pay an annual mooring registration fee of \$61,350.00 to TRPA as payment for the yearly registration of 1,227 residential access points to the lagoons. The annual registration fee is comprised of an annual registration fee of \$50.00 for each of the 1,227 TKPOA residential properties that have access to Lake Tahoe ("residential access points"). The annual mooring registration fee may be adjusted as otherwise provided by law for other Lake Tahoe moorings. The TKPOA registration fee shall be increased proportionally (in dollars) equal to the amount of any non-TKPOA Lake Tahoe mooring registration fee. Residential access points to Lake Tahoe are defined as a single family or multifamily residential property that has access to structures such as floating docks and boat slips that provide space to moor one or more motorized boats. The total number of moorings within the TKPOA lagoons shall not exceed 2,141 and be consistent with the analysis of the 2018 Shoreline Plan EIS. Residential access points, docks, or moorings within TKPOA are not development rights as defined in the TRPA Code of Ordinances and are not transferable outside of the TKPOA. TKPOA will provide TRPA with its annual boat count upon request.
- B. TRPA application and/or permit fees are not required to be paid by TKPOA and or its property owners to register and/or annually re-register any and/or all the 1,227 residential access points to Lake Tahoe.

- C. All presently existing dock and/or boat slip structures are recognized exempt from permitting requirements of TRPA upon annual payment of registration fee. If payment of the total annual fee is not remitted to TRPA within 60 days of its due date, TKPOA agrees to pay TRPA the amount due, and pay liquidated damages of \$ 68.17 per day for each day after 90 days the annual fee remains outstanding not to exceed \$6,135. In the event TRPA must institute legal action to collect the past due and unpaid annual fee, TRPA shall recover reasonable attorneys' fees and costs associated with collecting the amount due. This provision does not limit TKPOA or TRPA from exiting this MOU and liquidated damages shall not accrue providing proper notice as required in this Agreement has been given during which 60-day period.

#### Section IV

#### EXPIRATION OR AMENDMENT OF ACC RULES AND/OR FORM 13, AND/OR TRPA ORDINANCES

If any portion of the CC&Rs or the ACC Rules which may affect the regulation of improvements, structures, or activities in the lagoon areas expire or are amended, notice thereof shall be provided to TRPA as soon as practicable. Likewise, if any TRPA Ordinances or other applicable regulations referred to herein expire or are amended, TRPA shall provide notice to the Association. The Parties may amend this MOU to respond to such expiration or amendment(s). Any amendment to this MOU shall be in writing and approved by the parties and signed.

#### Section V

#### PRIVATE PROPERTY INTERESTS

Current existing dock structures within the Tahoe Keys and Lake Tallac are exempt from the TRPA application and permit approval process, as long as annual mooring registration fees are paid in accordance with this MOU. TRPA recognizes structures existing in the lagoons as legally existing structures, provided the structure has not been unserviceable beyond the time limits set forth in subsection 82.7.4 of the TRPA Code of Ordinances.

#### Section VI

#### TERMINATION

This MOU may be terminated for any reason by either the Association or TRPA upon sixty (60) days written notice ("Effective Termination Date."). Upon the Effective Termination Date, annual mooring fees paid in full, including any liquidated damages, in the year of termination shall be considered paid in full for the remainder of that fiscal year.

#### Section VII

#### ACKNOWLEDGEMENT

IN WITNESS THEREOF, this MOU is executed on the date indicated on Page 1 above.

TAHOE KEYS PROPERTY OWNERS ASSOCIATION

By: 

Name: David Peterson

Position: Board President

By: Bonnie Halleran

Name: Bonnie Halleran  
Position: Board Director

TAHOE REGIONAL PLANNING AGENCY

By: Julie W. Regan

Name: ~~Joanne Marchetta~~ Julie W. Regan  
Position: Executive Director

Acting →

Exhibits

- **Exhibit A** TKPOA Covenants, Controls, and Restrictions (CC&Rs) Recorded June 11, 1991
- **Exhibit B** Architectural Control Rules, 2020 Revision
- **Exhibit C** TKPOA Architectural Control Rules – Section 13 Boat Docks and Over Water Platforms (Checklist)
- **Exhibit D** TKPOA Architectural Control Rules – Section 19 Lagoons (Checklist)
- **Exhibit E** TKPOA Variance Procedures – Architectural Control Rules Section 18 Variances and CC&Rs, Article VII Architectural Control, Section 13.

Exhibit A



*Tahoe Keys*

PROPERTY OWNERS ASSOCIATION

356 Ala Wai Blvd.  
So. Lake Tahoe, CA 96150  
FAX (916) 541-2521  
(916) 542-6444

TO: Tahoe Keys Property Owners' and  
Interested parties

RE: First Restated Governing Documents

Ladies and Gentlemen:

These governing documents are the written guidelines that bind us together as a property owners association.

On April 13, 1990, the Association filed a Petition in the El Dorado County Superior Court seeking Court approval of the restated Bylaws, amended Articles of Incorporation, and the first Restated Conditions, Covenants, and Restrictions (Restated CC&R's). On June 8, 1991, the Court approved the Restated Bylaws and amended Articles of Incorporation. The Restated CC&R's were recorded on June 11, 1991, completing the Association's updating and consolidation of its governing documents.

In an effort to minimize costs, we have not attached Exhibits A, B, C, and D to the enclosure. These attachment's to the CC&R's total 89 pages of legal descriptions. Upon the request of a property owner, the attachments will be provided without charge.

FIRST RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
TAHOE KEYS

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RECORDED JUNE 11, 1991  
DOCUMENT #31385

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FIRST RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
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THOSE CERTAIN DECLARATIONS OF PROTECTIVE RESTRICTIONS listed in exhibit A which were executed by the various subdivision developers listed in article I, section 15 below (collectively the "Declarant"), and recorded in the official records of El Dorado County, California, at the book and page numbers of said official records identified in exhibit A, are hereby consolidated into this single Declaration covering all the Properties and are amended and restated in their entirety to read as follows:

RECITALS

1. Declarant was the owner of those certain parcels of real property located in El Dorado County, State of California, which are more particularly described in exhibit B attached hereto and incorporated herein by reference (the "Properties"). The Properties are a "planned development" as that term is defined in section 1351(k) of the California Civil Code and have been developed in a number of development phases, referred to herein as Subdivisions, all as more particularly described in exhibit A.

2. It was the desire and intention of the Declarant to subdivide and develop the Properties and to subject the Properties to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Declaration of Protective Restrictions listed in exhibit A (collectively the "Original Declarations") and in this First Restated Declaration, all of which are for the benefit of all portions of the Properties and for the purpose of enhancing and protecting the value, desirability, and attractiveness of Properties and all of which shall run with the Properties and be binding on all parties having or acquiring any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

3. It was the further intention of the Declarant to sell and convey to the Owners residential Lots, either improved by Dwelling structures or sold as unimproved building sites, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between Declarant and such Owners which are set forth in this Declaration and which are intended to be in furtherance of a general plan for the subdivision, development, sale and use of the Properties as a planned development.

4. Finally, it was the intention of Declarant that the Common Areas and Common Facilities within the Properties be owned and maintained by Tahoe Keys Property Owners Association (the "Association"), a California nonprofit mutual benefit corporation, and reserved exclusively for the use and enjoyment of the Members of the Association, their tenants, lessees, guests and invitees all subject to the terms and conditions of this Declaration and the other Governing Documents of the development. Every Owner is, by virtue of his or her ownership of a Lot, a Member of the Association.

5. On \_\_\_\_\_, 1989, the Lot Owners voted by written ballot to amend, consolidate and restate the Original Declarations, all in accordance with the procedures for amendment set forth in the Original Declarations. It was the intention of said Owners to replace the Original Declarations, in their entirety, with the recordation of this Declaration. Their action to amend and restate the Original Declarations as set forth herein and the fact that the requisite percentage of affirmative votes required in the Original Declarations was achieved, is attested by the execution of this First Restated Declaration by duly authorized officers of the Association, as required by section 1356(f) of the California Civil Code. As so amended and restated, the easements, covenants, restrictions and conditions set forth herein shall run with the Properties and shall be binding upon all parties having or acquiring any right, title or interest in the Properties or any portion thereof, and shall inure to the benefit of each Owner thereof.

## ARTICLE I Definitions

Section 1. "Articles" means the Articles of Incorporation of Tahoe Keys Property Owners Association, filed in the Office of the California Secretary of State.

Section 2. "Assessment" means any assessment levied by the Association against an Owner and his or her Lot in accordance with article IV hereof. As more particularly provided in sections 3, 4 and 5 of article IV, the Assessments which the Association is authorized to levy hereunder include Regular Assessments, Special Assessments, and Special Individual Assessments.

Section 3. "Association" means and refers to Tahoe Keys Property Owners Association, a California nonprofit mutual benefit corporation, its successors and assigns.

Section 4. "Association Common Area" means all real property owned by the Association for the common use and enjoyment of all resident Members and the lessees of nonresident Members owning Dwellings in any Subdivision within the Properties. The Association Common Areas, as that term is used herein, shall not include Townhouse Common Areas, even if title to a Townhouse Common Area is held by the Association.

Section 5. "Association Common Expense" means any use of Association Common Funds authorized by article IV and the Association's Bylaws.

Section 6. "Association Common Facilities" means the playgrounds, lagoons, waterways, beach areas fronting Lake Tahoe, tennis courts, indoor pool, outdoor pool, spa, street lighting, recreation park areas, plantings, lawns, shrubs, landscaping, fences, utilities, berms, pipes, lines, lighting fixtures, buildings, structures and other facilities constructed or installed, or to be constructed or installed, or currently located on the Common Areas owned by the Association.

Section 7. "Association Common Funds" means all funds collected or received by the Association for use in discharging any and all of the Association's duties and its functions as provided for in the Governing Documents.

Section 8. "Association Rules" means all rules adopted by the Board of Directors of the Association, as the same may be in effect from time to time pursuant to article III, section 7 hereof.

Section 9. "Board of Directors" or "Board" means the Board of Directors of the Association.

Section 10. "Bylaws" means the Restated Bylaws of the Association, as amended from time to time.

Section 11. "Capital Improvement" means any major addition to the Common Areas or Common Facilities or any new facility or improvement undertaken by the Association that is not in existence at the date of this Declaration and which is unrelated to repairs for damage, destruction or normal wear and tear of existing Common Areas or Common Facilities.

Section 12. "Common Areas" is a collective term that refers to both the Association Common Areas and the Townhouse Common Areas. As more particularly provided in part II of exhibit C and article II, section 2 hereof, certain portions of the Common Areas are set aside for the exclusive use and enjoyment of Owners of Lots within the Subdivisions where the designated Common Areas are located ("Exclusive Use Common Areas").

Section 13. "Common Expenses" is a collective term that refers to both the Association Common Expenses and the Townhouse Common Expenses.

Section 14. "Common Facilities" is a collective term that refers to both the Association Common Facilities and the Townhouse Common Facilities.

Section 15. "County" means the County of El Dorado, State of California.

Section 16. "Declarant" means and refers to the following project developers: Dillingham Development Company, a Nevada corporation; Dillingham Corporation of California, a California corporation; Dillingham Land Corporation, a Nevada corporation; Shore Del Mar-Tahoe Keys, Inc., a California corporation; Aptos Beach Development Corporation, a California corporation; Marion H. Stekoll and Virginia B. Stekoll; Dillingham Corporation of California, a California corporation, and Sierra Nevada Builders, a partnership; A.B.B. Construction Co., Inc., and Dillingham Corporation of California, a California corporation; A.B.B. Construction Co., Inc., and Dillingham Land Corporation, a Nevada corporation; Frank G. Linden and Dillingham Corporation of California, a California corporation; and Intercounty Title Company, Dillingham Corporation of California, a California corporation, and J.H. Pomeroy & Co., Inc. The subdivision Areas constructed by each of the aforementioned Declarants are enumerated in exhibit A.

Section 17. "Declaration" means this First Restated Declaration of Covenants, Conditions and Restrictions as such Declaration may, from time to time, be amended. The "Original Declarations" means and refers to the documents referenced in exhibit A, together with all amendments and annexations thereto, adopted prior to adoption of this Declaration.

Section 18. "Dwelling" is a collective term referring to any residential structure constructed on any Lot, whether that structure is a Residence or Townhouse.

Section 19. "Family" means one or more persons each related to the other by blood, marriage or legal adoption, or a group of persons not so related who maintain a common household in a Dwelling.

Section 20. "Governing Documents" is a collective term that refers to this Declaration, the Association's Articles and Bylaws and the Association Rules.

Section 21. "Lessee" is a collective term that includes any tenant, renter or other person who hires a Dwelling within the meaning of California Civil Code section 1940. The term "short-term renter" shall include any occupant for hire of a Dwelling for periods less than 15 days.

Section 22. "Lot" means any lettered or numbered plot of land shown upon any recorded Subdivision Map of the Properties excluding those lettered plots of land shown on any such Maps as being "Common Area," "Other Common Area," "Recreation Area," and other similar designations.

Any reference to a "Lot" shall also include the Dwelling and other improvements constructed on such Lot, unless the context clearly indicates that the reference is intended to be restricted to unimproved Lots or those portions of an improved Lot lying outside of the boundaries of the Dwelling structure.

Section 23. "Member" shall mean and refer to any person or entity who holds a Membership in the Association and whose rights as a Member are not suspended pursuant to article XII, section 6 hereof.

Section 24. "Mortgage" means any security device encumbering all or any portion of the Properties, including a deed of trust. "Mortgagee" means and refers to a beneficiary under a deed of trust as well as a mortgagee in the conventional sense.

Section 25. "Owner" means any person, firm, corporation or other entity which owns a fee simple interest in any Lot (including contract sellers, but excluding those having such interest merely as security for the payment of a debt or the performance of an obligation) and, with respect to any property use restrictions, includes (unless the context otherwise requires) the family, guests, tenants, and invitees of such Owner.

Section 26. "Owner of Record" means any Owner, whether a person, firm, corporation or other entity, in which title to a Lot is vested as shown by the official records of the Office of the County Recorder.

Section 27. "Party Wall" means any wall or fence of a Townhouse located on a property line dividing any two Townhouse Lots, which wall is commonly used by any such Lots and the adjoining Townhouse Lot. The rights and responsibilities regarding Party Walls shall be governed by article V of this Declaration.

Section 28. "Properties" means and refers to that certain real property described in exhibit B and such additions to the Properties as may thereafter be brought within the jurisdiction of the Association.

Section 29. "Residence" means the residential and other improvements located on a Residence Lot.

Section 30. "Residence Subdivision" means any subdivision phase of the Properties developed as Residence Lots. The Residence Subdivisions that exist as of the recordation date of this Declaration are listed in that part of exhibit A entitled "Residence Subdivisions."

Section 31. "Residence Lots" means any Lot improved by a detached Residence structure.

Section 32. "Single Family Residential Use" means the occupation and use of a Dwelling by a single family in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state or local rules and regulations. In no event shall any Dwelling be occupied by more individuals than permitted by applicable zoning laws or governmental regulations.

Section 33. "Subdivision" is a term which refers to any of the subdivision phases of development referenced in the Original Declarations set forth in exhibit A. Exhibit A separately identifies those Subdivisions improved by detached residence dwelling structures ("Residence Subdivisions") and those Subdivisions improved by townhouse dwelling structures ("Townhouse Subdivisions"). For example, Tahoe Keys Unit No. 5 is a Residence Subdivision and Cove South Townhouses Unit 5 is a Townhouse Subdivision. Throughout this Declaration any reference to the commonly understood name of a Subdivision ("Tahoe Keys Unit No. 5," "Cove South Townhouses Unit 5," "Lighthouse Shores," etc.) shall correspond to the title of the various Declarations listed in exhibit A.

Section 34. "Subdivision Maps" means the recorded final subdivision maps covering those parcels of real property located within the Properties. As of the recordation date of this Declaration the Subdivision Maps for the Properties are set forth in exhibit B.

Section 35. "Townhouse" means the residential and other improvements located on a Townhouse Lot.

Section 36. "Townhouse Common Area" means any portion of any Townhouse Subdivision that is used in common only by the Townhouse Owners within such Townhouse Subdivision.

Section 37. "Townhouse Common Expense" means any use by the Association of Townhouse Common Funds authorized by article IV hereof.

Section 38. "Townhouse Common Facilities" means the recreation facilities, if any, and the trees, hedges, plantings, lawns, shrubs, landscaping, fences, utilities, berms, pipes, lines, lighting fixtures, buildings, structures and other facilities constructed or installed, or to be constructed or installed, or currently located on or within any of the

Townhouse Common Subdivisions and used exclusively by the Owners of Townhouses within the appurtenant Townhouse Subdivision.

Section 39. "Townhouse Common Funds" means, with respect to each of the Townhouse Subdivisions, all funds collected or received by the Association which are to be used exclusively (i) in the maintenance, management, administration, insurance, operation, replacement, repair, and addition to all or any portion of any Townhouse Common Subdivision and Townhouse Common Facilities, or (ii) to defray any other Townhouse Common Expenses.

Section 40. "Townhouse Lots" means any Lot improved by a Townhouse style Dwelling.

Section 41. "Townhouse Subdivision" means any subdivision phase of the Properties subdivided and improved as Townhouse Lots. As of the recordation date of this Declaration the subdivisions developed as Townhouses are listed in that part of exhibit A entitled "Townhouse Subdivisions."

## ARTICLE II Property Rights and Obligations of Owners

Section 1. Owners' Non-Exclusive Easements of Enjoyment. Every Owner of a Lot shall have a non-exclusive right and easement of enjoyment in and to the Association Common Areas and Association Common Facilities and every Townhouse Owner shall have an additional right and easement of enjoyment in and to the Townhouse Common Areas and Townhouse Common Facilities, if any, within his or her Townhouse Subdivision. The non-exclusive rights and easements of enjoyment conferred herein shall include rights of ingress and egress to and from the Owner's Lot, rights of boating, swimming, fishing and navigation on all waterways located within the Properties, and the right of access to Lake Tahoe from the Properties by vessel, which rights and easements shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

(a) The right of the Association to adopt uniform rules and regulations regarding the use and enjoyment of the Properties, as provided in article III, section 6 hereof (Association Rules) and subject to the notice and hearing rights of article XII, section 6 hereof, to enforce such rules and the provisions of all Governing Documents through the imposition of fines and/or temporary suspension of (i) the Owner's voting rights and/or (ii) the right of any Owner or Lessee to use and enjoy recreational Common Facilities.

(b) The right of the Association to charge reasonable admission for use of any recreational Common Facility located within any portion of the Common Areas or to limit the number of guests of Members who may use recreation Common Facilities to the extent reasonably necessary to protect the rights, privileges, benefits, uses and enjoyment of the Members in common.

(c) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving any Common Areas and Common Facilities; provided, however, that in the event that a Special Assessment is required to undertake any such improvement, or to service the indebtedness, the Special Assessment may only be imposed in accordance with article IV, section 4 hereof.

(d) The right of the Association to dedicate or transfer all or any part of the Association Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners. No such dedication or transfer shall be effective unless at least 66 2/3 percent of the voting power of the Owners execute and record a written instrument consenting to such dedication or transfer. Said instrument may be executed in counterparts so long as each counterpart is in recordable form. No dedication shall be permitted hereunder that impairs the ingress and egress to any Lot. Prior to the date of recordation of this Declaration the Declarant dedicated all streets and roads within the Properties, other than the streets within that portion of the Properties commonly known as Lighthouse Shores, to the City of South Lake Tahoe.

(e) The right of the Association, its agents and contractors to enter any Lot when necessary to (i) perform the Association's obligations under this Declaration, including, without limitation, the enforcement of restrictions, or any obligations with respect to construction, maintenance, landscaping upkeep and repair, as necessary for the benefit of the Common Areas or the Owners in common, or (ii) undertake any necessary repairs or Lot maintenance that an Owner has failed to perform which, if left undone, will pose a threat to, become a nuisance to, or cause an unreasonable interference with, Association property or the use or enjoyment of adjacent Lots.

The right of the Association to enter a Lot for the purposes aforesaid shall be immediate in the case of an emergency originating in or threatening any Lot or adjoining property, and the Association's work may be performed under such circumstances whether or not the Owner or occupant is present. In all nonemergency situations the right of the Association, its agents and contractors, to enter an Owner's Lot shall require the affirmative vote of a majority of the Board of Directors and at least 24 hours' telephonic or written notice to the Lot Owner advising the Owner of the corporation's intent to enter the Lot. The Association's notice must specify the purpose for the entry and the estimated time and estimated duration thereof. If entry on a Lot is limited to Townhouse roof repairs, painting and similar routine exterior maintenance obligations of the Association, these notice requirements shall not apply. The Association shall endeavor to discharge its maintenance and repair responsibilities in a manner that minimizes inconvenience to, or disturbance of, any affected occupants.

(f) The right of the Association, its agents or contractors to defer or interrupt the use and enjoyment of all or any of the above-mentioned Common Area easements, or any portion thereof, at any time or times when necessary or convenient in connection with cleaning, water purification, dredging, draglining, development, maintenance, repair, reconstruction or policing of any portion of the Properties.

Section 2. Exclusive Use Common Areas. Portions of the Common Areas and Common Facilities are allocated for the exclusive use and enjoyment of Owners of Lots within certain Subdivisions. As such, those Common Areas and Common Facilities constitute Exclusive Use Common Areas as that term is defined in section 1351(i) of the California Civil Code. As of the recordation of this Declaration, the Exclusive Use Common Areas within the Properties include the following:

(a) Parking Areas Within Subdivision Phases. The parking areas located within the Common Area of each Subdivision shall be for the exclusive use of the Owners, tenants and guests residing or owning Lots within the Subdivision. Use of such parking areas shall be further subject to the restrictions contained in article VIII, section 12 hereof and to any Association Rule regulating parking within the Subdivision;

(b) Boat Slips In Townhouse Subdivisions. Within each Townhouse Subdivision each Owner shall be allocated the use and enjoyment of one dock mooring boat slip (one side of a finger pier) for each Townhouse Dwelling the Owner owns within the Subdivision. The slip shall be numbered to correspond to the Owner's Lot number and located as near as reasonably possible to the Owner's Townhouse Dwelling;

(c) Townhouse Decks and Patio Areas. Any deck or patio area of a Townhouse Dwelling which may be located outside of the Dwelling's Lot boundary (whether as a result of construction or settling) shall be an Exclusive Use Common Area for the use and enjoyment of the Owner of the appurtenant Dwelling;

(d) Other Townhouse Common Areas and Facilities. The landscaped areas, grounds, walkways, shoreline protective devices and driveways within any Townhouse Subdivision shall constitute Exclusive Use Common Areas for the use and enjoyment of the Owners of Townhouses within the Subdivision, their renters, tenants, guests and invitees.

### Section 3. Delegation of Rights of Use/Obligations of Lessees.

(a) Delegation of Use and Leasing of Lots, Generally. Any Owner may delegate, in accordance with and subject to the Governing Documents, his or her rights to use and enjoy the Common Areas and the Common Facilities to the Members of the Owner's family or to the Owner's Lessees or contract purchasers who reside in the Owner's Dwelling; provided, however, that any rental or lease of the Dwelling for periods in excess of 15 days may only be to a single Family for Single Family Residential Use. Consistent with the vacation, resort location of the Properties, rentals to weekend visitors or occupants of Dwellings for periods of less than 15 days duration shall not be subject to the Single Family Residential use restriction of article VIII, section 2(a) of this Declaration.

The restrictions on multiple family occupancy imposed by the immediately preceding paragraph are intended to protect, enhance and maintain the single family residential atmosphere which exists within the Properties and to avoid an overburdening of the Common Areas and Common Facilities. Any rental or lease of any Dwelling shall be subject to the provisions of the Governing Documents, each of which shall be deemed to be incorporated by reference in the lease or rental agreement.

The Association shall be entitled to adopt rules of uniform and nondiscriminatory application interpreting the requirements of this section 3 or regulating specific matters or concerns relating to or arising out of the

rental or lease of Dwellings within the Properties or within any particular Subdivision. Any such rule can make reasonable distinctions between the privileges accorded to Owners, Lessees and short-term renters.

With the exception of short-term (weekend-type rentals), any Owner who leases a Dwelling within the Properties shall be responsible for furnishing his or her lessee with current copies of all applicable Governing Documents or having a copy of the current versions of said documents readily available on the leased premises. Furthermore, the Owner shall at all times be responsible for compliance by the Owner's tenant or lessee with all of the provisions of the Governing Documents during the tenant's/lessee's occupancy and use of the Dwelling.

(b) Use of Recreational Facilities by Lessees and Short-Term Renters. So long as their rights are not suspended for violation of any provision of the Governing Documents, renters, tenants and lessees shall be entitled to use and enjoy the Common Areas and Common Facilities to the same extent as the lessor-Owner would enjoy if the Owner was residing within the Properties. Nevertheless, the Association Board shall be entitled to (i) adopt reasonable rules and regulations of uniform application regulating and restricting the dual use of Common Facilities by non-resident lessor-Owners and their renters, tenants or lessees in order to avoid an overburdening of the Common Facilities; and (ii) to charge Lessees and Short-Term Renters reasonable fees for use of Common Area recreation facilities.

(c) Discipline of Lessees and Short-Term Renters. In the event that any Lessee or short-term renter fails to honor the provisions of any Governing Document and disciplinary action appears warranted, the Association shall notify both the Owner and the Lessee/renter of the infraction. If, within a reasonable time following receipt of such notice, the activity does not cease and the Owner fails to take appropriate corrective action with respect to the Lessee/renter or, in the alternative, fails to request a hearing on the matter, the Board shall be entitled to take such corrective action as it deems appropriate under the circumstances to the same extent as if the action was being taken against the Owner pursuant to article XII, section 6 of this Declaration. For purposes of this subparagraph (c), a "reasonable time" for voluntary compliance following notice of an alleged infraction shall be no less than 15 days, provided, however, that in those circumstances where notification is not required as a condition precedent to enforcement action under article XII, section 6(d), no prior notice shall be required under this subparagraph (c) and the Association may take immediate enforcement action against the Lessee/renter.

Section 4. Obligations of Owners. Owners of Lots within the Properties shall be subject to the following obligations by virtue of said ownership:

(a) Notification Regarding Governing Documents.

(i) As more particularly provided in section 1368 of the California Civil Code, as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Lot, the Owner thereof must give the prospective purchaser (A) a current copy of the Governing Documents; (B) a true statement in writing from the Association ("delinquency statement") as to the amount of any Assessments levied against the seller's Lot which are unpaid on the date of the statement, together with information relating to penalties, interest, attorneys' fees and other charges due with

respect to the Lot as of the date of the statement, which may become a lien against the Lot; and (C) a copy of the Association's most recent financial statement previously distributed to the selling Owner pursuant to the Association's Bylaws.

(ii) In order to carry out the intent and purposes of the Civil Code provisions, the Association shall, within 10 days of receipt of a request therefor, provide the Owner with a copy of the current Governing Documents, together with the delinquency statement referred to in the immediately preceding paragraph. The Association shall be entitled to impose a fee for providing the Governing Documents, financial statement and delinquency statement equal to the reasonable cost of preparing and reproducing the materials.

(b) Payment of Assessments and Compliance With Governing Documents. Prior to the delinquency date, each Owner shall pay each Regular, Special and Special Individual Assessment levied against the Owner and his or her Lot and shall observe, comply with and abide by any and all rules and regulations set forth in, or promulgated pursuant to, any Governing Document for the purpose of protecting the interests of all Owners or protecting the Common Areas and Common Facilities.

(c) Discharge of Assessment Liens. Each Owner shall promptly discharge any assessment lien that may hereafter become a charge against his or her Lot.

(d) Joint Ownership of Lots. In the event of joint ownership of any Lot, the obligations and liabilities of the multiple Owners shall be joint and several. Without limiting the foregoing, this subparagraph (d) shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, but not limited to, the payment of all Assessments.

(e) Prohibition on Avoidance of Obligations. No Owner, by nonuse of the Common Areas or Common Facilities, abandonment of the Owner's Lot or otherwise may avoid the burdens and obligations imposed on such Owner by this Declaration. Without limiting the foregoing, each Owner specifically waives any right that may otherwise exist to sever or partition his Lot from the Common Area or the Association during the term of this Declaration and any extension thereof.

(f) Termination of Obligations. Upon the conveyance, sale, assignment or other transfer of a Lot to a new Owner, the transferor-Owner shall not be liable for any Assessments accrued with respect to such Lot after the date of recording of the deed evidencing said transfer and upon such recording, all Membership rights in the Association possessed by the transferor by virtue of the ownership of said Lot shall cease. If an Owner is delinquent in the payment of assessments at the time the Owner transfers his interest in the Lot to which the assessment is owing, and the delinquent sums are not paid through escrow, the transferor-Owner shall remain personally liable for the delinquent amounts.

### ARTICLE III

#### Tahoe Keys Property Owners Association

Section 1. Description of the Association, Generally. Within the boundaries of the Properties, Tahoe Keys Property Owners Association is the nonprofit mutual benefit corporation that owns and maintains the development's

Common Areas and Common Facilities. The Association also discharges such other duties and responsibilities as are set forth in the Governing Documents.

Section 2. Association Membership. As more particularly provided in the Association's Bylaws, the Association has one class of Members, namely, those persons who own Lots within any Subdivision located within the Properties. The rights, duties, obligations and privileges of the Members shall be as set forth in the Articles and Bylaws of the Association, this Declaration and the Association Rules. Certain Membership rights (including voting rights) may be temporarily suspended under those circumstances described in article XII, section 6 hereof.

Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Lot to which it is appurtenant. In the case of a sale, Membership passes automatically to the purchaser upon transfer of title to the Lot. In the case of an encumbrance of such Lot, a mortgagee does not have Membership rights until the mortgagee becomes an Owner by foreclosure or deed in lieu thereof. Lessees who are delegated rights of use pursuant to article II, section 3 hereof do not thereby become Members, although the lessee and members of the lessee's family shall, at all times, be subject to the provisions of all Governing Documents. Any attempt to make a prohibited transfer of Membership rights in the Association is void.

A contract seller of any Lot must delegate his or her voting rights as a Member of the Association and his or her rights to the use and enjoyment of Common Areas and Common Facilities to the contract vendee; provided, however, that the contract seller shall remain liable for any default in the payment of assessments by the contract vendee until title to the Lot has been transferred to the vendee.

Section 3. Association Assessments. Each Member of the Association shall be obligated to pay the Assessments imposed by article IV of this Declaration with respect to each Lot owned by said Member. Any assessments levied by the Association on its Members shall be levied in accordance with and pursuant to the provisions of this Declaration.

Section 4. Rights and Duties of the Association Board of Directors. The rights, duties and obligations of the Association Board of Directors shall be as set forth in this Declaration and the Articles and Bylaws of the Association. See particularly article IX of the Association Bylaws.

Section 5. Powers and Authority of the Association. The Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California in owning and managing its properties and facilities and otherwise discharging its responsibilities hereunder for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of this Declaration, the Association's Bylaws and California law, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of

the Owners. The specific powers of the Association and the limitations thereon shall be as set forth in article IX of the Association Bylaws.

Section 6. Association Rules.

(a) Rule-Making Power. Subject to subparagraph (c), below, the Association may, from time to time, act pursuant to subparagraph (b) to propose, enact and amend rules and regulations that are either of general application to the Owners of Lots within the Properties or of general application to all Lots within a particular Subdivision. Such rules may concern, but need not be limited to: (i) matters pertaining to use of the Common Areas and Common Facilities; (ii) the duties, authority and responsibilities of any Committee established by the Board pursuant to article X of the Bylaws; (iii) the conduct of disciplinary proceedings in accordance with article XII, section 6 hereof; (iv) regulation of parking, boat, dock and waterway usage, pet ownership and other matters subject to regulation pursuant to article VIII hereof; (v) minimum standards of maintenance of landscaping or other improvements on any Lot; (vi) with respect to boats, regulation of speed, size, noise, operation, mooring and traffic control on waterways within the Properties; and (vii) any other subject or matter within the jurisdiction of the Association as provided in this Declaration and the Association Bylaws.

(b) Adoption and Amendment of Rules. Subject to the provisions of this Declaration, Association Rules and amendments or modifications thereto, may be adopted by the Board of Directors when the Board finds that the proposed rule or amendment is necessary or appropriate for the proper and efficient management of the Properties and the discharge of the Association's responsibilities hereunder. Prior to adoption of any Rule or amendment thereto, the following procedures shall be observed:

(i) Rules of General Application. Any proposed Association Rule or Rule amendment which has general application to all Lots and/or Common Areas within the Properties or general application to a particular class of property (e.g., all Townhouse Lots) shall be distributed among the Association's Members, either by means of a separate mailing or by prominent display in the Association's newsletter at least 30 days in advance of the date established for Board action on the proposal.

In the event that any written objections or proposed modifications to the proposal are received from 10 percent or more of the Members during the 30-day notice period, the Board shall place the matter for discussion on the agenda for its next regularly scheduled Board meeting. At the conclusion of such meeting or, in the event that a discussion of the proposed rule or amendment is not required, at the end of the 30-day publication period, the Board shall be entitled to take action on the proposal by majority vote.

(ii) Rules Applicable to Particular Subdivisions Only. In addition to its general rule-making authority, the Board of Directors may adopt Association Rules applicable only to particular Subdivisions within the Properties, and shall adopt such Rules or Rule amendments when requested by a two-thirds vote of the Owners of Lots within the affected Subdivision. If a Rule restricted in its application to a specific Subdivision is proposed by the Board, the Board shall follow the procedures described in subparagraph (b)(i) above, but the mailing requirements shall be restricted to

Members owning Lots within the affected Subdivision. If the Board takes action to adopt a Rule based upon a two-thirds vote of the Subdivision Owners, any amendment or revocation of the Rule shall also require a two-thirds vote of the Subdivision Owners.

(iii) Architectural Rules. In addition to the authority conferred upon the Board to adopt Association Rules, the Architectural Control Committee shall be empowered to adopt rules pertaining to matters within the Committee's jurisdiction in accordance with article VII, section 6, below.

(c) General Limitation on Rule-Making Authority. Notwithstanding the foregoing grant of rule-making authority, no Association Rule shall be inconsistent with or materially alter any provision of, or the rights, preferences and privileges of Members as set forth in any of the other Governing Documents. In the event of any material conflict between any Association Rule and any provision of the Association's Articles, Bylaws or this Declaration, the provision contained in the Articles, Bylaws or Declaration (as the case may be) shall prevail.

(d) Effective Date of Rule or Rule Amendment. Any duly adopted Rule, or amendment thereto, shall become effective immediately upon its adoption and publication by the Board, unless otherwise specified in the Board's resolution adopting the Rule or amendment.

(e) Distribution of Rules. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each affected Owner and a current copy of all Rules shall be maintained in the Association's principal office. The requirements of this paragraph may be satisfied by publication of the complete text of any rule or amendment thereto in the next edition of the Association's newsletter.

(f) Breach of Rules or Restrictions. Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth in article XII, section 6 hereof.

Section 7. Limitation on Liability of the Association and the Association's Directors and Officers.

(a) No member of the Board of Directors or officers or committee members (collectively, "Released Parties") shall be personally liable to any of the Association's Members or to any other person, for any error or omission of any such Released Party in the discharge of their duties and responsibilities hereunder or under the Bylaws, or for their failure to provide any service required hereunder or under the Bylaws; provided that the Released Party has, upon the basis of such information as may be possessed by him, acted reasonably, in good faith, in a manner that the Released Party believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. Without limiting the generality of the foregoing, this limitation on liability shall extend to such matters as the establishment of the Association's annual financial budget, funding of Association capital replacement and reserve accounts, maintenance and repair of the Common Areas and enforcement of the use restrictions contained in the Governing Documents.

(b) No Released Party shall be responsible to any Owner or to any member of his family or any of his lessees, guests, servants, employees, licensees, invitees or any others for any loss or damage suffered by reason of damage, theft or other loss of any article, vehicle or other item of personal property which may be stored by such Owner or other person on any Lot or within any Dwelling or for any injury to or death of any person or loss or damage to the property of any person caused by fire, explosion or the elements or the act or omission of any other Owner or person within the Properties, or by any other cause, unless the same is attributable to the willful misconduct or negligence of the Released Party.

#### ARTICLE IV Assessments

##### Section 1. Assessments Generally.

(a) The Association shall have the power and the obligation to establish, fix and levy Assessments against the Owners of Lots within the Properties and to enforce the payment of such Assessments in accordance with this article IV.

(b) Each Owner of a Lot, by acceptance of a deed therefor (whether or not it shall be so expressed in such deed), covenants and agrees to pay to the Association the Assessments levied against the Owner pursuant to this Declaration.

(c) No Owner may exempt himself/herself or the Owner's Lot from liability or charge for the Owner's share of any Regular, Special or Special Individual Assessment rightfully made and assessed against the Owner and his or her Lot by waiving or relinquishing, or offering to waive or relinquish, the Owner's right to use and enjoy all or any portion of the Common Areas or Common Facilities or by the abandonment or nonuse of the Owner's Lot.

(d) Each Owner who acquires title to a Lot (whether at a judicial sale, trustee's sale or otherwise) shall be personally liable only for such Assessments attributable to the Lot so purchased which become due and payable after the date that the Owner acquires title; provided, however, that if the conveyance which brings the Owner into title as the Owner of Record does not remove the lien for any prior Assessment, the Association shall be entitled to enforce that lien against the Owner's Lot in accordance with section 9 of this article IV.

Section 2. Purpose and Reasonableness of Assessments. Each Assessment, whether it be a Regular, Special or Special Individual Assessment, made in accordance with the provisions of this Declaration, is hereby declared and agreed to be for use exclusively (a) to promote the recreation, health, safety and welfare of the residents of the Properties, (b) to promote the enjoyment and use of the Properties by the Owners and their families, tenants, invitees, licensees, guests and employees, or (c) to provide for the repair, maintenance, replacement and protection of the Common Areas and Common Facilities and the exterior Townhouse Dwellings and Residence Lots to the extent required by the provisions of this Declaration. Each and every Assessment levied hereunder is further declared and agreed to be a reasonable and necessary Assessment, and to constitute a separate, distinct and personal obligation (with respect to which a separate lien may be created hereby) of

the Owner of the Lot against which the Assessment is made that shall be binding on the Owner's heirs, successors and assigns; provided that the personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 3. Regular Assessment.

(a) Establishing Amount of Regular Assessment.

(i) Generally. Not less than 45 days nor more than 60 days prior to the beginning of each fiscal year of the Association, the Board of Directors shall estimate the Association's anticipated Common Expenses for the next succeeding fiscal year (including additions to any reserve funds established to defray the cost of future repair or replacement of existing Common Facilities or to fund specific Capital Improvements) by preparing and distributing to all Association Members a budget satisfying the requirements of article XII, section 5 of the Association Bylaws. The total Common Expenses estimated in the Association's budget shall, upon adoption by the Board and, if required, approval by the Members (see subparagraph (b) below), become the aggregate Regular Assessment for the next succeeding fiscal year.

Without limiting the generality of the foregoing, the budgeted Common Expenses for any fiscal year may include line items for enhancements to existing Common Facilities or additions to the Association's equipment inventory, so long as the aggregate cost incurred in any fiscal year on account of such enhancements or additions does not exceed 1.5 percent of the previous year's budgeted gross expenses. If the proposed enhancement or addition is with respect to an Exclusive Use Common Facility whose use and enjoyment is limited to owners within a particular subdivision, the foregoing limitation shall be computed on the basis of 1.5 percent of the previous year's budgeted gross expenses for that subdivision. Any other specific Capital Improvement project or acquisition of Association property in excess of the foregoing limitation shall be funded by levy of a Special Assessment in accordance with section 4 below.

In preparing the Association's annual budget, the Board shall determine separately an operating portion of the Regular Assessment and a reserve portion of the Regular Assessment. The operating assessment shall be further subdivided into a "Common Operating Assessment" and a "Subdivision Operating Assessment." The reserve assessment shall similarly be subdivided into a "Common Reserve Assessment" and a "Subdivision Reserve Assessment." The total Operating Assessments and Reserve Assessments comprising the Regular Assessment shall be allocated among and assessed against all Lots within the Properties in the manner described in subparagraph (e) below.

(ii) Common Operating and Common Reserve Portion of the Regular Assessment. The Common Operating Assessment shall reflect all Common Expenses for the fiscal year attributable to the operation, maintenance and repair of the Common Areas and Common Facilities owned or leased by the Association, other than Exclusive Use Common Areas, if any, located within particular Residence Subdivisions, and for the general operation and administration expenses of the Association. The Common Reserve Assessment shall reflect all Common Expenses for the fiscal year attributable to prudent allocations to reserves to defray the future major repair, replacement or addition to the Association Common Areas and Association Common Facilities, other than Exclusive Use Common Areas or Common Facilities, if any. If the Board

determines that any capital repair or improvement project located within a particular Residence Subdivision confers a common benefit on all Lot Owners within the Properties (e.g., bulkhead repair or replacement), the expense of that project shall be considered as part of the Common Reserve Assessment.

(iii) Subdivision Operating and Subdivision Reserve Portion of the Assessment. The Subdivision Operating and Reserve Assessments shall be established for each of the Subdivisions within the Properties and are intended to generate revenues to defray expenses incurred by the Association in the performance of its duties or in connection with the maintenance, repair and replacement of property that benefits the Owners within a particular Subdivision, rather than the Members generally. Examples of expenses which may be included within the Subdivision Operating and Reserve Assessment for particular Subdivisions are costs and expenses for: (A) exterior landscaping and maintenance performed by the Association within any Residence Subdivisions; (B) prudent allocations to reserves to defray the future repair, replacement or addition to Exclusive Use Common Areas and Exclusive Use Common Facilities which the Association is obligated by this Declaration to maintain within any Subdivision; (C) repair or replacement of bulkheads or other shoreline protective materials within an entire Subdivision; and (D) expenses for the exterior repair, replacement and maintenance of Townhouses within the various Townhouse Subdivisions to the extent required by article VI, section 1(c); (E) expenses attributable to insurance premiums for Townhouses to the extent such insurance must be maintained by the Association pursuant to article X, hereof; and (F) any other costs or expenses of the Association (other than expenses included in the Common Operating and Common Reserve portion of the Regular Assessment) that are unique to a particular Subdivision.

Financial records shall be maintained by the Association's management in a manner that enables the Association to separately account for the expenditures made and expenses incurred by the Association in each of the Subdivisions within the Properties to the extent necessary to generate the financial data required by this section 2.

(b) Establishment of Regular Assessment.

(i) Board/Membership Approval Requirements. The total annual expenses estimated in the Association's budget (less projected income from sources other than assessment(s)) shall become the aggregated Regular Assessment for the next succeeding fiscal year; provided, however, that, except as provided in subparagraph (ii) below, the Board of Directors may not impose a Regular Assessment on any Owner or his or her Lot that is more than 20 percent greater than the Regular Assessment imposed on said Owner by the Association for the preceding fiscal year without the approval of a majority of a quorum of the affected Owners/Members. For the purpose of any membership vote pursuant to this subparagraph (b), the quorum requirement for the meeting or written ballot shall be a majority of the Members of the Association whose Lots are subject to the assessment increase.

(ii) Assessments to Address Emergency Situations. The requirement of a membership approval for Regular Assessment increases in excess of 20 percent of the previous year's Regular Assessment shall not apply to assessment increases necessary to address emergency situations. For purposes of this subparagraph (b)(ii), an emergency situation is any of the following:

(A) An extraordinary expense required by an order of a court.

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

(C) An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to subparagraph (a) above; provided, however, that prior to the imposition or collection of an assessment under this paragraph (c), 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 together with the notice of assessment.

(iii) Compliance With Law. The provisions of this subparagraph (b) is intended to comply with section 1366 of the California Civil Code. In the event that said section 1366 (or comparable superseding statute) is amended to impose other assessment requirements or limitations on the Association which are specifically stated to apply regardless of contrary provisions contained in this Declaration, the statute shall prevail.

(c) Allocation of Regular Assessments Among the Owners.

(i) Except as provided in subparagraph (ii) below, Regular Assessments shall be allocated among the Owners as follows: the total Common Operating and Common Reserve Assessment portion of the Regular Assessment shall be equally allocated among and assessed against all Owners and their Lots. The Subdivision Operating and Reserve Assessment portion of the Regular Assessment, determined for each of the Subdivisions within the Properties, shall be equally allocated among and assessed solely against the Owners of Lots within the Subdivision to which the Assessment pertains.

(ii) In the event that the Board makes a good faith determination that any particular portion of the Regular Assessment will benefit one group of Owners to a greater extent than others, the Board shall be entitled to adopt a resolution to that effect and to allocate ("special allocation") that portion of the Regular Assessment so that the burdens thereof are shared in substantially equal proportions to the benefits derived therefrom. No special allocation of assessments shall be made.

(d) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded upon an assessment roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or his authorized representative. The assessment roll shall show for each Lot the name and address of the Owner of record thereof, all Assessments, whether Regular or Special, levied against each Owner and his Lot, and the amount of such Assessments which have been paid or remain unpaid. The assessment roll can also serve as the delinquency statement required by article II, section 4(a) hereof and shall be conclusive upon the Association and the Owner of such Lot as to the amount of such indebtedness as of the date the statement is issued, in favor of all persons who rely thereon in good faith. A copy of the delinquency statement shall be furnished by the Association to any Owner or to any first Mortgagee under a Mortgage encumbering a Lot upon written request therefor. The assessment roll may be

maintained by the Association in the form of a computerized list generated by either the Association, its accountants or by property management contractors retained by the Association to provide such services.

(e) Mailing Notice of Regular Assessment. The Board of Directors shall cause to be mailed to each Owner at the street address of his Lot, or at such other address as such Owner may from time to time designate to the Association in writing, a copy of the budget prepared in accordance with section 3(a) hereof, together with a statement of the amount of the Regular Assessment assessed against his Lot for the next succeeding fiscal year.

(f) Failure to Make Estimate. If the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then in such event the Regular Assessment made for the immediately preceding fiscal year, together with any Special Assessment made pursuant to section 4(a)(i) hereof for that year, shall be assessed against each Owner and his Lot on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic assessment shall be payable on the regular payment dates established by the Association.

(g) Installment Payment. The Regular Assessment levied against each Owner shall be due and payable annually or in equal quarterly installments due in advance on such dates as may be established from time to time by the Board of Directors of the Association. Installments of Regular Assessments shall be delinquent if not paid prior to the delinquency date established by the Board.

#### Section 4. Special Assessments.

(a) Circumstances Authorizing Imposition of Special Assessments. Subject to the Membership approval requirements set forth in subparagraph (b) below, the Board of Directors of the Association shall be entitled to impose a Special Assessment against Lots within the Properties under the following circumstances:

##### (i) Regular Assessment Insufficient in Amount.

(A) Portions of Regular Assessment Allocated Equally Among All Owners. If, at any time, the Regular Assessment imposed with respect to the Common Operating or Common Reserve portions of said Assessment for any fiscal year is insufficient due to extraordinary expenses (i.e., expenses that could not reasonably have been anticipated in preparing the budget for that fiscal year), then the Association Board of Directors shall levy against all Lots an additional Special Assessment, applicable for the remainder of such year only, for the purpose of defraying any deficit which the Association would otherwise incur in the performance of its duties and the discharge of its obligations hereunder.

(B) Portions of Regular Assessment Payable by Owners Within Particular Subdivisions. If at any time the Regular Assessment imposed with respect to any Subdivision Operating or Subdivision Reserve Assessment is insufficient due to extraordinary expenses (as defined above), the Board shall levy an additional Special Assessment against the Owners and Lots affected thereby for the remainder of such year only for the purpose of defraying any deficit that the Association would otherwise incur in the performance of its duties and the discharge of its obligations to such Owners hereunder.

(ii) Capital Improvements/Replacement Reserves.

(A) Association Common Areas. The Association Board may also levy Special Assessments for new Capital Improvements within the Association Common Area. The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, repair and replacement of Association Common Facilities through the Regular Assessment budgetary process and by funding capital reserve accounts.

Where the cost of a Capital Improvement requires the accumulation of funds for a period in excess of one fiscal year, the funds may nevertheless be collected by means of a Special Assessment (subject to the limitations contained herein) and accumulated; provided, however, that any funds collected by Special Assessment to fund an undertaking in a subsequent fiscal year shall be separately identified in the financial records of the Association. In the event the Board of Directors determines, in any subsequent fiscal year, that Special Assessment funds accumulated for a specific future undertaking are not to be applied to such undertaking, or if the accumulated funds exceed the cost of the undertaking, the fund balance shall be transferred to the Association's general fund in order to serve as a credit against the Owner's Regular Assessment obligations.

(B) Exclusive Use Common Areas. In addition to the foregoing, but also subject to subparagraph (b), below, the Board, upon receipt of a petition signed by a majority of the voting power of Owners within a particular Subdivision, may undertake the design, construction, installation or acquisition of a Capital Improvement within the Exclusive Use Common Areas located within a particular Subdivision. Owner petitions shall be in writing and shall contain such information as the Board may require, including, without limitation, preliminary plans, specifications and cost estimates for the proposed improvement prepared by a licensed design professional acceptable to the petitioning Owners. A copy of the petition material shall also be furnished to the Architectural Control Committee at the time it is presented to the Board.

The Board, with assistance and input from the Architectural Control Committee, shall then have 60 days in which to review and approve such a petition by resolution of the Board if it determines that the proposed Capital Improvement is desirable for the beneficial use and enjoyment of the interested Owners, that it is economically feasible and that it is otherwise in the best interest of the Members with Lots within the affected Area. If the Board fails to accept or reject a submitted petition within 60 days following its submission, hereunder, the petition shall be deemed to be approved.

If the petition is approved, the Board shall authorize the design professionals to prepare final plans, specifications and cost estimates. The Board shall then obtain firm bids on the total project cost; provided, however, that in the case of landscaping proposals or proposals involving minor Capital Improvements, the cost of the project may, in the Board's discretion, be verified by a written estimate from the Association's maintenance personnel. If it is determined by the Association Board of Directors that the project is economically feasible and otherwise in the best interests of the affected Subdivision, the Board shall levy a Special Assessment solely against the Owners of Lots in the benefitted Subdivision in

the amount of the accepted bid; provided, however, that in the event the estimated cost of the project indicates that a Special Assessment may only be imposed with approval of the affected Owners (see subparagraphs (b), below), the project shall not be advertised for bidding until such approval is obtained.

Promptly following levy and collection of the Special Assessment for the capital improvement the Board, acting through its agents and contractors, shall commence and diligently undertake construction and installation of such improvement in a manner customary for a public works project. During the construction period the project shall be reviewed and supervised by representatives of the Architectural Control Committee who shall regularly report thereon to the Association Board of Directors.

If the Board on its own motion determines that an Exclusive Use Common Area Capital Improvement within a Subdivision should be constructed, notice of that determination shall immediately be sent to all Owners of Lots in the relevant Subdivision and no action shall be initiated on the proposed project (including imposition of the Special Assessment) until 45 days following issuance of the Board's notice (the "appeals period"). If, within the appeals period, 5 percent or more of the Owners whose Lots will be subject to the Special Assessment protest the Board's action, the Board shall call a special meeting of all Owners within the relevant Subdivision for purposes of ratifying and approving or rejecting the Board's action. The special meeting shall be conducted in accordance with the Bylaws of the Association and the vote of a majority of the affected Owners shall be conclusive and binding on all such Owners.

The expense of subsequent repairs, maintenance or replacement of any Capital Improvement approved under this subparagraph (a)(ii)(B), shall be borne solely by the Owners within the affected Subdivision as part of their Subdivision Operation or Reserve Assessments.

(b) Special Assessments Requiring Membership Approval.

(i) No Special Assessment described in subparagraph (a)(i)(A) or (a)(ii)(A) hereof shall be made in any fiscal year without the vote or assent by written ballot of a majority of a quorum of the Members of the Association if such Special Assessments, in the aggregate and when added to other Special Assessments for that year, will exceed 5 percent of the budgeted gross expenses of the Association for that fiscal year. As used herein, the term "budgeted gross expenses" shall not include any amounts budgeted for allocation to, or disbursement from, Association replacement reserve accounts. Special Assessments described in subparagraphs (a)(i)(B) or (a)(ii)(B) shall also be subject to this membership approval requirement, but the voting shall be confined to those Members in the affected Subdivision against whom the Special Assessment is imposed and the relevant budgeted gross expenses shall be the budgeted gross expenses allocable to the affected Subdivision.

(ii) The membership approval requirements for Special Assessments shall not apply to any Special Assessment levied to address "emergency situations" as defined in section 3(b)(ii) of this article IV.

(c) Allocation and Payment of Special Assessments. When levied by the Board, or recommended by the Board and approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charged to the Members affected thereby in the manner specified in section 3(c) of this article IV. The Special Assessment shall also be recorded on the Association's Assessment Roll, and notice thereof shall be mailed to each Owner subject thereto. For purposes of any Special Assessment levied pursuant to subparagraphs 4(a)(i) or 4(a)(ii)(A) hereof, the "Members affected thereby" shall be the total membership of the Association. For purposes of any Special Assessment levied pursuant to subparagraph 4(a)(ii)(B) hereof, the affected Members shall be the Members residing within the Subdivision which shall be directly benefited by the Special Assessment.

Special Assessments shall be due as a separate debt of the Owner and a lien against his or her Lot, payable within the time period established by the Board, considering the circumstances giving rise to such Special Assessment.

#### Section 5. Special Individual Assessments.

(a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments authorized by section 4 hereof, the Association may also impose Special Individual Assessments against an Owner in any of the circumstances described in subparagraphs (a)(i) and (a)(ii) below. Special Individual Assessments shall be a personal obligation of the Owner as well as a lien against the Owner's Lot as described in subparagraph (c) of this section 5.

#### (i) Special Individual Assessments for Particular Recreation or Parking Privileges, Individual Requests and Insurance Premium Costs.

(A) Common Facility Rental Assessment. Owners who wish to rent any of the Common Facilities that are available for rental may do so at such rental rates as are determined by the Association Board from time to time. Any rental charges thus incurred shall be payable by the Owner so renting as a Special Individual Assessment.

(B) Special Assessments for Owners' Individual Requests. When a request has been made, in writing, by an Owner for the Association to provide materials and/or services with respect to the Owner's Lot which are over and above the Association's routine maintenance and repair responsibilities as defined in the Governing Documents, the Association, together with its Architectural Control Committee (if necessary), shall consider the request and the Board, in its sole discretion, determines that the requested work is consistent with the Governing Documents and is otherwise appropriate for the Association to undertake, a Special Individual Assessment shall be levied against the Owner and his or her Lot in an amount equal to the cost of the materials and services so furnished. Responsibility for subsequent maintenance and repair of the improvement shall be allocated between the Association and the Owner in accordance with article VII hereof.

(C) Acts or Coverages Increasing Insurance Premiums. In the event any act or omission of any Owner, any member of his family, or any of his tenants, guests, servants, employees, licensees or invitees, or any special insurance coverage required of the Association by the mortgagee of any Owner, shall in any way be the sole or material cause for any increase in the

premiums for any insurance purchased or obtained by the Association in accordance with the provisions of article X hereof, the amount of such increase shall be assessed and charged solely to and against such Owner and his Lot as a Special Individual Assessment. The right to impose a Special Individual Assessment pursuant to this subparagraph (a)(i)(C) shall only arise in those instances where the Board can establish by an appropriate written confirmation from the insurance carrier that the increase in insurance premiums is directly attributable to the act or omission of the Owner or his family, lessees or contractors.

(ii) Special Individual Assessments to Recover for Certain Damages and Enforcement Expenses. Subject to the due process requirements of section 5(b) below, the Association shall be entitled to impose a Special Individual Assessment to recover the following sums expended by the Association as the result of an Owner's violation of the Governing Documents:

(A) Damage to Common Area. In the event of any damage to or destruction of any portion of the Common Areas or the Common Facilities caused by the willful misconduct or negligent act or omission of any Owner, any member of his family, or any of his tenants, guests, servants, employees, contractors, licensees or invitees, the Board of Directors shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not compensated for by insurance proceeds) shall be assessed and charged solely to and against such Owner and his Lot as a Special Individual Assessment. The mere fact that the damage or destruction is covered by insurance maintained by the Association shall not preclude the Association from taking other disciplinary action against the Owner and/or his tenant in accordance with article XII, section 6 hereof, or from recovering any increase in insurance premiums resulting from resort to said insurance in accordance with subsection 5(a)(i)(C) above.

(B) Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses, including reasonable title company, administrative costs, accounting or legal fees, to (1) undertake any repair, maintenance or replacement project for which the Owner is responsible under the Governing Documents, or (2) prevent the continued maintenance of a nuisance or otherwise bring the Owner and/or his Lot into compliance with the provisions of the Governing Documents, the sums expended by the Association (including reasonable fines, interest and penalties duly imposed hereunder together with reasonable attorneys' fees) in its efforts to gain the Owner's compliance with the Governing Documents shall be assessed and charged solely to and against such Owner and his Lot as a Special Individual Assessment.

(C) Miscellaneous Expenses. In the event the Association incurs any costs for trash removal, repairs of failing bulkheads, repairs of any damage caused by speeding boats or damage caused by any noxious activity carried out or conducted upon any Lot, the sums expended by the Association shall be assessed and charged solely to and against the Owner and his Lot who was responsible for the damage, as a Special Individual Assessment.

(b) Due Process Requirements as Condition to Imposing Certain Special Individual Assessments. Prior to the imposition of a Special Individual Assessment against an Owner pursuant to any provision of section 5(a)(ii) hereof, the Owner must be afforded the notice and hearing rights to which the

Owner is entitled pursuant to article XII, section 6 hereof, and been given a reasonable opportunity to comply voluntarily with the relevant provisions of the Governing Documents before the assessment is imposed.

(c) Levy of Special Individual Assessments. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed, in subparagraph (a) of this section 5, such Special Individual Assessments shall be recorded on the Assessment Rolls of the Association, notice thereof shall be mailed to the affected Owner and the Special Individual Assessment shall thereafter be due as a separate debt of the Owner and shall also become a lien against the Owner's Lot, payable as set forth in section 5(d) below.

(d) Payment of Special Individual Assessments. Special Individual Assessments shall be payable in full to the Association within 30 days after the mailing of notice of the assessment to the affected Owner.

Section 6. Exemption of Certain of the Properties From Assessments. The following real property subject to this Declaration shall, unless devoted to the use as a residential dwelling, be exempt from the Association Assessments and any lien with respect thereto:

(a) Any portion of the Properties dedicated by the Association and accepted by a local public authority;

(b) The Common Areas and Common Facilities; and

(c) Any Lot or other property owned by the Association.

Section 7. Notice and Procedure for any Action Authorized Under Sections 3 and 4. Any action authorized under sections 3 and 4 of this article IV requiring the vote of the Members shall be taken either by written ballot conducted in accordance with article IV, section 5 or the Association's Bylaws or at a duly noticed meeting of the Members, called for that purpose, at which a quorum is present.

Section 8. Deposit of Assessment Funds and Maintenance of Records.

(a) Deposit; Bank Accounts. All sums received or collected by the Association from Assessments, whether Regular, Special or Special Individual, together with any penalty or interest charges thereon, shall be promptly deposited by the Association in checking, savings or cash mover accounts, certificates of deposit, money market accounts or similar prudent investments offered by banks or other insured financial institutions selected by the Board of Directors. The Board and such officers or agents of the Association as the Board shall designate shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof.

To preclude a multiplicity of bank accounts, Assessment funds need not be physically segregated so long as proper bookkeeping accounts are maintained as provided herein; provided, however, that reserve funds shall be segregated from general operating funds. Any interest received on any reserve accounts maintained by the Association shall be credited proportionately to the

balances of the various Assessment fund accounts maintained on the books of the Association as provided in subparagraph (b) below.

(b) Maintaining Records of Accounts. The proceeds of each Assessment shall be used only for the purpose(s) for which such Assessment was levied, and such funds shall be received and held in trust by the Association for such purpose. If the proceeds of any Assessment exceed the requirement for which such Assessment was imposed, the surplus may, in the discretion of the Board, either be returned proportionately to the contributors thereof or applied in reduction of the next year's Regular Assessment payable by the assessed Owners.

For purposes of accounting, but without requiring any physical segregation of assets (other than a segregation of operating and reserve funds), the Association shall keep a separate account of all funds received by it in payment of each Assessment, including without limitation each category of Regular Assessment for the various Subdivisions within the Properties, and of all disbursements made therefrom, except that receipts and disbursements of Special Assessments made pursuant to section 4(a)(i) of this article IV shall be combined with the receipts and disbursements of the Regular Assessments; and the Board shall maintain separate liability accounts for each capital improvement for which reserve funds for replacement are allocated.

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

#### Section 9. Collection of Assessments; Enforcement of Liens.

(a) Delinquent Assessments. If any installment payment of a Regular Assessment or lump sum or installment payment of any Special Assessment assessed to any Owner is not paid prior to the delinquency date established by the Board, such payment shall be delinquent and the amount thereof may, in the discretion of the Board, bear interest at the maximum rate allowed by law commencing 30 days after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of late payment penalties for any delinquent assessments, consistent with the limitations contained in section 1366 of the California Civil Code or comparable superseding statute.

#### (b) Effect of Nonpayment of Assessments.

(i) Creation and Imposition of a Lien for Delinquent Assessments. The amount of any delinquent Regular or Special Assessment, together with any administrative costs, late charges, interest and costs (including reasonable attorneys' fees) attributable thereto or incurred in the collection thereof, shall become a lien upon the Lot of the Owner so assessed only when the Association causes to be recorded in the Office of the County Recorder of a Notice of Delinquent Assessment executed by an authorized representative of the Association; setting forth (1) the legal description of such Lot, (2) the Owner of Record or reputed Owner thereof, (3) the amount of the assessment and

other charges claimed, (4) the name and address of the Association, and (5) the name and address of the trustee authorized to enforce the lien by sale.

(ii) Remedies Available to the Association to Collect Assessments.

The Association may bring legal action against the Owner personally obligated to pay the delinquent assessment, foreclose its lien against the Owner's Lot and/or accept a deed in lieu of foreclosure. Foreclosure by the Association of its lien may be judicial foreclosure or by nonjudicial foreclosure pursuant to a power of sale, in the same manner as the foreclosure of a mortgage or deed of trust upon real property under the laws of the State of California.

Section 10. Transfer of Lot by Sale or Foreclosure. Except as otherwise provided herein, the sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Where the first mortgagee or other purchaser of a Lot obtains title to the same as a result of foreclosure of any such first mortgage, the person acquiring title, his successors and assigns, shall not be solely liable for the share of the common expenses or assessments chargeable to such Lot which became due prior to the acquisition of title. Instead, such unpaid share of common expenses or assessments shall be deemed to be common expenses which, in the discretion of the Board, may be allocated among the Owners of all of the Lots (including such acquirer, his successors and assigns) as part of the common expenses that form the next succeeding Association budget. Furthermore, foreclosure shall not affect the Association's right to maintain an action for the collection of delinquent assessments against the foreclosed Owner personally.

Section 11. Priorities. When a Notice of Delinquent Assessment has been recorded in the manner provided in section 9(b)(i) above, such Notice shall constitute a lien on the Lot prior and superior to all other liens recorded subsequent to the Notice except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (b) the lien or charge 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; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale of such property pursuant to a decree of foreclosure of any such mortgage or deed of trust or pursuant to a power of sale in such mortgage or deed of trust. Such foreclosure shall not relieve such property from liability for any assessments thereafter becoming due or from the lien of any such subsequent assessment.

Section 12. Unallocated Taxes. In the event that any taxes are assessed against the Common Areas, or the personal property of the Association, rather than being assessed to the Lots, such taxes shall be included in the Assessments made under the provisions of section 3 or 4 of this article IV and, if necessary, a Special Assessment may be levied against the Lots in an amount equal to such taxes to be paid in two installments, 30 days prior to the due date of each tax installment.

**ARTICLE V**  
**Townhouse Party Walls**

Section 1. General Rules of Law to Apply. Each double wall and fence which is built as a part of the original construction of the Townhouses within the Properties and placed on the dividing line between adjoining Townhouse Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportion to such use, subject, however, to the obligations of the respective Owners, at their sole expense, to immediately repair any damage to a party wall resulting solely from the Owner's willful misconduct, negligence or neglect.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this article, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his negligent or willful act or omission causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within 10 days after written request therefore, the Board of Directors of the Association shall select an arbitrator for the refusing party. Said arbitrators shall render a decision within 30 days after appointment, and said decision shall be final and binding.

Section 7. Party Wall Easements.

(a) In all cases where a structural wall constituting a portion of a single Townhouse, or a double structural wall constituting a common wall for two Townhouses, is located upon the dividing line between adjacent Townhouse Lots, the Owner of said adjoining Lot shall have reciprocal mutual non-exclusive easements, not to exceed eight (8) inches in width on each adjoining side Lot line (except where no building structure is located), for

the maintenance of said wall, the reconstruction of said wall in the event of the partial or total destruction of the same, drainage associated with said wall or the Townhouse of which said wall is a part, and an easement to accommodate the foundation and/or roof or eave encroachment as per the original design, plans and specifications which were the basis for the original construction of the Townhouse or Townhouses on said Lot or Lots. In the event that any party wall shall have been constructed in such a manner that said party wall encroaches upon the adjoining Lot in excess of eight (8) inches, then in such instances there is hereby created an easement for the continued encroachment thereof for the period of the existence of the structure.

(b) The Owner or Lessee of a Townhouse Lot having a structural wall situated on the boundary line between his Lot and the adjoining Townhouse Lot shall not attach anything to the outside of the wall which shall protrude across the boundary line into the adjoining Townhouse Lot, and the Owner or Lessee of the adjoining Townhouse Lot upon which such a wall is situated shall not attach anything to the outside of said wall without the consent and permission of the Owner of the adjoining Townhouse Lot upon which the Townhouse of which said wall is a part is situated and also without review and recommendations of the Architectural Control Committee and written approval from the Board pursuant to article VIII, section 1 hereof.

(c) Easements for installation and maintenance of utilities and drainage structures are reserved herewith along and in party walls, and across any structure where such utilities are located under the subfloor or over the ceiling joists, said utilities and drainage structures to run in areas normally accessible from underfloor and attic access ways or doors.

Section 8. Maintenance, Alteration and Repair of Party Walls. Exterior maintenance, alteration and repair of Townhouse party walls shall be governed by and subject to the provisions of article VI, sections 1(d) and 1(e), and article VII hereof.

## ARTICLE VI Maintenance of the Properties

### Section 1. Allocation of Maintenance Responsibilities.

(a) Common Area Maintenance Responsibilities. The Association shall maintain all the grounds and improvements within the Common Areas and all Common Facilities, including all buildings, trees, shrubs, grass and walks located therein, other than any portion of the Common Areas located within any fenced or patio areas on a Townhouse Lot or any portion of the exterior of a Townhouse Dwelling that is the Owner's maintenance responsibility under subparagraph (d) below. The Common Areas unlandscaped by Declarant in the original plan may be maintained in their natural state by the Association.

Except as specifically provided herein, the Association's Common Area maintenance and repair responsibilities shall extend to and include any Exclusive Use Common Areas; provided, however, that costs and expenses incurred by the Association in performing their maintenance responsibilities with respect to Exclusive Use Common Areas and Exclusive Use Common Facilities located within a particular Subdivision shall be accounted for separately and

shall be charged solely to the Owners of Lots within the relevant Subdivision as part of that Subdivision's Operating and/or Reserve Assessment (see article IV, section 3(a) above).

(b) Utility Maintenance Obligations. The Association shall also be responsible for maintaining the underground sewer, water, gas and electrical service lines within the Townhouse Subdivisions to the point where the main lines and laterals connect with the Townhouse foundations, as well as such lines within the Common Areas and servicing the Common Facilities. The Association shall recover its cost of providing such maintenance and repair within any Townhouse Subdivision from the Owners within the Subdivision in which the service is rendered as part of the Subdivision's Operating and Reserve Assessment (see article IV, section 3(a) above).

(c) Maintenance of Townhouse Exteriors. The Association shall provide the following exterior maintenance services to the improvements located on each Townhouse Lot:

(i) Paint and stain all exterior building surfaces including walls, shingles, decks and balconies adjoining the Townhouses;

(ii) Except as provided in subparagraph (d)(i) below, maintain, repair, replace and care for the exterior walls and building surfaces, roofs, gutters, downspouts, driveways, decks of the Townhouse Dwellings and exterior patio walls adjoining the Townhouses. The Association's roof repair responsibility shall not include or extend to repairs to structural supports underlying the exterior roof membrane unless the Owners within the affected Townhouse Subdivision approve a Special Assessment to defray the cost of making the necessary repairs or replacement to underlying structural components of the roofs.

Unless approved in writing by the Architectural Control Committee and a majority of the Owners within the relevant Townhouse Subdivision, any and all maintenance and repair of the exterior portions of any Townhouse building structure, including the roof, sidewalls, and pediments thereof, shall preserve, without any alteration whatsoever in appearance, the exact color and design originally utilized or applied with respect to said Townhouse Dwelling structure. Furthermore, in the event that any portion or portions of the roof, sidewalls, or pediments of any Townhouse are removed, the portion(s) so removed shall be replaced with like or better materials that will preserve the same texture and general appearance of the structure. The purpose and intent of this provision is to maintain and perpetuate the neighborhood design, color and harmony established for the particular Townhouse Subdivision and thereby to protect the aesthetics and property values for Owners and residents as a whole. Any violation of these provisions shall be considered a nuisance which can be abated in accordance with article VIII, section 5 hereof.

Separate records of the costs incurred by the Association in discharging its responsibilities under this subparagraph (c) shall be maintained for each Townhouse Subdivision (see article IV, section 8(b)) and budgeted and assessed as part of the Regular Assessment levied against the Owners of Townhouses in the relevant Townhouse Subdivision (see article IV, section 3(c)).

Should the costs incurred by the Association in maintaining any particular Townhouse Subdivision exceed the funds available for such purpose (as budgeted

on the Association's books), the excess cost shall be allocated among all Townhouse Lots within the affected Townhouse Subdivision in the manner provided in article IV, section 3(c) and collected from the Owners of Lots within said Townhouse Subdivision by means of a Special Assessment (see article IV, section 4(a)(i)(B)).

(d) Maintenance and Repair Obligations of Townhouse Owners. Except as otherwise specifically provided in the preceding subparagraph (c), each Townhouse Owner shall be responsible for the maintenance, repair and replacement of his or her Townhouse Dwelling and Lot, including but not limited to the following:

(i) The glass surfaces, glass doors, all other doors, screens and screen doors, windows, window fixtures and any other such hardware. Any repair or replacement of windows, doors or screens shall be undertaken using materials and colors that preserve the same design, color, texture and materials as the component being replaced unless the change in color, design, or appearance is approved by the Architectural Control committee and is incorporated in all Dwellings within the Townhouse Subdivision.

(ii) All the interior portions of his or her Townhouse Dwelling, including interior walls, ceilings, floors, floor coverings, doors, all built-in units, skylights, light and plumbing fixtures, the air conditioning system (inside and outside of the Townhouse), and the plumbing, electrical and heating systems servicing the Owner's Townhouse (from the point where such systems leave the main or lateral service lines and enter the foundation of the Owner's Townhouse Dwelling).

(iii) No landscaping services shall be provided to individual Townhouse Owners by the Association; provided, however, that the Association may provide maintenance services to those portions of any Townhouse Subdivisions that are landscaped as part of the Declarant's original landscape plan if requested to furnish such services by the Owners of Lots within the affected Townhouse Subdivision. If such maintenance services are provided to any Townhouse Subdivision, the Association shall recover the costs incurred to provide the services from the Owners within the relevant Townhouse Subdivision as part of the Association's Regular Assessment. So long as the approval of the Architectural Control Committee is first obtained, nothing herein shall prevent a Townhouse Owner from maintaining planter boxes, potted plants, or similar landscaping improvements or providing landscaping consisting of small bushes, plants or flowers in the rear or front door areas of the Owner's Lot.

(iv) Maintenance of fences located on Lot dividing lines between two Townhouses or between one Townhouse Lot and any portion of the Common Area, shall be a responsibility shared equally between the Owners of the adjoining Lots, or between the Owner and the Association, as the case may be, all as more particularly provided in article V hereof.

Individual Townhouse Subdivisions can adopt Architectural Rules (see article VII, section 4(c)) which require certain Owner maintenance and repair responsibilities to be discharged under the direction or supervision of the Architectural Control Committee or in accordance with specified standards, applicable to the adopting Subdivision only, in order to maintain a uniform and attractive appearance within the Subdivision.

(e) Maintenance of Bulkheads. The responsibility for maintaining the shoreline along the lagoons and waterways within the Properties and for protecting said shoreline from erosion shall rest with the Owner of each Lot along the shoreline, including the Association as to Common Area parcels located at the entrances of the lagoons to Lake Tahoe. Notwithstanding the foregoing, Owners within any Residence Subdivision may agree to collect for the cost of any maintenance, repair or replacement of bulkheads along their Subdivision boundary by means of the Subdivision Reserve portion of the Association's Regular Assessment (see article IV, section 3(a)(iii)) and said work may be performed on behalf of said Residence Owners by the Association. The cost of maintaining, repairing and replacing bulkheads along the boundary of the Townhouse Subdivisions shall be collected by the Association from the Townhouse Owners within each Townhouse Subdivision as a component of the Subdivision Reserve portion of each Townhouse Owner's Regular Assessment (article IV, section 3(a)(iii) hereof), and said work shall be performed by the Association.

(f) Maintenance of Residence Lots. Each Residence Owner shall be responsible for the maintenance of his or her Lot and the improvements thereon, in a neat and attractive condition. The Owner's obligations in this regard shall extend to and include exterior and interior walls of the Residence and other structures, driveways, boat docks, roofs, bulkheads, decks, landscaping and fences. Within three months after acquiring a Residence Lot, the Owner thereof shall be responsible for establishing and implementing an appropriate landscaping maintenance program for his or her own Lot. If the Owner has no present intention to build a Residence, the landscape plan may be a weed abatement program. Landscaping plans shall require Architectural Control Committee review and approval before implementation. The Owners of Residence Lots within any Residence Subdivision may request that the Association provide exterior landscape maintenance to Lots within the Residence Subdivision. If the Association undertakes such maintenance responsibilities by its own staff or by independent contractors selected by the Association, it shall recover the cost thereof from the Owners within the relevant Residence Subdivision as part of their Subdivision Operating Assessment.

Section 2. Cost of Certain Repairs and Maintenance. In the event that any maintenance or repair work that would normally be the responsibility of the Association under section 1, above, is caused through the willful or negligent acts or omission of an individual Owner, his Family, his lessee, guests, or invitees, and is not covered or paid for by insurance on such Lot, the cost of such maintenance or repairs shall be subject to recovery by the Association through imposition of a Special Individual Assessment against the offending or responsible Owner pursuant to article IV, section 5(a)(ii)(A), hereof.

The Association shall be entitled to perform any exterior maintenance including landscape maintenance which is the obligation of any Residence Owner hereunder if the neglected maintenance constitutes or is likely to constitute a nuisance, visual distraction or an unreasonable interference with the use and enjoyment of neighboring Lots by the Owners thereof; provided, however, that the offending Owner must first be informed in writing of the necessity for the repair or maintenance, and must have refused or failed to perform the repair or maintenance after having been given a reasonable opportunity to do so. Notice from the Association shall constitute notice for purposes of

article XII, section 6(d) and the offending Owner shall thereafter have the opportunity to request a hearing before the Board. Any costs incurred by the Association in performing maintenance or repairs pursuant to the immediately preceding sentence shall be recoverable from the responsible Owner through imposition of a Special Individual Assessment. Entry by the Association to conduct its work may be effected in accordance with article II, section 1(e) of this Declaration and shall not be considered a trespass on the Owner's Lot.

## ARTICLE VII Architectural Control

Section 1. Prior Written Approval Required for All Improvements. Prior to undertaking any work of improvement (as defined in section 2, below) on any Lot within any portion of the Properties, the Owner thereof shall first submit two complete sets of detailed plans and specifications therefor to the Association's Architectural Control Committee (the "Architectural Control Committee") for review and approval. The Architectural Control Committee's responsibilities and authority shall extend to all improvements or construction work within the Properties including Townhouse improvements, as well as improvements located or erected upon Residence Lots. The plans and specifications shall satisfy the minimum requirements set forth in section 3, below, and shall be delivered to the Association's office within the Properties. The architectural review and approval procedures set forth below must be followed before any ground is broken or excavation is made for any proposed improvement.

Section 2. Definition of "Improvement." As used herein, the term "improvement" shall include, without limitation, any building, structure, fence, exterior lighting fixture, outdoor spa, television satellite receiver antennas, wall, dock, pier, wharf, piles, bulkheads, terraces, patios, driveways, landscaping or other improvement that is proposed to be erected upon, placed or moved to any Lot. The term shall also include any later additions, alterations, reconstruction, remodeling or changes (including, without limitation, exterior color changes) to existing improvements or structures.

Section 3. Minimum Content of Plans and Specifications. At a minimum, the plans and specifications for a proposed improvement shall disclose the location of all existing improvements on the Owner's Lot, the relation of the proposed improvements to property lines and set backs, height, material and color schemes, elevations and such other matters and details required by the Architectural Committee Rules (section 6, below). Unless a variance is granted in accordance with section 11 below, all improvements shall conform with the minimum construction standards specified in section 10 below.

Section 4. Committee Membership. The Architectural Control Committee shall be composed of five (5) Members appointed by the Association Board of Directors and serve at the pleasure of the Board. In selecting Members for the Architectural Control Committee, the Board of Directors shall endeavor to select Owners whose occupations or education will provide technical knowledge and expertise relevant to matters within the Committee's jurisdiction. A person must be a Lot Owner to serve on the Committee. The Committee shall also be empowered to appoint a subcommittee to assist in the monitoring of architectural compliance within the Properties.

Section 5. Filing Fee. As a means of defraying its expenses, the Board may institute and require a reasonable filing fee to accompany the submission of any plans to the Committee. Fees may vary depending upon the nature and extent of various types of improvement projects. The Architectural Control Committee Rules may also provide for a cash deposit procedure to help insure proper and timely completion of works of improvement in accordance with approved plans and specifications. No additional fee shall be required for resubmission of plans revised in accordance with the Architectural Control Committee's recommendations. Information regarding Architectural Review fees shall be available at the Association's principal office.

Section 6. Architectural Control Committee Rules.

(a) Authority to Adopt Architectural Rules. The Architectural Control Committee may, from time to time and in its sole discretion and by majority vote, propose rules and regulations (or amendments thereto) setting forth review procedures and more specific details or requirements relating to the content or submission of plans, the location of building improvements, color schemes acceptable building materials completion schedules for approved improvements or any other matter or concern within the jurisdiction of the Committee. These rules and regulations shall be known as the "Architectural Control Committee Rules."

(b) Purpose of Rules. The Architectural Control Committee Rules shall interpret and implement the provisions of this article by setting forth the standards and procedures for architectural review and guidelines for design and placement of buildings, landscaping in the Common Areas, color schemes, exterior finishes and materials and similar features which are recommended for use within the Properties; provided, however, that said rules shall not be in derogation of the minimum architectural standards required by this Declaration. In the event of any conflict between the Architectural Control Committee Rules and this Declaration, the provisions of the Declaration shall prevail. A copy of the Architectural Control Committee Rules shall be submitted to any Owner upon request and to any Owner or builder applying for plan approval.

(c) Rules Applicable to Particular Subdivisions Only. Individual Subdivisions within the Properties, on a two-thirds vote of the Owners within the Subdivision, can propose additional Architectural Rules, applicable to their Subdivision only, which add to, or supplement the general Architectural Rules applicable to all Subdivisions. Once adopted by the Architectural Committee, any such Subdivision Architectural Rules shall only be amended, revoked or waived on a two-thirds vote of the Owners within the relevant Subdivision.

Section 7. Approval of Plans. The Architectural Control Committee shall approve or disapprove plans, specifications, and details within 30 days from the receipt thereof or shall notify the person submitting them that an additional period of time, not to exceed 30 days, is required for such approval or disapproval. If no action is taken by the Committee within the prescribed time periods, the proposed improvement shall be deemed approved.

One set of said plans and specifications and details, with the approval or disapproval endorsed thereon, shall be returned to the person submitting them and one copy shall be retained by the Architectural Control Committee for its

permanent files. Once a set of plans and specifications has been approved by the Architectural Control Committee no material changes may be made therein without the prior written consent of the Committee.

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

In the event that submitted plans and specifications are rejected by the Committee, the submitting Owner shall be advised, in writing, of the reasons for the rejection and of any suggestions the Committee may have to facilitate approval of the project upon resubmittal.

Section 8. Landscaping. As specified in section 1 of this article VIII, landscaping shall be deemed to be a work of improvement requiring Architectural Control Committee approval hereunder. All approved landscaping must be completed within 60 days after a notice of occupancy has been filed with the County for the Owner's Residence and, in the event that the landscaping has not been completed by the occupancy date, the Architectural Control Committee may, in its discretion, require an Owner-Applicant to post a bond in an amount specified in the Architectural Control Committee Rules in order to insure the Applicant's timely completion of the landscaping work. A portion of the Association's current Architectural Control Committee Rules regulates landscaping criteria.

Section 9. Common Areas. No improvement, excavation or work which in any way alters any part of the Common Areas from their natural or existing state shall be made or undertaken except upon strict compliance with, and within the restrictions and limitations of, the following provisions of this section:

(a) No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any improvement upon, or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Areas.

(b) Subject to compliance with any requirement for Membership approval of the funding thereof (article IV, section 4(a)(ii)) or changes in exterior color or appearance (article VIII, section 4(d)), the Association may at any time, and from time to time:

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

(ii) Construct, reconstruct, replace, refinish any road improvement or surface upon any portion of the Common Areas designated on a subdivision map as a private road, parking area, or Townhouse driveway.

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

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

Section 10. Minimum Construction Standards. All improvements constructed, or proposed for construction, within the Properties shall conform to the following minimum construction standards, to the extent applicable:

(a) No Residence shall be erected or placed on any Residence Lot in any subdivision other than Lighthouse Shores which has less than 1,500 square feet of living area. Within Lighthouse Shores, no Residence shall be erected or placed on any Residence Lot which has less than 2,200 square feet of living area. The square footage of living area shall be based on the Dwelling's interior living space, exclusive of porches, garage, or patio areas.

(b) Any structure placed on a Lot shall comply with all setback lines shown on any applicable Subdivision Map or imposed by City or County zoning regulations. No improvement shall be erected or permitted nearer than 15 feet from the bulkhead or high water line as shown on any Subdivision Map. Notwithstanding the foregoing, hedges, fences, walls, patios, decks, piers and mooring or docking facilities may be constructed and maintained outside the applicable building setback lines if approved by the Architectural Control Committee.

(c) Once construction of an approved Dwelling or other improvement has commenced, the work thereon must be prosecuted diligently and the structure must be completed within a reasonable time thereafter, not to exceed one year.

(d) Offstreet parking shall be incorporated into any Dwelling improvement in the ratio of at least two covered automobile spaces for each Dwelling.

(e) No individual water supply system, sewerage disposal system, or any outdoor antenna including television antennas (but excluding satellite reception dishes) shall be permitted on any Lot.

(f) No piers, mooring or docking facilities shall be constructed in, on, or over Lake Tahoe at any time.

(g) The maximum height of any building or structure within the Properties shall be 25 feet above the top of the street curb unless a variance is obtained in accordance with section 13, below. Determination of the height of a structure shall be made in accordance with the Architectural Control Committee Rules.

The minimum construction standards imposed by this section shall not apply to any Dwellings or other improvements in existence on the recordation date of this Declaration if the improvement was properly approved by the Architectural Control Committee at the time of its construction. The Committee shall be entitled, however, to require compliance with the requirements of this Declaration in the event that any nonconforming structure or improvement is destroyed or is otherwise in need of substantial reconstruction and the Owner submits a request for reconstruction to the Architectural Control Committee.

Section 11. Subsequent Capital Improvements Within Particular Subdivisions Within the Properties. In the event that the Board of Directors, acting in response to a written petition signed by a majority of the Owners within a particular Subdivision within the Properties determines that a new capital improvement project shall be commenced within any particular Subdivision Common Area, detailed plans and specifications therefor shall be submitted to the Architectural Control Committee for review and approval. The details of this procedure are more particularly set forth in article IV, section 4(a)(ii)(B) hereof.

Section 12. Non-Waiver. The approval by the Architectural Control Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Control Committee under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner.

Section 13. Variances. The Architectural Control Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this article VII or in any restrictions specified in article VIII (Property Use Restrictions) in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided the following conditions are met:

(a) The variance, if permitted, will not violate any applicable law or governmental regulation;

(b) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise be applicable under this Declaration, the Committee must conduct a public hearing on the proposed variance after giving at least 20 days' prior written notice to the Board and to all Owners residing within 300 feet of the subject Lot in the case of any Residence Lot or 50 feet of the subject Lot in the case of a Townhouse Lot. Said notice shall also be posted in the Association office on the Properties. The Owners receiving notice of the proposed variance shall have 15 days in which to submit to the Committee written comments or objections with respect to the variance. No decision shall be made with respect to the proposed variance until the 15-day comment period has expired; and

(c) The Architectural Control Committee must make a good faith written determination that: (1) the requested variance does not constitute a material deviation from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (2) that the variance pertains to a requirement hereunder that is unnecessary or burdensome under the circumstances; or (3) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance, with respect to any other Lot, Common Area or Owner within the Properties.

Section 14. Nonconforming Use of Properties.

(a) Establishment of Nonconforming Use; Notice Requirements. In addition to its jurisdiction over the review and approval of new improvements, the

Architectural Committee, or its duly authorized subcommittee, shall also be vested with authority and responsibility to regulate continued compliance by Lots with the provisions of this article VII and article VIII (Property Use Restrictions) of this Declaration. To this end, the Architectural Committee shall appoint a compliance officer who shall periodically tour the Properties from time to time and report to the Committee any apparent violations of said articles ("architectural/land use violations"). If the Architectural Committee agrees that the compliance officer has identified an architectural/land use violation, the Committee shall so notify the Lot Owner, in writing. The notice shall detail the nature of the alleged violation and advise the Owner of his right to be heard on the matter in accordance with article XII hereof. If the Owner fails to make a timely request for a hearing the Architectural Committee shall be entitled to make its own determination of whether a violation exists at the next regularly scheduled Committee meeting following expiration of the notice period.

If a violation is determined to exist, the Association shall be entitled to execute and record against the subject Lot a Notice of Noncompliance With Use Restrictions which shall identify the subject Lot, describe the nonconforming use and specify the Article and Section number of the Governing Document that is being violated. Following recordation of such a notice, the provisions of subparagraphs (b) and (c) shall apply.

(b) Vacant Lots.

(i) Continuation of Use. Except as provided in subparagraph (ii) below, the nonconforming use of any vacant Lot may be continued, provided however:

(A) Such use shall not be expanded or extended in any way either on the same or any adjoining land;

(B) Such use shall not be changed, except to a use which conforms to the Association's Governing Documents and Architectural Rules;

(C) If such use is discontinued for a period of 12 months or more it shall not thereafter be re-established.

(ii) Limitation. The nonconforming use of any vacant Lot shall be discontinued within five years from the effective date the use becomes nonconforming in each of the following cases:

(A) Where no buildings are employed in connection with such use;

(B) Where the only buildings employed are accessory or incidental to the principal use of the land and the replacement cost thereof does not exceed \$1,000.

(C) Where such use is maintained in connection with a conforming building.

(c) Nonconforming Structures.

(i) Repair and Maintenance. A nonconforming Residence, out building or other structure or portion thereof (collectively, "structure") may be

maintained or repaired without the necessity of complying with the Governing Documents, so long as during, any period of 12 consecutive months such repair and maintenance shall not exceed 25 percent of the current replacement cost of the nonconforming structure. Any repair or maintenance of the structure or improvement the cost of which exceeds 25 percent of the current replacement cost of the structure shall require conformance to the Governing Documents as then in effect.

(ii) Enlargements. A structure nonconforming as to use, may not be added to or enlarged unless such nonconforming structure, and the additions and enlargements thereto and the use thereof, are all made to conform to the Governing Documents as then in effect.

(iii) Restoration. A nonconforming structure which is damaged or partially destroyed by any reason to the extent of not more than 50 percent of its value at that time, may be restored and the occupancy or use of such structure or part thereof, which existed at the time of such partial destruction, may be continued or resumed, provided the total cost of such restoration does not exceed 50 percent of the value of the structure at the time of such damage and that such restoration is started within a period of one year and is diligently prosecuted to completion. In the event such damage or destruction exceeds 50 percent of the value of such nonconforming structure, no repair or reconstruction shall be made unless every portion of such structure is made to conform to all Governing Document regulations for new structures of a similar nature. The value shall be determined by the Architectural Control Committee, in its sole discretion, although the Owner of the affected Lot shall be entitled to submit to the Committee evidence on the valuation issue.

(d) Certificate of Compliance. Upon the elimination of any nonconforming use, the Association shall execute and record an estoppel certificate, as described in section 15 of this article VII, which shall reference any previously recorded Notice of Noncompliance With Use Restrictions, rescind said notice and confirm that the subject Lot is in compliance with all applicable Governing Document provisions referenced in the Notice of Noncompliance.

Section 15. Estoppel Certificate. Within 30 days after written demand is delivered to the Architectural Control Committee by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Board), the Architectural Control Committee shall record an estoppel certificate, executed by any three of its members, certifying (with respect to any Lot owned by the applicant Owner) that as of the date thereof, either: (a) all improvements made and other work completed by said Owner comply with this Declaration, or (b) such improvements or work do not so comply, in which event the certificate shall also identify the noncomplying improvements or work and set forth with particularity the bases of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in said Lot through the Owner, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, Declarant, all Owners and any persons deriving any interest through them.

**ARTICLE VIII**  
**Use of Properties and Restrictions**

Use of the Lots, Common Areas and other portions of the Properties shall be subject to the following rules and restrictions in addition to any others contained in this Declaration. In the event that the Association is compelled to expend funds to gain compliance with such rules and restrictions, whether for attorneys' fees, administrative charges or otherwise, the same may be recovered by the Association from the offending Owner by means of a Special Individual Assessment. The Association Board of Directors shall be entitled to adopt Association Rules that further define and supplement the rules and restrictions set forth herein.

Section 1. Use of the Properties in General. The use of all Properties shall be limited to those uses, as strictly interpreted, which are specified in this Declaration and the Bylaws.

Section 2. Single Family Residential Use of Lots.

(a) Except as provided in subparagraph (b) below (which permits multiple family residential Dwellings on certain specified Lots) and article II, section 3 (rental of Dwellings), the use of Residence and Townhouse Lots within the Properties is hereby restricted to Single Family Residential Use. No buildings or structures shall be constructed on any Lot without Architectural Control Committee review and approval in accordance with article VII hereof.

(b) In the following subdivision phases within the Properties, the designated Lot(s) are approved for multiple family residential dwellings and appropriate garages, carports or approved outdoor parking:

<u>Name of Subdivision Phase</u>	<u>Lot Numbers Approved for Multi-Family</u>
Tahoe Keys - Unit No. 1	286 - 296, inclusive
Cove South Townhouses Unit 5	4, 17, 34, 45, 55, 62 and 70

(c) Dwellings shall not be rented, leased or conveyed on a time-share or interval ownership basis (as defined in California Business and Professions Code section 11003.5 or comparable superseding statute); provided, however, that nothing herein is intended to prohibit or restrict the right of a corporation, partnership, trust or other similar business entity from being the Owner of a Lot.

Section 3. Maintenance and Improvement of Lots. Each Lot shall be conveyed as a separately designated and legally described fee simple estate subject to this Declaration. All Lots, whether occupied or unoccupied, and the Dwellings and other improvements (including landscaping placed in any area on the Lots) shall at all times be maintained either by the Association or by the relevant Member-Owner (according to article VI hereof), in such a manner as to prevent the Lot from becoming unsightly or a health hazard by the reason of the accumulation of rubbish, debris or unsightly growth thereon. Landscaped areas shall be maintained in an attractive or conscientious manner. In the event any such Lot or improvement thereon is not so maintained, the Association shall have the right, through its agents and employees, to enter thereon for the purpose of maintenance, restoration or

repair, the cost of which shall be recoverable from the Owner by means of a Special Individual Assessment.

Section 4. Use of Common Areas and Common Facilities.

The Common Areas shall be preserved as open space and used for those service or recreational purposes originally planned as Common Facilities by the Declarant or subsequently installed by the Association in accordance with the provisions of this Declaration or the Bylaws of either corporation. Nothing shall be altered, constructed, placed or stored in the Common Areas without Membership approval where applicable, except upon the direction and under the authority of the Association and the Architectural Control Committee. Use and enjoyment of Common Areas and Common Facilities shall at all times be subject to the Governing Documents and other purposes incidental and ancillary to the authorized use of the Lots.

Without limiting the foregoing it is specifically provided that the Common Areas and Common Facilities shall be used only for the following purposes and shall be subject to the following limitations:

(a) Subject to any fee imposed by the Association and subject to this Declaration and the Association Rules, the Common Areas and Common Facilities shall be available for, and limited to, the private use, for aesthetic and recreational purposes, of the Association's resident Members, nonresident Owners who are not lessors of their Lots, the lessees of nonresident Members and the families and guests of each so long as such persons are in compliance with the applicable Governing Documents. Exclusive Use Common Areas shall only be available for use and enjoyment by those Owners who are specifically conferred those rights by this Declaration.

(b) Construction, installation, operation and maintenance by the Association of additional recreation and community service facilities for the use and enjoyment of Members and the permitted delegates of Members.

(c) Beautification of the Common Area real property to maintain the privacy and aesthetic enjoyment of the users thereof and of adjoining Lot Owners through landscaping and such other means as the Association shall deem appropriate.

(d) Except as otherwise provided in this section 4 and article IV, section 4(a)(ii)(B), no person shall make any alteration or improvement in any Common Areas or remove any planting, structure, or other object therefrom. A Member shall be liable to the Association for any and all damages to Common Areas or Common Facilities caused by the Member or by his Lessees or other persons to whom he delegates any right of usage. With the exception of projects undertaken to address emergency situations or to repair or replace structures or improvements substantially destroyed by fire or other calamity, neither the Association shall undertake any improvement project that will alter the color or surface materials of any Exclusive Use Common Area or Exclusive Use Common Facility without the prior approval of a majority of the Owners possessing rights of use and enjoyment in such Common Area or Facility.

Section 5. Prohibition of Noxious Activities. No noxious or offensive activities shall be carried out or conducted upon any Lot, nor shall any things be done on any Lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood. Without limiting any of the foregoing, no Owner

or Lessee shall permit noise, including, but not limited to the barking of dogs, the excessively noisy operation of machinery, stereo amplifier systems, television systems, motor vehicles or power tools, to emanate from any Lot, or the Common Area, which would unreasonably disturb any other Member's enjoyment of his Lot or the Common Area. Excessive noise levels may be determined according to the El Dorado County or other applicable governmental regulation dealing with such matters. The Board may, in its sole discretion, prohibit maintenance within the Properties of any animal that constitutes a nuisance (whether due to its size, viciousness, unreasonable noise or otherwise) with respect to any other Owner(s).

In the event that there is any dispute over whether a particular noise, animal, improvement or activity constitutes a nuisance, the same shall be conclusively presumed to be a nuisance if it is offensive to at least a majority of the Owners or occupants of any Dwellings that are either joined to, or within a 250-foot radius of, the center of the Lot or structure from which the alleged nuisance emanates. The Board may determine that a nuisance exists when a majority of the Owners or occupants of Lots within the herein prescribed radius or area of the nuisance, shall sign a petition or statement objecting to the alleged nuisance. Upon receipt of said petition, and verification of the signatures thereon, the Board shall cause a notice of abatement to be mailed or delivered to the offending Owner or occupant of the Lot, advising that the nuisance exists and requesting immediate abatement thereof. The Board shall also be entitled to issue an abatement notice on its own volition.

If the nuisance specified in the abatement notice is not abated within ten days after receipt of such notice, the Association or any Owner of a Lot within the Properties may, by appropriate proceeding, institute legal action to compel abatement. Notices of abatement shall be personally delivered to the offending Owner or sent such Owner by registered or certified mail, postage prepaid and addressed to the last known address of Owner or occupant. Notices mailed in accordance with this paragraph shall be presumed to be received on the fourth day after such mailing.

Section 6. Household Pets. The following restrictions shall govern the maintenance and ownership of pets within the Properties:

(a) With the exception of no more than two (2) (in the aggregate) common household pets such as dogs or cats, no animals, livestock, or poultry of any kind shall be raised, bred or kept on any residential Lot or Lots. No pet permitted hereunder shall be kept, bred, or maintained on any Lot or within any Dwelling for any commercial purpose.

(b) Caged birds, aquarium-contained fish and similar small animals normally maintained indoors shall not be subject to the limitation contained in subparagraph (a), above, so long as they are not maintained in a manner which becomes a nuisance to neighboring residents.

(c) Dogs shall only be allowed within the Common Areas when they are leashed and otherwise under the supervision and restraint of their Owners.

(d) No household pet shall be left chained or otherwise tethered within the Common Areas.

(e) Pet owners shall be responsible for the prompt disposal of their pet's wastes when deposited on any portion of the Common Areas or on any other Owner's Lot.

(f) The Board of Directors shall have the right to establish and enforce additional uniform regulations, as part of the Association Rules, for the reasonable control and maintenance of household pets in, upon and around the Properties, to insure that the same do not interfere with the quiet and peaceful enjoyment of the Properties by the other Owners.

(g) Each Owner shall comply with all applicable governmental licensing requirements for authorized pets and shall be solely responsible for the conduct of, or damage or injury caused by, the Owner's pet. The Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Declaration or otherwise) to any Owners, their family Members, guests, invitees, lessees, contract purchasers or other persons for any damage or injury to persons or property caused by any pet maintained by an Owner.

Section 7. Signs. No signs of any nature (except one "for rent," "for lease," or "for sale" sign not larger than 216 square inches), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot. Signs must also comply with any applicable local ordinances regulating the erection and maintenance of signs.

Section 8. Business Activities.

(a) Except as provided in subparagraph (b), below, no business activities of any kind whatsoever shall be conducted in any building, on any portion of any Lot or within the Common Areas without the prior approval of the Association Board of Directors; provided, however, the foregoing covenants shall not apply to the activities, signs or the maintenance of buildings by the Association or its agents or contractors in furtherance of its powers and purposes as set forth in the Governing Documents. Without limiting the foregoing, it is specifically agreed that there shall be no mooring within the Properties of boats used for commercial purposes.

(b) No restrictions contained in this section 8 shall be construed to prohibit any Owner from (i) maintaining his personal library within his Dwelling; (ii) keeping his personal business records or accounts therein; (iii) handling his personal or professional telephone calls or correspondence therefrom; or (iv) conducting any other activities on the Owner's Lot otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or governmental regulations without the necessity of first obtaining a special use permit or similar specific governmental authorization.

An activity shall not be considered as "compatible with residential use" within the meaning of this subparagraph (b) unless the use or activity: (i) is clearly incidental and subordinate to use of the Lot for residential purposes; (ii) does not involve the advertising or display of products produced by occupants of the Dwelling which are visible in any manner from the outside of the dwelling unit; (iii) does not generate pedestrian or vehicular traffic beyond that which is normal in a residential district, and shall not, under any circumstances, require the parking of more than one additional vehicle at any one time; (iv) does not result in the storage of material or

supplies out-of-doors; (v) does not require remodeling or construction of Lot improvements or facilities to accommodate the activity or use that changes the exterior of the Dwelling from a residential appearance to a commercial appearance when viewed from the front of the building; and (vi) does not result in any visible evidence of the conduct of such home occupation outside the Dwelling structure.

Section 9. Garbage and Storage. No rubbish, trash, or garbage shall be allowed to accumulate on Lots; and any trash placed outside the interior walls of a Dwelling temporarily shall be stored entirely within appropriate covered disposal containers maintained in good, clean condition and screened from view from any adjoining property. No visible disposal containers, other than those maintained by the Association, shall be allowed on any Lots, city streets or within the Common Areas except on days when refuse is collected or during those periods when repair, reconstruction or improvements are being made by the Association or by an Owner-Member. Any accumulation of rubbish, trash, garbage or debris (such as is often generated upon vacating of premises or during holidays) shall be promptly removed from the Properties to a public dump or trash collection area by the Owner or Lessee at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for collection of garbage and refuse which is disposed of in any manner inconsistent with this section.

Nothing in this section shall be interpreted so as to preclude the Association from establishing and maintaining within the Properties appropriate storage yards and storage buildings for the maintenance and retention of materials and equipment needed for planting, building, repair, maintenance and preservation of the structures, gardens and other improvements of the Lots and the Common Areas.

Section 10. Clotheslines, etc. No exterior clothesline shall be erected or maintained, and there shall be no drying, airing or laundering of clothes on the balconies, decks, porches, or patios or on other such exterior areas in any manner which is visible from any neighboring Lot. In addition, no item that alters the exterior appearance of any Lot shall be hung, kept or displayed outside any Dwelling without approval of the Architectural Control Committee pursuant to article VII hereof.

Section 11. No Alterations Without Architectural Approval. In order to insure adequate aesthetic controls and to maintain the general attractive appearance of the Properties, no Owner or Lessee shall, at his expense or otherwise, construct fences, walls, or make any alterations, additions or modifications to or on any part or portion of the Common Areas or exterior surfaces of any Dwelling structures (including, without limitation, the erection of awnings, exterior window coverings, hangings and the like), or place or maintain any objects, such as masts, towers, poles, television and radio antennas or satellite transmission or reception equipment of any kind, on or about the exterior of any building or on any Lot within the Properties unless authorized by the Architectural Control Committee in accordance with article VII hereof.

Section 12. Vehicle, Boat, Trailer and Parking Restrictions.

The following restrictions shall apply to the use, storage or parking of boats, trailers and vehicles within the Properties:

(a) House trailers, motor homes, boats, campers, recreational vehicles, commercial vehicles, vehicles having a gross weight in excess of one ton, motorcycles, bicycles, vehicles undergoing repairs and trailers may only be parked or stored within the Properties in an enclosed garage except that such equipment may be parked for periods of short duration for purposes of loading or unloading and the Association shall be entitled to implement a guest or visitor pass system to permit Owners or tenants and the guests and visitors of Owners or tenants to park campers or motor homes within the Properties for periods not to exceed seven days.

(b) Garages are to be used for the parking of cars, boats, trailers or similar items for storage purposes, and for no other purpose. Garages are not to be converted for any type of living space or utilized in any way which prevents the parking of vehicles in the garage space.

(c) The guest parking areas within any Subdivision are to remain open for guest parking for the benefit of guests of Owners within the Subdivision and are not to be used for the parking of boats, trailers, campers, or other recreational vehicles. Except in special parking areas designated by the Association and for a monthly storage fee (and excluding the Association in the proper discharge of its responsibilities hereunder), no house trailers, campers, motor homes, vans, privately owned passenger trucks of any size or design, boats, or boat trailers shall be parked or maintained outdoors on any Lot.

(d) Except as otherwise provided in this section 12 all vehicles (including 2-wheel vehicles) are to be parked within designated parking areas, driveways, carports or garages. Any vehicle parked within the Properties shall be in running condition.

(e) No motor vehicle shall be constructed or reconstructed within the Properties and no dilapidated or inoperable vehicle including vehicles without wheel(s) or an engine, shall be stored on the Properties; provided, however, that the provisions of this subparagraph shall not apply to expeditious vehicle repairs or routine tune-up maintenance performed within a garage.

(f) No parking of any vehicles or trailers shall be allowed on unimproved Lots, unpaved areas or dirt areas, except as approved by the Board and authorized in the Association Rules (see Section 23, below).

(g) The Association Board shall be entitled to adopt uniform rules, not inconsistent herewith, to further regulate and define the use and parking of vehicles within the Properties or within particular Subdivisions. Without limiting the foregoing, said rules can impose a schedule of fines and a towing policy for vehicles parked in violation of these restrictions or any duly enacted Association Rule.

Section 13. Barbecues. There shall be no exterior fires whatsoever except barbecue fires contained within receptacles designed for such purpose.

Section 14. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment owned or used by the Association or as is usual or customary in connection with the use, maintenance or construction of a Residence, Townhouse or appurtenant structures within the Properties.

Section 15. Children. Each Owner and each Lessee shall be accountable to the remaining Owners, their families, visitors, guests and invitees, for the conduct and behavior of their children and any visiting children temporarily residing in or visiting his Residence and for any property damage caused by such children.

Section 16. Compliance With Local Laws and Activities Affecting Insurance. Subject to rights of reasonable contest, nothing shall be done or kept on any Lot or within the Common Areas which will increase the rate of insurance relating thereto (or insurance maintained by the Association on Townhouse structures) without the prior written consent of the Association and no Owner shall permit anything to be done or kept on his or her Lot or the Common Areas which would result in the cancellation of insurance on any Residence or any part of the Common Areas or which would be in violation of any applicable statute, ordinance, law or administrative ruling or regulation.

Section 17. Cutting of Trees. No tree in excess of two inches in diameter shall be removed from any Lot by any person without first obtaining the written consent of the Architectural Control Committee.

Section 18. Fences. No fences, including, but not limited to, fences for the containment of household pets, shall be constructed or erected on any residential Lot without prior written approval of the Architectural Control Committee.

Section 19. Radio Stations, Television Antennas and Community Television System. No radio station or shortwave operators of any kind shall operate from any Lot, Residence or Townhouse unless such activities (i) are first approved in writing by the Board, (ii) require no fixed base exterior antennas and (iii) do not interfere with radio or television reception by neighboring Owners. No visible satellite television reception equipment (including reception dishes) shall be installed or maintained on any Lot, and the installation, screening and placement thereof shall be subject to review of the Architectural Control Committee. Nothing herein shall prohibit the Association from owning, operating and/or maintaining a community television antenna cable system or Association communication equipment within the Properties.

Section 20. Restriction on Further Subdivision and Severability.

(a) Except as provided in subparagraph (b) below, no Lot shall be further subdivided nor shall less than all of any such Lot be conveyed by an Owner thereof and no Owner of a Lot within the Properties shall be entitled to sever that Lot from the Common Area portions of the Properties. No easement or other interest in a Lot shall be given prior to a review by the Architectural Control Committee and written approval by the Board of Directors.

(b) Notwithstanding the foregoing, the Board, on recommendation of the Architectural Control Committee, shall have the right to (i) enter into boundary line adjustments between Lots and adjoining Common Areas where necessary to facilitate construction, improve access or preserve aesthetic features of a Lot; provided the adjustment involves a trade of Lot and Common Areas that are substantially equal in size; and to (ii) permit two Lot Owners whose property is separated by a vacant Lot to acquire said Lot jointly and adjust their adjacent property lines so that the lines equally divide the

vacant Lot. Any Lot line adjustments hereunder shall be treated as a request for a variance for purposes of article VIII, section 11 hereof.

Section 21. Restrictions Applicable to Townhouses Only.

(a) Limited Exterior Maintenance by Townhouse Owners. There may be limited container gardening and landscaping limited to small bushes, plants, flowers and bulbs at front and rear entrances and on decks of any Townhouse, in addition to the required landscaping of the individual patios and rear screened-in areas appurtenant to each Townhouse. No other planting or gardening on the Properties shall be done by Townhouse Members or Lessees and there shall be no exterior staining or painting of Townhouses by or on behalf of the Owners thereof, or any person occupying a Townhouse Dwelling thereunder, nor repair or replacement of any roof covers, or utility laterals by said persons, it being the intention hereunder that such items be maintained and replaced by the Association in conjunction with its maintenance of Townhouse Common Areas and Facilities in order to preserve the external harmony of the Properties.

(b) Cooperative Maintenance Obligations. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Townhouse Common Areas and all exterior walls and roofs of Townhouses, including but not limited to, recreation and parking areas, walks and Townhouse driveways shall be undertaken by the Board of Directors or by its duly delegated representatives or contractors and, to the extent necessary or desirable to accomplish such maintenance, individual Owners shall cooperate with the Association and its agents in the prosecution of its work.

(c) Interior Townhouse Improvements. No Townhouse Owner shall undertake any action or work with respect to the interior of a Townhouse Dwelling that will impair the structural soundness or integrity of any other Townhouse or impair any easement, or do any act or allow any condition to exist which will adversely affect the other Townhouses or their Owners. If there is any question regarding the effect that an improvement will have on other Townhouses, the prior review and approval of the Architectural Control Committee shall be obtained. Townhouse Owners shall also secure all necessary governmental approvals for any interior improvement project prior to commencing work.

(d) Townhouse Garages. No Townhouse garage shall be used for the storage of flammable materials such as fuel, oil, oily rags or other flammable household items.

(e) Changes in Exterior Color or Surface Materials on Townhouse Dwellings. With the exception of projects undertaken to address emergency situations or to repair or replace Townhouse Dwellings destroyed by fire or other calamity, the Association shall not undertake any improvement project that will alter the color or surface materials of any Townhouse Dwelling exterior without the prior approval of a majority of the Owners of Lots within the relevant Townhouse Subdivision.

(f) Docks. Existing boat docks or slips within any Townhouse Subdivision may not be moved or altered without the prior approval of 51 percent of the Subdivision's Owners. This restriction shall not apply to routine maintenance and repair by the Association.

Section 22. Restrictions Applicable To Particular Subdivisions Only. The following property use restrictions shall apply to the Subdivision phases listed below and shall be binding upon the Owners and residents of Dwellings and Lots within the identified Subdivision. To the extent that the provisions of this section 22 are more restrictive than restrictions that are generally applicable to all Lots within the Properties under this article VIII, the provisions of this section shall prevail; provided, however, that any portions of the general restrictions that are not in conflict shall continue to apply to Owners and Lots within the listed Subdivisions.

(a) Tahoe Marina Shores

(i) Subdivision Architectural Rules. The Tahoe Marina Shores Subdivision has adopted Architectural Rules pursuant to article VII, section 4(c), above. In addition to the specific restrictions applicable to the erection or modification of buildings or structural improvements set forth in this section 22(a), any Owner who desires to erect or modify any improvement within the Subdivision shall abide by all Architectural Rules, including rules specifically applicable to Tahoe Marina Shores. All capital improvements within Tahoe Marina Shores which involve estimated expenditure in excess of \$10,000 (whether undertaken or proposed by the Association or an Owner) shall require plans and specifications prepared by an architect or other qualified, licensed consultant. See article VII, section 3 for minimum content of plans and specifications.

(ii) Pets. No more than one (1) ordinary household pet (except caged birds, aquarium-contained live water animals and similar small animals normally maintained indoors) shall be kept on any Lot on a short-term basis. On a full-time basis (full-time residents) no animals or birds of any kind shall be permitted or kept upon any Lot without prior written permission of the Board and said Board may approve no more than one (1) usual and ordinary household pet, such as a dog, cat or bird and that it is kept under reasonable control at all times.

(iii) Signs. The color of signs advertising that a Townhouse is for sale or rent by an Owner shall be beige or neutral in color. Additional rules regarding uniform placement of signs can be adopted by the Tahoe Marina Shores Owners.

One individual name plaque shall be allowed at the front entrance of a Dwelling only. The size of any such name plaque shall not exceed 25 inches wide by 7 inches high and shall be made only of wood with a neutral or natural stain. The plaque can be hung only when the Dwelling is occupied by Owner and must be removed when the Owner leases or sells his or her Dwelling.

(iv) Garbage and Storage. No general storage of any kind is allowed around a Lot, including on the lower and upper rear decks and front porch areas of Townhouse Dwellings within the Subdivision. Only one medium sized barbecue (approximately 22 inches wide, 21 inches deep and 32 inches high) may be permitted to remain on the lower rear deck of any Dwelling.

(v) Occupancy Restrictions. The maximum number of full-time residents (owners, renters or guests) within a Dwelling shall not exceed six people in one family or three nonrelated occupants. The maximum number of

short-term residents (owners, renters or guests) shall not exceed a total of eight people, regardless of relation.

(vi) Window Restrictions. The following additional restrictions shall apply to window improvements within Tahoe Marina Shores:

A. All windows facing the Common Area shall have either soft window coverings (draperies) or hard window coverings (anything that is not a drapery) that show only a backing of white or off-white color. Soft window coverings include: draperies, balloon shades, Roman shades, Austrian shades, etc. Hard window coverings include: shutters, woven woods, pleated shades, mini blinds, wood blinds, vertical blinds, etc.

B. No posters or decals shall be permitted on windows and no objects shall be allowed to be left standing on interior or exterior window sills or ledges.

C. Replacement of existing glass or window components shall adhere to all relevant Architectural Rules applicable to Tahoe Marina Shores.

D. If an Owner desires to add a window to his or her Townhouse Dwelling, the proposal shall only be approved by the Architectural Control Committee if the window is consistent with windows found in other Townhouses within the Subdivision, both as to design and location.

E. Some Owners within Tahoe Marina Shores have provided additional insulation benefits to their Townhouse Dwellings by creating a double set of windows at particular window locations. Any such double window set shall only be approved by the Architectural Control Committee if the second set of windows is placed on the interior of the Dwelling.

(vii) Decks and Porches. No architectural modifications to decks or porches are allowed. Front and rear door mats need to be neutral in color and interior carpet pieces are now allowed. No carpeting shall be permitted on the front porch or lower rear deck of any Dwelling. Carpeting is permitted on upper rear decks, subject to compliance with all Architectural Rules. No furniture, equipment, or personal property shall be stored or maintained on the lower and rear decks or front porch of any Dwelling except small-to-medium sized barbecues (approximately 22" wide, 21" deep and 32" high). No resident shall hang or maintain wind chimes, bells, plants, flags, clotheslines, beach towels, or other items of personal property on a deck or any other exterior area of a Dwelling.

(viii) Exterior Cable. Any additional individual cable lines that are needed for television reception and the like cannot be installed on the exterior of any Dwelling. Instead, all cable lines must be run through interior walls so as to be hidden on the exterior of the Dwelling unit.

(ix) Additional Parking Regulations. No one shall permanently park any vehicle or trailer within the Subdivision for more than one month. Permanent parking means parking the vehicle without having it moved from the parking lot during that one month long period. All vehicles parked within the

Subdivision must be in operating condition and shall have a reasonably attractive appearance, considering the age of the vehicle. Parking within the Subdivision shall be for the exclusive use of residents within the Subdivision, their guests and invitees.

(x) Right to Contract for Subdivision Management. The advisors of Tahoe Marina Shores, with the approval of a majority of the Owners within the Subdivision, shall be empowered to retain the services of a property manager to coordinate the day-to-day operations of Tahoe Marina Shores with outside contractors, the Association's staff and its Board of Directors. In the event the services of such a manager are approved, the Association shall contract with the designated management company or person, all costs thereof shall be borne by the Owners of Lots within Tahoe Marina Shores and the hired manager shall be subject to the ultimate jurisdiction and control of the Association Board and its management staff.

Section 23. Variances. The Board of Directors or its Architectural Control Committee may allow reasonable variances and adjustments of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that any such variance shall be allowed only in accordance with the procedures described in article VII, section 13 hereof and all applicable governmental ordinances.

## ARTICLE IX Easements

Section 1. Reservation to the Association and Owners. Easements are reserved for the benefit of the Association and the Owners of all Lots within the Properties and their successors and assigns for purposes incidental to the use, development and maintenance of the real property subject to this Declaration for the following purposes:

(a) For light and air over those strips of land lying between the front, rear and/or sidelines of Lots and the lines shown on the Map and designated "Set Back Line" requiring said strips to be kept free from buildings. The usage and maintenance of said strips of land is set forth in section 4 of this article IX; and

(b) For the purposes and uses designated on the Map, all of the areas identified and designated on the Map as "Drainage Easements";

(c) For the purpose and use of installation and maintenance of public utility facilities, including cluster mail boxes approved by applicable postal regulations and of radio and television transmission cables, strips of land five (5) feet in width along the side, front, and rear property lines of each Lot;

(d) To accommodate encroachments on Townhouse Lots as provided in section 2 hereof;

(e) To permit the Association to discharge its maintenance responsibilities as provided in section 3 hereof; and

(f) For the purposes of boating, swimming, fishing and navigation on all manmade waterways located within all portions of the Properties (other than Tallac Lagoon).

Section 2. Encroachment Easements (Townhouse Lots Only). Each Townhouse Lot is hereby declared to have an easement over adjoining Lots and Common Areas for the purpose of accommodating any encroachment due to roof overhangs, elevated dwelling unit structures and screens or walls which are built in accordance with the original design, plans and specifications of the Declarant, its successors and assigns, and due to engineering errors, errors in original construction, settlement or shifting of the building, or similar causes. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of the Owner shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurs due to the willful misconduct of said Owner or Owners. In the event any Townhouse is partially or totally destroyed, and is repaired or rebuilt, the Owners of each of the adjoining Townhouse Lots agree that minor encroachments or adjoining Lots shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

Section 3. Maintenance Easements. An easement is hereby granted to the Association and its officers, agents, contractors and employees, to enter in or to cross over the Common Areas and any Lot to perform the duties of maintenance and repair of the Townhouses, Common Areas, Lots or lagoons imposed upon the Association as provided for herein.

Section 4. Rights-of-Way; Public Utilities. The Declarants dedicated to various public utility agencies rights-of-way and easement areas for the installation and maintenance of public utilities together with rights of ingress and egress thereto. Such dedications are described on the Subdivision Maps for the Properties.

Section 5. Maintenance of Easement and Right-of-Way Areas. On each Lot to which they are applicable, the right-of-way and easement areas herein reserved by the Declarants or dedicated to public utility purposes shall be maintained continuously by the Lot Owner. No structure or permanent improvement shall be placed or permitted to remain on such areas within any Lot, and no other activities shall be undertaken within any Lot which may damage or interfere with the installation or maintenance of utilities, which may change the direction of flow of drainage channels in the easements, or which damage or interfere with established slope ratios or create erosion or sliding problems. Permitted improvements within such areas shall be maintained by the Lot Owner except for such maintenance or repairs as are the responsibility of the Association hereunder or the responsibility of a public authority or utility company.

Section 6. Easements Peculiar to Particular Subdivision Areas. Within certain Subdivisions within the Properties, the Original Declarations created certain easement rights and obligations which are peculiar to the Subdivision governed by the Original Declaration creating the easement. Those easements

and a description of the Subdivisions to which they pertain are set forth in exhibit D.

## ARTICLE X Insurance

Section 1. Liability Insurance. To the extent such insurance is reasonably obtainable, the Association shall secure and maintain comprehensive public liability insurance insuring the Association and its officers, directors, manager, agents and employees, against any liability incident to the ownership or use of the Common Areas and Common Facilities, and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than FIVE MILLION DOLLARS (\$5,000,000.00) covering all claims for death, bodily injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability when reasonably available, liability for nonowned and hired automobiles, liability for property of others, a personal injury endorsement, and coverage for any other liability or risk customarily covered with respect to projects similar to the Properties in construction, location, and use.

### Section 2. Fire and Extended Coverage Insurance.

(a) Common Facilities. To the extent such insurance is reasonably obtainable, the Association shall secure and maintain a policy of Fire and Extended Coverage insurance for the full insurable value of all the Common Area and Common Facility property.

(b) Townhouse Improvements. The Association shall also obtain and maintain a master or blanket policy of fire and extended coverage insurance, written on an all risk, full replacement cost basis, on all completed Townhouse improvements within the Properties, other than those improvements commonly insured by the type and nature of coverage commonly known as "tenants improvements" coverage. The Association Board shall seek to obtain insurance premium quotations for this coverage that disclose the allocable share or proportion of the total premium attributable to insured improvements within each of the designated Townhouse Subdivisions so that this data will be available to the Board for purposes of satisfying the budgetary requirements of article V, section 3 hereof. Furthermore, the Board of Directors shall have the discretion to obtain separate blanket insurance coverage for one or more of the Townhouse Subdivisions (rather than covering all Townhouse Subdivisions under a single master policy) in order to avoid having one Subdivision adversely affected by the loss history of other Townhouse Subdivisions.

(c) Coverage Generally. The insurance required of the Association pursuant to this section 2 shall be kept in full force and effect at all times and full replacement value of the insured property shall be redetermined on an annual basis. Depending upon the nature of the insured property and the requirements, if any, imposed by institutional mortgages having an interest in such property, the policies maintained by the Association and TKTA pursuant to this section shall contain a blanket endorsement or their equivalent, an extended coverage endorsement, vandalism, malicious mischief coverage, a special form endorsement. The policies required hereunder shall be in such

amounts as shall be determined by the Board (consistent with the coverage requirements of this section 2), and shall name as insured the Association, all Owner-Members with property included within the insurance coverage and all mortgagees as their respective interests may appear. The policies may contain a loss payable endorsement in favor of the trustee described in section 6 below.

Section 3. Other Insurance. The Board of Directors of the Association may obtain such additional insurance as it deems necessary or appropriate to adequately protect the Association and its directors, officers, Members, employees, agents and contractors from risks that can reasonably be anticipated given the nature of the property owned by the Association and of the responsibilities and services the Association is obligated to discharge. Without limiting the foregoing, the Board shall purchase and maintain: (a) fidelity bonds or insurance (which shall be in an amount not less than 100 percent of each year's estimated annual operating expenses and which shall contain an endorsement of coverage for any person who may serve without compensation and a monies and securities endorsement); (b) directors' and officers' liability insurance; and (c) such additional insurance on its personal property as the Board of the insured corporation deems appropriate or as required by institutional mortgagees.

Section 4. Insurance Procured by Owners.

(a) Townhouse Fire Insurance Limited. Except as provided in this section, no Townhouse Owner can separately insure his Townhouse or any part of it against loss by fire or other casualty covered by an insurance policy carried by the Association under section 2(b) of this article X. If any Townhouse Owner violates this provision, any diminution in insurance proceeds otherwise payable pursuant to the provisions of section 2 that results from the existence of such other insurance will be chargeable to the Townhouse Owner who acquired other insurance, and the Owner will be liable to the Association to the extent of any such diminution. Notwithstanding the foregoing, a Townhouse Owner can insure his personal property against loss. In addition, any improvements made by an Owner to his or her Townhouse Lot may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements." All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners and the institutional first mortgagee of such Lot.

(b) Liability Insurance. An Owner may carry whatever personal liability insurance with respect to the ownership of a Lot within the Properties as he or she desires.

(c) Fire and Extended Coverage Insurance on Residences. Owners of Residences shall be responsible for carrying their own fire and extended coverage insurance with respect to their Lots and the Residences and other improvements located thereon.

Section 5. Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon to have been paid) maintained by the Association shall be retained by the Association at its principal office and shall be available for inspection by Owners at any reasonable time.

Section 6. Trustee. All insurance proceeds payable pursuant to policies maintained under section 2 of this article X may, in the discretion of the Board of Directors, be paid to a trustee, to be held and expended for the benefit of the Owners, mortgagees and others, as their respective interests shall appear.

Section 7. Adjustment of Losses. The Association Board of Directors is hereby appointed as the attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried by or maintained by the Association pursuant to sections 1, 2 and 3 of this article X. Furthermore, the Board is granted the right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer with respect to insurance maintained by the Association.

## ARTICLE XI Damage or Destruction

Section 1. Affected Members. As used in this article XI, the phrase "affected Members" shall mean: (a) all members of the Association with respect to any damage or destruction described in section 2 which pertains to a Common Area or Common Facility open to the use and enjoyment of all Members; (2) all Members with rights of use and enjoyment to an Exclusive Use Common Facility in the case of any damage to, or destruction of, such Facility; and (3) to all Members owning a Townhouse within a particular building structure that is damaged or destroyed in the case of any damage or destruction described in section 3, below.

### Section 2. Damage and Destruction Affecting the Common Areas.

(a) If any portion of the Common Areas is damaged or destroyed by fire or other casualty, the Association Board of Directors shall determine if and how it is to be restored, unless the cost of restoration exceeds \$100,000.00 and insurance proceeds with respect to the loss will cover less than 90 percent of the total cost of restoration.

(b) If the cost of restoration is in excess of \$100,000.00 and the insurance proceeds will cover less than 90 percent of the costs, then the Board shall obtain firm bids (including a performance bond premium) from two or more responsible contractors to rebuild the damaged area substantially in accordance with its original condition. As soon as the Board has obtained bids, it shall call a special meeting of the affected Members to consider the bids. At such a meeting, the affected Members may, by a majority vote of the total voting power present in person or by proxy, elect to reject all of such bids. However, failure to reject all such bids shall authorize the Board to accept the bid it considers most favorable.

(c) If all such original bids are rejected, the Board may prepare and present, to the affected Members, various alternative plans for repair and reconstruction. Before presenting any new plans to the affected Members, the Board of Directors shall have the Architectural Control Committee review all various alternative plans and make recommendations. Then using the most acceptable plans, the Board shall obtain firm bids (including a performance bond premium) from two or more responsible contractors to perform the work of

repair or reconstruction in accordance with each such alternative plan. Such bids shall also be considered at a special meeting of the affected Members as soon as possible after the bids have been obtained. Such Members may, by majority vote of the total voting power of the affected Members, elect to reject all such bids. Failure to reject all of such bids shall authorize the Board to accept the bid it considers most favorable.

(d) If a bid is accepted, under either (b) or (c) above, the Board of Directors shall levy a Special Assessment for reconstruction against the affected Members to make up any deficiency between the total insurance proceeds and the contract price for such repair or rebuilding; and such Assessments and all insurance proceeds, whether or not subject to liens of mortgagees, shall be paid to the Association to be used for such rebuilding.

(e) If any affected Member fails to pay any Special Assessment properly levied hereunder within 30 days after the levy thereof, the Board shall have the power to borrow the amount needed from the maintenance funds to make up the deficiency. Any such money borrowed is to be restored to the maintenance funds on collection of the Special Assessment from the delinquent Member according to the lien procedure described in article IV, section 9, hereof. When adequate funds have been collected, the Board shall let the contract to the successful bidder.

(f) If no such bid is accepted within eighteen months after the date such damage or destruction occurs, or if the Board has determined that such areas are not to be restored, then the Board shall use any insurance proceeds to demolish and remove all damaged or destroyed structures or improvements from said area and level and landscape the site thereof. In the event that all of said insurance proceeds are not required to perform the work, the excess not so required shall be deposited in the prepaid maintenance fund. In the event the insurance proceeds are insufficient to accomplish such demolition and removal and site relandscaping, then the Board shall levy a Special Assessment to make up the deficiency according to the procedure described in subparagraph (e) above.

(g) If the cost of any maintenance, repair or replacement of the Common Area or Common Facility is not covered by insurance, and if said damage has resulted from the negligence or willful act of an Owner, an Owner's guest or an Owner's Lessee, the Board shall levy a Special Individual Assessment against such Owner and it shall be due and payable in all respects as provided in section 5 of article IV hereof.

### Section 3. Damage to or Destruction of Townhouse Buildings.

(a) Unless the loss is covered by a policy of insurance maintained by the Association pursuant to article X hereof (in which case the provisions of section 1 relative to repairs undertaken by the Association shall apply), in the event a Townhouse Dwelling is damaged or destroyed by fire or other casualty, the Owner or Owners thereof shall be obligated to proceed with all due diligence hereunder, to either:

(i) With the prior written approval of the Board and the Architectural Control Committee, commence reconstruction within six months after the damage occurs and complete reconstruction within one year after the damage occurs, unless prevented by causes beyond their reasonable control, or

(ii) With the Board's prior written approval, clear and level the Townhouse Lot, removing all wreckage, debris and remains of the building or buildings therefrom and leaving the same in a level, clean condition.

(b) Upon reconstruction, the Townhouse shall be rebuilt substantially in accordance with the original plans and specifications therefor and the exterior appearance thereof shall substantially resemble the form and color of the structure prior to such damage and destruction. Notwithstanding the foregoing, however, any Owner or Owners of such damaged Townhouse Dwelling(s) may reconstruct or repair the same in accordance with new or changed plans and specifications by filing an application with the Architectural Control Committee and receiving written approval from the Committee according to article VII hereof. New plans and specifications may be appropriate, for instance, if all or a substantial portion of the buildings within a Townhouse Subdivision are destroyed.

(c) If the Owner is unable or refuses to rebuild his Townhouse, and if a majority of the Board determines that it would be beneficial to the other Owners of Lots within the same Townhouse Subdivision to have the damaged structure replaced, the Board shall have the power to borrow the money needed to rebuild the Townhouse from the reserve funds maintained on account of that Townhouse Subdivision. Upon completion of the restoration project, any such money borrowed is to be returned to the reserve funds of the Townhouse Subdivision by collection of a Special Individual Assessment from the defaulting Owners according to the assessment procedure described in article IV, section 5 hereof.

(d) In the event that the loss to a Townhouse structure is covered by insurance maintained by the Association pursuant to article X hereof, the proceeds derived from such insurance policies, to the extent thereof, shall be utilized in repairing or rebuilding the damaged structure(s) in the manner provided in section 2 of this article XI for the repair of common facilities. If the insurance proceeds are insufficient to complete said repairs, the affected Members shall be solely responsible for the costs of rebuilding or repairing in excess of the available insurance proceeds.

(e) Notwithstanding the foregoing provisions (a) through (d), in the event of total or substantially total destruction of the improvements on any Townhouse Subdivision within the Properties, or damage affecting all of the Townhouse Dwellings in any such complex within the Properties, it shall be the duty of the Association to obtain bids for the reconstruction of such complex and to reconstruct such complex as agent for all of the Lot Owners. The cost of such reconstruction shall be allocated by the Association among the affected Members on the basis of the costs allocable to the reconstruction of each of the affected Townhouses. The proceeds of the hazard insurance or policies provided for elsewhere herein shall be paid to the Association to the extent necessary to cover the total cost of reconstruction, and to the extent that the portion of the insurance proceeds allocable to a particular Dwelling (as determined by the Association) are insufficient to cover the cost of reconstruction of that Dwelling, the Owner of such Dwelling shall bear the additional (uninsured) cost thereof.

If within 60 days of such total or substantially total destruction of the improvements within any such Townhouse Subdivision, more than 75 percent of the Owners of Lots within such Subdivision notify the Association in writing

of their desire that the Townhouse Dwellings not be reconstructed, the provisions of the preceding paragraph shall be inoperative, and the Association, which is hereby granted an irrevocable power of attorney for such purpose, shall be authorized and empowered to sell the entire affected premises, in its then present condition, at the highest price obtainable, and the proceeds of such sale, together with all insurance proceeds, shall be used to pay off any and all mortgage indebtedness against such affected premises and/or any Lot, and the balance, if any, shall be distributed among the affected Members, and all other persons having an interest in the damaged or destroyed Townhouses, pursuant to the agreement of all parties or in such proportions as may be determined by a court of competent jurisdiction. Notwithstanding the provisions of the preceding sentence, should any affected Townhouse that is sold hereunder be unencumbered by a mortgage, the proportionate share of that Dwelling's Owner(s) shall be determined and set aside before any distribution to mortgagees.

The failure of the parties to agree upon the methods of distribution of the proceeds shall not affect the Association's power of sale nor delay such sale, but the proceeds of the sale, after retiring the mortgages, shall be held in trust by the Association for the affected Owners pending an agreement or determination on the method of distribution. Upon any sale pursuant to this paragraph, the property sold shall no longer be subject to this Declaration.

Section 4. Damage or Destruction of Residences. In the event that any Residence or other improvement located on a Residence Lot is damaged or destroyed, the Owner thereof shall either promptly repair and/or replace the damaged structure or have it removed in order to avoid the creation and maintenance of an unsightly nuisance that is offensive or hazardous to neighboring Owners. The destroyed or damaged portion of any Residence shall be removed promptly and, in any event, within six months of the date of destruction. Any repairs, reconstruction or new construction on the affected Residence Lot shall be subject to review and approval by the Architectural Control Committee.

## ARTICLE XII Breach or Default

Section 1. Remedy at Law Inadequate. Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Lot, or any portion of the Common Area or Common Facilities, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by Declarant, any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.

Section 2. Nuisance. Without limiting the generality of the foregoing section 1, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a

nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 3. Costs and Attorneys' Fees. In any action brought because of any alleged breach or default of this Declaration by any Owner, the Association or other party hereto, the Court may award to the prevailing party such attorneys' fees and other costs as it may deem just and reasonable.

Section 4. Cumulative Remedies. The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.

Section 5. Failure Not a Waiver. The failure of any Owner, the Board of Directors, the Association, or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association, the Board, or any of its officers or agents.

Section 6. Rights and Remedies of the Association.

(a) Rights Generally. In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family, or the Owner's guests, employees, invitees, licensees, or tenants, the Board, for and on behalf of all other Owners, shall enforce the obligations of each Owner to obey such Rules or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including but not limited to the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use recreation Common Facilities or suspension of the Owner's voting rights as a Member of the Association; provided, however, the Association's right to undertake disciplinary action against its Members shall be subject to the conditions set forth in subparagraph (d) below. Furthermore, the decision of whether it is necessary, appropriate or in the best interest of the Association and its Members for the Association to initiate enforcement or disciplinary action in a particular instance shall be a decision within the sole discretion of the Association Board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement as exist by virtue of section 1354 of the California Civil Code or otherwise by law.

(b) Schedule of Fines. The Board may implement schedules of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of assessments, illegally parked vehicles or violations of Association Rules regarding the operation of boats within the lagoons and waterways). Once imposed, a fine or penalty may be collected as a Special Individual Assessment.

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

(d) Limitations of Disciplinary Rights.

(i) The Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Lot due to the failure by the Owner (or his or her family Members, tenants or invitees) to comply with any provision of the Governing Documents or of any duly enacted Association Rule except where the loss or forfeiture is the result of the judgment of a court of competent jurisdiction, a decision arising out of arbitration or a foreclosure or sale under a power of sale for failure of the Owner to pay assessments levied by the Association, or where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association (including, without limitation, the imposition of monetary penalties) for failure to comply with any Governing Document so long as the Association's actions satisfy the due process requirements of subparagraph (ii) below.

(ii) Except as provided below, no penalty or temporary suspension of rights shall be imposed pursuant to this article XII unless the Owner alleged to be in violation is given at least 15 days' prior notice of the proposed penalty or temporary suspension and is given an opportunity to be heard before the Board of Directors or appropriate Committee established by the Board with respect to the alleged violation(s) at a hearing conducted at least 5 days before the effective date of the proposed disciplinary action. Notwithstanding the foregoing, under circumstances involving conduct that constitutes (A) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners (including, without limitation, excessive boating speed in the lagoons and waterways or actions that may contaminate or diminish the water quality of the lagoons or waterways); (B) a traffic or fire hazard; (C) a threat of material damage to, or destruction of, the Common Areas or Common Facilities; or (D) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as late payment of assessments or parking violations), the Board of Directors, or its duly authorized agents, can undertake immediate corrective or disciplinary action and, upon request of the offending Owner or on its own initiative, conduct a hearing as soon thereafter as reasonably possible, but in no event more than 15 days after the disciplinary action is imposed or 15 days after the request by the offending Owner for a hearing, whichever is later. Under such circumstances, any fine imposed pursuant to an established fined schedule shall be due and payable only upon expiration of the 15-day notice period.

(e) Notices. Any notice required by this article shall, at a minimum, set forth the date and time for the hearing, a brief description of the action

or inaction constituting the alleged violation and a reference to the specific Governing Document provision alleged to have been violated. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice; provided that if notice is given by mail it shall be sent by first-class or registered mail sent to the last address of the Member shown on the records of the Association.

(f) Disciplinary Rules and Regulations. As part of its rule-making powers under article III, section 6, the Association Board may adopt rules, not inconsistent herewith, to further define and specify the procedures for conducting disciplinary proceedings hereunder. Those Rules may, in the Board's discretion, include the formation of a committee to serve as the initial review and hearing body for any violations of the Governing Documents.

## ARTICLE XII Amendment of Declaration

Section 1. Amendment in General. This Declaration may be amended or revoked in any respect, either by the affirmative vote, in a meeting or by written ballot of 66 2/3 percent of the total voting power of the Association's Membership. Notwithstanding the foregoing, the percentage of the voting power necessary to amend any specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision.

Section 2. Effective Date of Amendment. The amendment shall be effective upon the recordation in the Office of the Recorder of El Dorado County of an instrument setting forth the terms thereof duly certified and executed by the President and Secretary of the Association. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any first deed of trust or mortgage recorded prior to the recordation of such amendment, unless such mortgagee otherwise consents in writing.

## ARTICLE XIV Notices

Section 1. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

If to any Owner: To the Owner's mailing address or as shown on the books and records of the Association.

If to the Association: Tahoe Keys Property Owners Association, P.O. Box 10470, South Lake Tahoe, California 95731 or to such other address as the Association may from time to time designate in writing to the Owner.

Section 2. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the co-owners of any Lot, to any general

partner of a partnership which is the Owner of Record of the Lot, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Lot, shall be deemed delivered to all such co-owners, to such partnership, or to such corporation, as the case may be.

Section 3. Deposit in U.S. Mails. All notices and demands served by mail shall be by first class mail, with postage prepaid, and shall be deemed delivered four business days after deposit in the United States mail in El Dorado County, California.

## ARTICLE XV Miscellaneous

Section 1. Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Lots and the Common Areas as herein provided, and shall inure to the benefit of and be binding upon the Owners, the Association, TKTA, their Board of Directors, officers and agents, and their respective successors in interest, for a term of 30 years from the date of recordation of this Declaration, after which time the same shall be automatically extended for successive periods of 10 years each unless, within 6 months prior to the expiration of the initial 30-year term or any such 10-year extension period, a recordable written instrument, approved by Owners entitled to vote and holding at least a majority of the voting power of the Association, terminating the effectiveness of this Declaration shall be filed for recording in the Office of the County Record of El Dorado County, California.

### Section 2. Construction and Interpretation.

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

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

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

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

Section 3. Effective Date. This Declaration shall become effective as to all portions of the Properties upon (i) satisfaction of the voting requirements referenced in recital 5 of this Declaration or by court order pursuant to section 1356 of the California Civil Code (whichever is applicable) and (ii) recordation of a duly executed copy of the Declaration in the Office of the County Recorder; provided, however, that any increase in Assessments resulting from approval of this Declaration shall not apply to any fiscal year for which a budget has already been adopted by the Board prior to the effective date.

Section 4. Exhibits. All exhibits to which reference is made in this Declaration are deemed to be incorporated herein by reference regardless of whether the exhibit is actually attached.

DATED: 6.5.91

TAHOE KEYS PROPERTY OWNERS ASSOCIATION

By Brannan T. Smith  
(President)

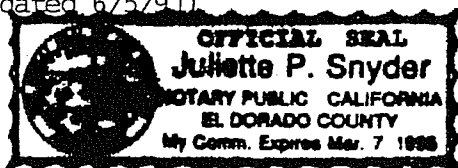
By Dorothy C. Graff  
(Secretary)

CERTIFICATE OF ACKNOWLEDGMENT

CAL-42

State of California }  
County of El Dorado } SS.

(First Restated Declaration of  
Covenants, Conditions and  
Restrictions of Tahoe Keys,  
dated 6/5/91)



On June 5, 1991, before me, Juliette P. Snyder  
(date) (name and title of officer)

Notary Public \_\_\_\_\_, personally appeared

Brannan T. Smith and Dorothy C. Graff,  
personally known to me (or proved to me on the basis of satisfactory evidence)  
to be the person(s) whose name(s) is/are subscribed to the within instrument  
and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instru-  
ment the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

WITNESS my hand and official seal.

Juliette P. Snyder  
Notary's Signature

Section 3. Effective Date. This Declaration shall become effective as to all portions of the Properties upon (i) satisfaction of the voting requirements referenced in recital 5 of this Declaration or by court order pursuant to section 1356 of the California Civil Code (whichever is applicable) and (ii) recordation of a duly executed copy of the Declaration in the Office of the County Recorder; provided, however, that any increase in Assessments resulting from approval of this Declaration shall not apply to any fiscal year for which a budget has already been adopted by the Board prior to the effective date.

Section 4. Exhibits. All exhibits to which reference is made in this Declaration are deemed to be incorporated herein by reference regardless of whether the exhibit is actually attached.

DATED: \_\_\_\_\_, 1989.

TAHOE KEYS PROPERTY OWNERS ASSOCIATION

By signed by Brannan T. Smith  
(President)

By signed by Dorothy C. Graff  
(Secretary)

this page is being added for clarity.

**Exhibit B**



# ARCHITECTURAL CONTROL RULES

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# TAHOE KEYS PROPERTY OWNERS' ASSOCIATION

## ARCHITECTURAL CONTROL RULES

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#### Architectural Control Rules, Sections 1-22

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# ARCHITECTURAL CONTROL RULES - SECTIONS 1 - 22

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## Section 1 - Occupancy and Land Use

**01.01** No part of Tahoe Keys will ever be used or caused, allowed, or authorized to be used in any way, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose. Property in the Tahoe Keys cannot be used as a timeshare property. This does not prevent an owner from renting their property for single-family residential use exclusively.

**01.02** All property owners are required to maintain landscaping to create a good appearance for the property.

Any property owner renting or leasing their property, either short-term or long-term, is duly responsible for maintaining the landscaping as outlined above. All property owners must notify their tenants that landscaping must be maintained at all times and they must notify the property owner of any deficiencies.

**01.03** Any structure placed on a lot must comply with all setback lines shown on the Subdivision Map or imposed by City zoning regulations. A structure cannot be erected or permitted closer than fifteen feet (15') from the bulkhead or high waterline, as shown on the Subdivision Map. Hedges, fences, walls, patios, decks, piers, and mooring or docking facilities may be constructed and maintained outside the applicable building setback lines, if approved by the Architectural Control Committee (ACC).

**01.04** The square footage of living area is based on the dwelling's interior living space, exclusive of porches, garages, or patio areas. Other restrictions may apply. Check your CC&Rs.

**01.05** Garbage containers of any type will not be placed on the curb prior to scheduled pickup day (currently Friday). No garbage containment areas are allowed within the single-family home subdivisions.

## Section 2 - Setbacks, and Bulkheads

**02.01** Left intentionally blank

**02.02** Front Setbacks: Front setbacks are indicated on the map or plat of the subdivision in which the dwelling is to be built. If no setback is shown on plat map, then it is as defined by the City of South Lake Tahoe. The minimum front setback is 20 feet.

**02.03** Side Setbacks: Buildings (foundation and exterior walls) cannot be closer than five feet (5') to the side property lines. If the Protective Restrictions governing some subdivisions require a setback in excess of five feet (5'), the requirement set in the Protective Restrictions will govern.

Chimneys and bay windows may project into the side setback by no more than permitted by the City Building Department.

**02.04 Rear Setbacks:** In accordance with the Protective Restrictions, no structure may be closer than fifteen feet (15') to the high waterline, as indicated on the subdivision plat map, or the sheet piling of the bulkheads. This includes second floor decks or any deck that is higher than the level of the first floor.

**02.05 Setbacks, General:** No part of the dwelling may project into any setback of yard area except as follows:

a) Bay windows may project into the required side yards, rear yard, and front yard only if the bay window does not extend below the first floor line. No additional floor area is allowed by the installation of the bay window.

b) Bay windows on the second floor can exceed the floor line so long as the front yard encroachment is not in violation of any of the City of South Lake Tahoe Building Department requirements.

**02.06 Bulkhead Modifications:** Maintenance and repair of the bulkhead sheet piling in townhome subdivisions and common areas is the responsibility of the Tahoe Keys Property Owners Association. Under no circumstances will these sheet metal bulkheads be modified or altered.

**02.07 Bulkheads on Rip-Rap Banks:** Bulkheads of any configuration are discouraged on lots with riprap banks. Permission to install bulkheads, of any configuration, may be granted by the ACC. Bulkheads below the high waterline or increasing the lot size by back filling against a bulkhead below the high waterline are strictly prohibited.

**02.08 Carports:** Carports are prohibited.

### **Section 3 - Plans, Applications and Plan Submittal Procedures**

**03.01a. Plans:** An application and plan must be submitted to, and approved by the ACC prior to any exterior addition or modification to a property.

**03.01b. Maintenance:** A recurring activity, which is a replacement in kind and does not exceed 10% of the project, does not require an application.

**03.02** Left intentionally blank

**03.03** When additional information is required for the ACC to evaluate any application, the information must be submitted within thirty (30) days of notification by the ACC. If no response is received within that time frame, the application will lapse. Plans, sample materials and deposit will be returned.

**03.04 Denied plans** will indicate the reason within thirty (30) days from the disapproval.

An owner may appeal to the ACC for review of any denial. An applicant must resubmit modified plans within ninety (90) days from the date of the disapproval letter or appeal hearing, whichever is later or the application will lapse and all materials and deposits will be returned to the applicant. The review fee will not be refunded.

**03.05 Plan Submittal:** Two sets of building plans must be submitted to the ACC for approval before any construction commences. This includes the breaking of ground for the foundation. One set of plans will be stamped by TKPOA for submittal to the CSLT. The second set is filed in the ACC's files. The submittal and the hold harmless document must be signed by the property owner. Once the City and TRPA approve the proposed project, a stamped set of final plans must be returned to TKPOA before the project can begin.

Architectural Control Committee (ACC) approval is evidenced by the ACC stamping and signing of the plans. No opinion or advice, written or oral, will constitute approval.

Approval of the submitted plans by the ACC is not to be construed as indication of the accuracy or structural integrity of the submitted plans.

**03.06 NEW RESIDENTIAL PLANS** are valid for two (2) years from the date of approval. **OTHER APPROVED PROJECTS** are valid for one (1) year, only. Unless the project is completed, new applications are required after the expiration of the permit.

**03.07** Plans must include the following when submitted:

- Plot plan showing setbacks and easements.
- Floor plans.
- Elevation plans, showing all sides of the structure. The drawings must indicate height of the building from the curb flow line at center of front property line to the roof ridge.
- Samples of exterior materials and colors applied to the actual proposed material.
- Landscaping plan must be included.

**03.08** The plot plan must show all property lines including the front property line (the dedicated street line), the curb line, the approximate high waterline and any recorded easements, and all front, rear, and side setbacks. Any incorrect data or omissions could invalidate ACC approval.

**03.09** Changes to ACC approved plans must be submitted in writing.

**03.10 Review Fee(s):** Refer to Annual Disclosure

There will be no charge for the re-submittal of approved plans; however, if the plans are re-submitted more than once, there will be a \$25.00 re-submittal fee each time.

**03.11 Plan Submittal** All plans requiring approval by the ACC must be submitted by noon at least four (4) days prior to the next scheduled meeting. Example: for a Monday meeting, plans must be submitted by noon the prior Wednesday.

## **Section 4 - Construction Requirements**

**04.01** Propane gas tanks, and other such facilities must be placed so that they are not visible from the waterways or street.

**04.02** Public utility power hookups are required during construction.

**04.03** Water Hookups – This is only done by the Tahoe Keys Water Company. Owners will be billed as of the date the foundation is poured. A City of South Lake Tahoe foundation inspection will be acceptable for date verification and charges prorated accordingly. If no notification is received, water will be billed for the entire year.

**04.04** Sanitation facilities (Portable Chemical Toilet) must be maintained during the construction period, or until interior facilities are functional.

**04.05** Construction shed(s) or trailer(s) cannot be used for living purposes, and are allowed on-site during the period of **active** construction, consistent with local jurisdictional requirements.

**04.06** On Site Plans must be approved by all applicable agencies and must be kept on site during working hours.

**04.07** Construction Waste: While construction is underway, a hopper, dumpster, or other container (not cardboard) can be located on the job site. The job site must be kept clean at all times and debris must not be allowed to pile up or to blow around. Upon notification by the ACC, all debris and trash must be removed from the job site within twenty-four (24) hours. Failure to comply will cause the ACC to order the job site cleaned up by TKPOA, with the property owner responsible for all costs.

**04.08** Compliance Deposit: With new construction/remodel, debris clean-up, a compliance and landscaping deposit is required. The deposit is refundable upon project completion, if it passes the ACC inspection and no fines, fees, or charges are assessed.

No debris of any kind can be buried in the TKPOA. The removal of the debris will be at the expense of the owner.

**04.09** Construction Hours: All construction is limited to the hours of 7:30 a.m. to 5:00 p.m., Monday through Friday and 9:00 a.m. to 4:00 p.m. on Saturday and Sunday. No construction noises that create a public nuisance are allowed. (i.e. loud radios, dogs running loose, etc.)

**04.10** Height Limits: The maximum ridge line of the structure cannot be higher than twenty-five feet (25') from the top of the curb measured at the center of the front property line nor can the chimney extend above twenty-seven feet (27') measured from the same point. No additional structural components may exceed 25' (feet) in height.

## **Section 5 - Consequences of Failure to Timely Complete Improvements**

This section explains the actions the ACC may take in the event that an owner has failed to timely pass final ACC inspection or to obtain an extension for completion and then complete all work within the extension period.

**05.01 Minor Work Remaining to Pass ACC Final Inspection:** If a residence or other structure is essentially complete, but the work remaining to be done to pass a final ACC inspection is estimated to cost less than the funds on deposit, the ACC will notify the owner of the remaining work and set a deadline for completion. If the owner does not complete the work within the time allowed in the notice, the ACC, without further notice, may proceed to complete the items at the owner's expense, deducting the cost from deposit funds.

**05.02 Substantial Work Remaining to Pass ACC Final Inspection:** In the event that a structure has been enclosed, but remaining work to pass an ACC final inspection is estimated to cost more than the funds on deposit, then the ACC may take any of the following actions:

A. The ACC will notify the owner of the items, which appear to be remaining to pass an ACC final inspection, and of the date for a hearing to determine how it will enforce completion.

The ACC may take any of the following steps:

(1) It may allow the owner a specified time to complete the items remaining for approval of an ACC final inspection.

-OR-

(2) If the owner fails to attend the hearing, or if the owner fails to complete the requisite items within the time allowed at the hearing, ACC may proceed to complete the work at the owner's expense, applying all funds on deposit to the cost of the work. Any costs not covered by the deposit will immediately become a special assessment payable in full in thirty (30) days. If the special assessment is not paid, a Notice of Default will be recorded against the owner's property and may be foreclosed by non-judicial foreclosure, from which the Association will recover all costs incurred, including, reasonable attorney's fees.

-OR-

(3) The ACC may elect to seek legal remedy to compel compliance with completion requirements or to recover the Association's cost of completing the improvements.

B. In the alternative, ACC may seek legal remedy to compel removal of a foundation or an uncompleted structure for restoration of the lot to its natural condition and to recover all costs so incurred including reasonable attorney's fees.

## **Section 6 - Roofing/Roof Platforms**

**06.01** Applications for use of roofing material must accompany a full size or representative

type samples indicating length, width, thickness, and surface configurations. If color is to be an integral part of the roof, then such sample must show the exact color intended for use. In the event metal tile is requested, the application must be accompanied by a full size, or representative sample indicating length, width, thickness, color, and surface configurations. No standard composition roof will be acceptable. Requirements: 280 lbs. per square, fifty+ year or lifetime guarantee, and a 100mph wind rating. Refer to the following section for acceptable materials. An approved permit from the City of South Lake Tahoe must accompany the application for reroof or addition.

**06.02** No more than 25% of the roof can be used for a deck. No flat roofs or pitch less than 2/12 is permitted.

**06.03 Metal Roofing:** Under no circumstances will corrugated or unfinished metal roofs be allowed. Only factory finished standing rib patterns will be considered for ACC approval and will be submitted with the following information:

- Manufacturer
- Color
- Gauge
- Pattern
- Manufacturer's guarantee (minimum 25 year guarantee on color)
- Sample of material

**06.04 Tile Roofing:** Tile roofs are subject to approval as stated in 06.01. A sample of the tile must be submitted with the application with the following:

- Manufacturer
- Color
- Pattern
- Manufacturer's guarantee

**06.05** Metal chimneys or flues must be enclosed with a chase or enclosure constructed in accordance with the Uniform Building Code and covered with the same type and color siding approved for the sidewalls of the structure. All exposed metal above the chimney chase must be primed and painted with heat resistant, dull, non-reflecting similar house paint color for use on metal.

**06.06** Vents, roof flashing, and any other exposed metal must be painted in accordance with Section 7.

## **Section 7 -Exterior Building Materials and Finishes**

**07.01** Experience has shown that many finishes and materials do not withstand the harsh Tahoe weather. Many materials are not compatible with the overall appearance the Architectural Control Committee wishes to maintain for the aesthetics of the community.

**07.02** Left intentionally blank

**07.03** All exterior siding listed in the current California Building Code are considered.

**07.04** Siding: Applications for use of any type of siding must be accompanied by a representative sample indicating surface configurations, color and dimensions (width, length, thickness).

**07.05** Unprotected wood is not allowed on structures or fences. Colors must complement the environment. Earth tones are advisable and desirable. Flashy, bright, and highly reflective colors are not permitted.

**07.06** Before painting or repainting, samples of paint or stain colors must be applied to the structure for review. For new construction, actual material on which the paint is to be applied must be provided. Only flat or satin finishes are permitted.

**07.07** All exterior surfaces including trim, stairs, railing and garage/front doors must be painted or stained to complement the house and neighborhood.

## **Section 8 - Driveways**

**08.01** Driveways from the garage to the curb line must be either concrete, colored concrete, asphalted concrete or pavers. Proposed materials must be indicated on the submitted site plan and are subject to the approval of the ACC. It is the responsibility of the property owner to maintain the driveway, from the garage to the curb line, in accordance with accepted standards.

**08.02** The width of the driveway from the garage to the street must be a minimum of sixteen feet (16') wide.

**08.03** An approved permit from the City of South Lake Tahoe must be provided prior to commencement.

**08.04** Driveways must be repaired or replaced if they become deteriorated to the point of unsightliness.

**08.05** Left intentionally blank

**08.06** Left intentionally blank

**08.07** Pavers: The use of pavers is encouraged.

## **Section 9 - Fences**

**09.01** All fences are subject to the approval of the ACC.

**09.02** All new fences are subject to the approval of the City of South Lake Tahoe Building

Department.

**09.03 Height:** Fences must not be higher than six feet (6') along the side of the house, or higher than four feet (4') in front of the house or four feet (4') in the rear of the house. Front fences must comply with the 5 foot setback requirement.

**09.04** Left intentionally blank

**09.05 Plans:** Plans for fences submitted to the ACC for approval must show a plot plan of the lot, location of the house and garage, exact location of the proposed fence, height, distances, and proposed material. No fence shall encroach upon any public easement.

**09.06** Wrought iron fences must be of powder-coated steel. Color samples are required with each application. Spiked tops are not permitted on residential properties.

**09.07** Chain link fences are not allowed and existing may not be replaced.

**09.08** It will be the owner's responsibility to install all ACC approved fencing on the subject property within the property lines of the installing owner. A fence can also be located on a property line if approved in writing and maintained by both owners.

**09.09** When reviewing applications for fences, the Committee will take into consideration not only the aesthetics of the applicant's property, but neighboring properties as well.

**09.10** All fences must be maintained on both sides.

## **Section 9A – Revetments, Bulkheads, and Landscape Walls**

**9A.02** Any landscape wall four feet or higher, at or facing the waterline, and changes the natural slope or gradient of the lot, will require a City Permit.

**9A.03** Walls four feet and higher are required to be engineered and contain an engineering stamp. You are encouraged to contact TRPA first to reduce the potential for misunderstandings about the type of wall and review processes required.

**9A.04** Landscape/retaining walls are strongly discouraged. If a retaining wall is necessary, it shall not be more than 1' above the high waterline when placed behind the high waterline. No retaining wall shall be below the high waterline. Additional height of the retaining walls may be considered, if it is 2' or more behind the high waterline. Retaining walls may be of the following materials: rock, concrete, concrete blocks, interlocking vinyl or steel piling.

**9A.06** All revetments and bulkheads must be engineered and may require a city (CSLT) permit.

## **Section 10 - Landscaping**

**10.01 New Construction:** A complete landscaping plan must accompany new construction plans. Landscaping plans may be on the plot plan. No plan will be accepted that does not have a complete landscaping plan for front, rear, and side yards. It is required that all landscaping be completed within sixty(60) days of completion of the residence unless a specific variance is obtained from the ACC. Landscaping is to be done according to plans.

**10.02 New Construction:** Upon filing an application, the owner must deposit a Clean-up Compliance, and Landscaping Deposit (Refer to Section 04.08) with the Tahoe Keys Property Owners' Association. As long as the construction, clean-up, landscaping, and painting have been completed in accordance with the approved plans. Deposits will be refunded less any clean-up costs that may have been incurred by the Tahoe Keys Property Owners Association.

**10.03** All developed lots within the Tahoe Keys are to be landscaped and maintained. Undeveloped lots must also be maintained. The dumping of any debris is prohibited. Vehicles must be parked on approved paved areas. Trailer/Boat storage is not allowed.

**10.04 Changes:** Revisions to existing landscaping must be approved by the Architectural Control Committee prior to any work.

**10.05** If the owner has not landscaped, refuses to do so, or inordinately delays landscaping, it is stated in the CC&Rs (Article VIII, Section 3) that it is within the authority and discretion of the ACC to authorize expenditures (up to \$5000.) from the Common Operating Budget to proceed with landscaping on behalf of the owner. Re-payment is the responsibility of the owner and will become immediately due, and if not paid, a lien will be imposed and if necessary, non-judicial foreclosure will be pursued.

**10.06** It is required that all areas be landscaped. A timed automatic sprinkler system with a backflow preventive device is mandatory. Planting is to be done with readily adaptable sod, plants, shrubs, ground cover, and trees that require minimal soil fertilization and watering. Refer to TKPOA approved Plant list.

**10.07** Plant materials (shrubbery) must be maintained at a height of no more than four feet (4') in front of the house or four feet (4') in the rear of the house.

**10.08** No fruiting trees are to be planted as to not attract wildlife. For existing fruit trees, fruit must be removed as soon as it ripens and cannot remain on the tree.

**10.09** Boulders, rocks, earth mounds shredded bark (gorilla hair) and decomposed granite (DG) are to be utilized in moderation.

Decorative rock material should not exceed 30% of total landscaped coverage.

**10.10** Boulders, earth mounds, rocks and large plantings (trees) cannot be placed within any utility easement. Snow removal and access to buried utilities must be provided for at all times.

**10.11** Lagoon banks are not to be disturbed in the landscaping process without prior approval by the ACC. It is the owner's responsibility to keep lagoon banks free of debris, litter, and trash, and to control overgrowth of brush and weeds.

**10.12** It is the property owner's responsibility to keep landscaping free from weeds/debris and well maintained.

**10.13** Trees cannot be planted closer than ten (10') feet to the front property line, five feet (5') to the side property lines or fifteen (15') to the high water line. All trees must be approved by ACC.

**10.14** Trees with invasive root systems and heavy leaf fall in winter (Poplar, Aspen, Willow, etc.) are not allowed in the Tahoe Keys. Pines, hemlocks, cedars, and evergreens are encouraged. The TKPOA is encouraging the removal of deciduous trees. Volunteer plant growth removal is the responsibility of the homeowner. Any tree less than fourteen inches (14") in diameter, as measured four feet, six inches above the ground can be removed without the need of a TRPA permit. Larger trees require a permit. An ACC Application for tree removal is required for all the above.

**10.15** Do not over water or fertilize. Under no circumstances may phosphorous based fertilizers be used. (The middle number on bags of fertilizers must be zero.) Homeowners are responsible for the products used by their landscapers. Refer to TKPOA Rules and Regulations Booklet, LANDSCAPING CRITERIA AND GUIDE TO PLANTING

## **Section 11 - Cleanup**

**11.01** All building materials and equipment must be stored on the owner's lot. Access to construction sites is not permitted via adjacent lots. It is the responsibility of the owner to obtain a dumpster and/or other appropriate trash receptacles. In the event the owner fails to do so, the Tahoe Keys Property Owner's Association will obtain a dumpster and/or other appropriate receptacle at the expense of the owner.

**11.02** The ACC is empowered through the Tahoe Keys Property Owners' Association's Board of Directors and the Architectural Control Committee's Chairperson to request the Tahoe Keys Property Owners' Association's General Manager to direct maintenance crews to cleanup any construction site, after notification to the owner or to abate any other nuisance that requires such action. All fees will be deposited with the Tahoe Keys Property Owners' Association at the time of submittal. The ACC, its agents, or TKPOA staff will make periodic on-site inspections. Notice of any violations will be given to the builder/owner in writing. If a violation is not corrected within fifteen days, the Tahoe Keys maintenance crew will correct the violation and a charge will be subtracted from the deposit. Should such violation correction costs exceed the deposit, a "STOP WORK ORDER" (Refer to Section 22 of this document) will be issued and further construction will not be allowed until all costs are paid in full and the initial deposit is re-established. At the time of final sign-off, the owner/contractor will show a notice of completion. If no violations are recorded and the construction is in full compliance, the Cleanup, Compliance, and Landscaping Deposit will be refunded in full.

## **Section 12 – Exterior Lot Accessories: Jacuzzis, Hot Tubs, Solar panels, Generators and Air Conditioner/Heating Units**

**12.01** All accessory structures or equipment must be approved by the ACC prior to installation.

**12.02** No lot accessory may be placed in any set-back area nor can they be placed anywhere on the street-side of the lot (side set-back -5 feet, rear set-back -15 feet from high water line (HWL).

**12.03** Motorized or noise emitting installations (like pumps, filters or other equipment) will require soundproofing or a decibel rating low enough so as not to disturb neighbors.

**12.04** All Saunas, Jacuzzis and Hot Tubs must be outfitted with a locked, secure childproof cover. Hot tubs and Jacuzzis must be drained into the internal sewer system within their property (i.e. bathtub or sink) or by a servicing company removing the wastewater via a pump truck.

**12.05** City of South Lake Tahoe requires permits for some lot accessories. Any required permits must be obtained from the CSLT before project may begin.

**12.06** No lot accessories may be installed upon OWPs, landings or other over-water structure.

**12.07** Solar power panels should be installed as roof-mounted applications and must be of a non-reflective material.

**12.08** The ACC may require screening of certain lot accessories, depending upon location, street view or other factors.

## **Section 13 - Boat Docks and Over-Water Platforms**

The following standards have been established by the ACC with respect to the construction and modification of boat docks, landings, ramps and Over Water Platforms.

**13.01** Plans for all dock construction or modification must be submitted to the ACC for approval prior to commencement of construction, modification or relocating. A compliance deposit and review fee is required at the time of plan submittal.

**13.02** All applications are reviewed at a regularly scheduled meeting of the ACC. Applications are to include the full description of the location, size, materials, color, side elevation, size and location of pilings. Refer to application Form 13 for necessary requirements. Approved applications are valid for 1 year.

**13.03** All docks must be located at or as close as possible to the center of lot water frontage unless a different location is reviewed and approved by the ACC.

**13.04 Temporary Dock Relocations:** This includes all the appurtenant structures such as ramps, landings and pilings. Relocation approvals are valid for one (1) year only from date of approval. Time extensions are reviewed on a case-by-case basis.

**13.05** The ACC Committee reserves the right to review dock location at any time.

**13.06** Each lot as defined by the CC&Rs Article 1, section 22, page 4, is allowed only one (1) boat dock. This does not guarantee that the dock may accommodate more than one (1) boat. The one dock will be located on the owner's lot or easement, but not on both. This is intended as a clarification, not a change to the rule. (This does not apply to townhomes)

**13.06a** For Townhouse Boat Slips reference CC&Rs Article II, Section II (b).

**13.07** Changes of size, location, and/or access must be submitted to the ACC prior to construction.

**13.08** No boat dock or landing structure can encroach on neighboring property. Boat dock and/or landing must conform to a five-foot side setback.

**13.09** All applicants must comply with the Dock Guidelines below and as specified within the Form 13 Boat Dock application.

### **Dock Guidelines**

#### **Dock Dimensions:**

New docks: Any construction of a new dock (either where there is no existing dock on the property or, where an existing dock is relocated) shall not exceed 225 sq. feet.

**Replacement in Kind:** Applications for "replacement in kind" of an existing dock in the same location and of the same design and configuration shall not be considered a new dock, and shall not be subject to the 225 sq. foot limit for new docks; however, the size of the new replacement in kind dock shall be not exceed the square footage of the existing dock. Any application to change the location, design and/or configuration of an existing dock will be deemed a "new dock" application subject to the 225 sq. foot limit.

**Dimensions Applicable to All Docks:** Height: 18 inches above water level or high water mark. Fascia will extend from decking to not less than 8 inches above the water line. All pilings must be contained within the dock. The height of all pilings must not exceed 3 feet above the high water line (HWL). Dock pilings must be a minimum of 2 ½ inches in diameter.

**13.10a** Plastic Floating Motorized Personal Water Craft docks prohibited.

**13.10b** Boat or personal watercraft lifts may be considered.

**13.10c** Non-motorized Kayak/Standup paddleboard ports may be considered.

- One per dock
- Color to match dock
- Only for facilitating ingress and egress (no storage or moorage)
- Must conform to setback requirements

**13.11** Maximum height of all docks cannot exceed eighteen inches (18") above water level.

**13.12** All piling and other stabilizing or retaining materials of dock construction must be contained within the size limitations stipulated in these rules and regulations and incorporated within the dock structure.

**13.13** No carpet is allowed on boat docks, landings, ramps or over water platforms.

**13.14** Covers on docks and over water platforms are prohibited.

**13.15** All flotation must be approved by the ACC and must meet the following criteria:

- A) All flotation material must be enclosed. The use of a fascia board is mandatory.
- B) All flotation will be polyethylene or ABS plastic.
- C) Use of Styrofoam floats is prohibited.
- D) Repair to existing docks with Styrofoam floats is prohibited.

**13.16** Boats docked year round, may only use white shrink- wrap and must only be wrapped from September 15<sup>th</sup> through May 15<sup>th</sup>

**13.17** Over Water Platforms (OWPs) - The maximum width, parallel to the high waterline, is limited to 25% of that measurement. Under no circumstances can the width, as measured parallel to the high waterline, be more than twenty feet (20'). Height limitations not to exceed twelve inches (12") above the bulkhead and no more than three feet (3') above high water where there is riprap.

**13.18** The depth of the OWP, as measured perpendicular to the high waterline, cannot exceed ten feet (10').

**13.19** OWPs will be founded at the high waterline and located as close as possible to the center of the parcel, but under no circumstances can the platform be any closer than fifteen feet (15') to either adjacent property line.

**13.20** OWPs must be constructed of appropriate and adequate materials and subject to the approval of the ACC. Platforms are to be constructed in such a manner that they are architecturally appealing and under no circumstances can the platforms impair, impose, or obstruct any lagoon, right-of-way, easement or view. No tents or canopies allowed on OWPs. Railing should be constructed in such a manner as to not obstruct views of the lagoons.

**13.21** OWP pilings are to be of a material not subject to deterioration or discoloration by the weather or by the lagoon water.

13.21a Mooring of boats on OWPs is prohibited.

**13.22 Landings:** A landing is a stationary platform used to gain access to a ramp and/or boat dock. The width of the landing cannot exceed four feet (4') cannot be placed closer than 5' from the adjacent property line. Railings are not to exceed thirty-six inches (36") in height. Landings can be adjoined to OWPs.

**13.23 Ramps:** A ramp is defined as a movable platform anchored to shore, landing or OWP and used for access to the boat dock. Ramps are not to exceed four feet (4') in width and railing is not to exceed thirty-six inches (36") in height.

**13.24 Maintenance and Cleaning** are recurring activities not requiring ACC approval. They are associated with maintaining accessory structures in a good condition. They include tasks such as washing, painting (same colors) and replacement of lighting fixtures, hardware, bumpers (in kind) and resetting of pilings.

**13.25 Repairs and Modifications** are activities requiring ACC approval. They are associated with maintaining accessory structures in a safe and operable condition. They include tasks such as structural replacements of decking and pilings with no change to structure, size or shape, repairing/replacing floatation (except Styrofoam, which cannot be replaced) and railings.

## **Section 14 - Exterior Lighting**

**The primary intent of rules for exterior lighting in the TKPOA is to: a) Protect property owners from annoyance and obtrusive glare; b) enhance safety, security and usability of the properties; c) provide for installation and maintenance of subtle, low-intensity lighting, which enhances landscaping.**

**14.01** All exterior lighting, including security lighting, requires the approval of the ACC before installation.

**14.02** Floodlighting is allowed for intermittent use only (30 minutes or less). Floodlights must be aimed, screened, shielded, or constructed so filaments are not visible from adjacent lots or common areas. Floodlights must not be positioned (aimed) to reflect off water surfaces. All floodlights must be extinguished after 10:00 p.m.

**14.03** Accent decorative and landscape lighting should be soft, low intensity and not offensive to neighbors or to traffic. All exterior lighting must be extinguished after 10:00 p.m. No rope or string lights except as provided in section 15.14. (holiday lights)

**14.04** Dock, Ramp and Over water Platform (OWP) lighting must be low intensity and must be positioned as to not create reflective glare or be offensive. Light fixtures may be placed on dock and OWP corners. Lights on top of dock piling must be low intensity.

**14.05** Solar lights must be low voltage, low intensity and may be used to enhance landscaping and identify pathways and other features. Must be positioned as to not create

reflective glare or be offensive.

**14.06** Security lights programmed to stay on continuously throughout the night are prohibited. Security lights must be aimed, screened, shielded, or constructed so filaments are not visible from adjacent lots or common areas. Lighting controlled by motion detectors must be limited to a maximum of five (5) minutes per cycle.

## **Section 15 - Misc. Provisions for exterior grounds, storage and structures**

**15.01** Firewood should be neatly stored on the side yard.

**15.02** Free Standing temporary storage structures (including Bear Boxes) of any type are not permitted. Permanent storage structures integrated into the design of the residence structure may be considered on a case-by-case basis.

**15.03** No exterior clothesline(s) can be erected or maintained, and there can be no drying, airing, or laundering of clothes on the balconies, decks, porches, patios, or on other such exterior areas in any manner.

**15.04** Permanently mounted sport facilities are prohibited.

**15.05** No rubbish, trash, or garbage is allowed to accumulate on lots.

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**15.07** left intentionally blank

### **15.08 Sign Regulations:**

- A) No more than one "For Sale" sign per property is allowed, except that property as water frontage, in which case an additional "For Sale" sign may be placed in the window on the water front side. Signs shall not exceed 216 square inches or 12" x 18".
- B) Townhouses may have one sign located over the garage or in the window except properties with water frontage, which may have an additional sign in the window of the water front side. Signs shall not exceed 216 square inches or 12" x 18".
- C) Rental signs for long-term leases, or for terms longer than one month, are allowed in the window for solicitation of long-term tenants.
- D) Temporary "Open House" signs are permitted between 10:00 a.m. and 6:00 p.m. daily. Permanent "Open House" signs are not permitted.
- E) No signs of any kind are permitted on the medians of Tahoe Keys Blvd., Ala Wai Blvd., or 15<sup>th</sup> Street.
- F) One political sign, no larger than 216 square inches in size, can be placed on an individual's property, thirty (30) days prior to an election date and must be removed the day after the election date.

**15.09** Use of charcoal or wood burning BBQs within the town home subdivisions is strictly prohibited.

**15.10 Fire Pits:** Only LP gas or natural gas fire pits/tables are permitted.

**15.11 Poles, Posts, Masts and Yard Arms** cannot exceed the roofline or a maximum height of 25', whichever is less and cannot be placed within front, side, or rear setback areas or beyond the high water line. Locations must be approved by the ACC per Article VIII, Section 11 of the CC&Rs.

**15.12 Coverings (utility)** include material such as tarps, plastic sheeting, and canvas used for covering items such as firewood piles, lawn & patio furniture, and outdoor barbeques.

- Coverings may be used seasonally.
- Temporary coverings must be of a color that blends with landscaping and structural paint schemes.
- Utility coverings may not be used as shade structures, and may not be secured to trees, landscaping or structural components.

Coverings (temporary) include shade structures like umbrellas and various designs of sun covers. Umbrellas erected on waterside decks or OWPs must be collapsed or folded up to preserve views when not in use.

White Shrink-wrapping is used to weatherize watercraft during the off-season (October-May). Permission to keep these coverings in-place during the boating season must be granted by the ACC.

**15.13 Yard Art:** is very subjective. The ACC is cautious when approving items that can be viewed from the street or waterside. No such items will be approved for placement in setback areas, easements, on OWPs or docks.

**15.14 Holiday and Traditional Displays** vary widely. Displays and holiday decorations may be erected temporarily without a permit. Holiday decorations may be displayed no more than 30 days before or 14 days after a holiday (weather permitting). Decorations for personal events (birthdays, weddings, homecomings, etc.) may be displayed no more than 3 days before and 3 days after the event. All other displays require ACC approval and must be in harmony with the requisite occasion (as appropriate) and surrounding structures and neighborhood. Lights may not shine so brightly as to be an unreasonable disturbance to neighbors or drivers and no sound devices are permitted for any decoration. All lighted displays must be turned off by 11pm. No display may obstruct the views from any other property.

## **Section 16 - Mailboxes**

All Tahoe Keys property owners or their tenants are entitled to receive United States Postal Service (USPS) Mail Delivery to their residence within the Tahoe Keys. USPS mail delivery is optional and not mandatory according to USPS code.

**16.01** Prior to installation, mailbox locations and designs must be approved by ACC. Mobile mailboxes must be in a container approved by ACC prior to installation. 5 Gallon buckets are not allowed. Existing mailboxes with such a bucket should be replaced with an aesthetically pleasing viable option. Mailbox designs will be considered on a case-by-case basis by the ACC.

## **Section 17 - Satellite Dishes**

**17.01** As stated in Article VIII, Section 19 of the CC&Rs, no fixed base exterior antennas are allowed within the Tahoe Keys.

**17.02** Location of satellite dish on a structure must be approved by the ACC.

## **Section 18 - Variances and Variance Procedures**

**18.01** The Architectural Control Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this Article VII (CC&Rs) or in any restrictions specified in Article VIII (CC&Rs) (property use restrictions) in order to overcome practical difficulties, avoid unnecessary expense, or prevent unnecessary hardships, provided the following conditions are met:

A) The variance, if permitted, will not violate any applicable law or governmental regulation.

B) If the requested variance will necessitate deviation from, or modification of a property use restriction that would otherwise be applicable under this Declaration, the ACC must conduct a public hearing on the proposed variance. The ACC must give at least twenty (20) days prior written notice to the Board and to all Owners residing within a 300' radius of the subject lot in the case of any Residence Lot or fifty (50') in the case of any Townhouse Lot. Said notice shall also be posted in the Association office on the Properties. The Owners receiving notice of the proposed variance shall have fifteen (15) days in which to submit to the ACC written comments or objections with respect to the variance. No decision shall be made with respect to the proposed variance until the fifteen (15) day comment period has expired; and

C) The ACC must make a good-faith written determination that: (1) the requested variance does not constitute a material deviation from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (2) that the variance pertains to a requirement hereunder that is unnecessary or burdensome under the circumstances; or (3) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance with respect to any other Lot, Common Area, or Owner within the Properties.

**18.02** A written variance request on form 18, clearly stating the nature of the variance and the reason the variance, must be submitted to the ACC for review.

**18.03** In the event a property owner's request for a variance is denied, the property owner may request a hearing in writing. The hearing procedure will be as stated above. At the hearing, the ACC shall hear the reasons for the variance and objections, if any. Within thirty (30) days, the ACC shall render a decision on the requested variance. The ACC decision shall be final.

**18.04** An appeal can be made to the Board of Directors.

**18.05** A variance applies to the particular request as submitted. If there were changes made after the variance approval, a new variance application and ACC review would be required.

## **Section 19 - Lagoons**

**19.01** Nothing is to be thrown into lagoon waters. Lagoon banks are not to be disturbed, except for clearing weeds, overgrowth, debris, etc.

**19.02** There will be no alteration to lagoon contours, bulkhead integrity, rip rap banks, and revetments by dredging, rock removal, or installation of any type of retaining wall, fill, or riprap without the approval of the ACC.

**19.03** Retaining Walls: If a retaining wall is necessary, it cannot be more than one foot (1') above the high waterline when placed immediately behind the high waterline. Retaining walls cannot be beyond the high waterline, toward the lagoon. Additional height of the retaining walls may be considered, if it is two feet (2') or more behind the high waterline. Retaining walls may be of the following materials: rock, concrete, concrete blocks, interlocking vinyl or steel sheet piling. All submitted plans are reviewed on a case-by-case basis. (See Section 9A of the ACR for additional information.)

**19.04** Lake Bottom Barriers: All barrier installations must be approved by the ACC and will be reviewed on a case-by-case basis.

**19.05** All motorized vessel operational speeds are limited to five miles per hour (5mph)/no wake, including personal watercraft within Tahoe Keys waterways, to protect and maintain the lagoon banks, bulkheads, docks, piers, and moored vessels from wave and wake action. No boats with motors are allowed on Tallac Lake or Tallac Lagoon. Property owners are responsible to advise all renters of waterway rules and owners will be fined for their renter's violations in accordance with the Enforcement Procedure and Fine Schedule and/or Owner, Renter, and Vacation Renter Policy, Rules, and Regulations.

**19.06** Buoys and navigation aids or signs are not to be damaged, disturbed, or used as mooring devices.

**19.07** Boat owners, operators, guests, passengers, repair service, or maintenance people cannot dump or allow leakage of oil, gas, diesel, sewage tanks, or any such containers in any lagoon waters, lagoon banks, or in the street gutters in the Tahoe Keys (the street gutters drain into the lagoons).

All boat operations in lagoons and waterways must be in accordance with the adopted Tahoe Keys Property Owners' Rules and Regulations Information Packet available in the Association Pavilion office.

Boats can only be moored to a dock, not to another boat. (No rafting)

Homeowners must not discharge any form of wastewater, i.e. foundation sump water, spa

water, chemicals or any non-native species (aquarium dump) into lagoons.

**19.08** Excluding Town Homes, Tahoe Keys Property Owners can rent out dock space as stated in the current rules and regulations as adopted by the Board of Directors.

## **Section 20 - Pet Control**

**20.01** Without exception, no more than two(2) common household pets, such as dogs and/or cats, shall be kept or maintained at any residence in the Tahoe Keys (i.e., two (2) dogs, two (2) cats, or one (1) dog and one (1) cat). No animals, livestock, or poultry of any kind will be raised, bred, or kept on any residential lot.

**20.02** Caged birds, aquarium-contained fish and similar small animals normally maintained indoors are not subject to the limitation contained in the above section 20.01, so long as maintained in a manner that does not become a nuisance to neighboring residents or as to create a commercial business enterprise.

**20.03** Dogs must be leashed at all times.

**20.04** Household pets cannot be left chained or otherwise tethered within the streets or common areas. Noise by barking or howling dogs is considered noxious behavior.

**20.05** Pet owners shall be responsible for the prompt disposal of their pet's wastes when deposited on any portion of the streets, common areas or on any other owner's lot.

**20.06** Each owner must comply with all applicable governmental licensing requirements for authorized pets and may be solely responsible for the conduct of, damage, or injury caused by the owner's or renter's pet.

## **Section 21 - Enforcement Procedures**

**21.01** General Approach (Voluntary Compliance):

(a) The objective of these policies is to promote and seek voluntary compliance by owners and tenants with the standards and restrictions set forth by the CC&Rs and Architectural Control Committee (ACC).

(b) Under circumstances requiring immediate action, the Security Office and Architectural Control Department, as agents for the Association, are authorized to undertake immediate corrective action.

(c) In the event that the Association becomes aware of an infraction that does not necessitate immediate corrective action, the owner responsible for the violation will receive written notice and will be given a reasonable opportunity to comply voluntarily. Such notice will describe the non-complying condition, request that the owner correct the condition within a reasonable time specified in the notice. It will also advise the owner of their appeal rights. The owner is ultimately responsible for the achievement of compliance

and will be responsible for any fines, administrative costs, legal actions and fees necessary for the resolution of the violation.

#### **21.02 Notice of Violations:**

(a) First Notification – A notice stating the nature of the violation will be issued to the property owner by the Association. The notification gives 14 days to correct the violation or to inform the Architectural Control Committee of a timeframe by which the violation will be corrected. In the body of the notice, the consequences of non-compliance will be clarified. It is the responsibility of the owner and/or his contractor to advise the Association when the violation has been corrected. A re-inspection of the property will be conducted to verify compliance and recorded in the property's file.

(b) Second Notification- Those violations that are not promptly corrected by the owner are subject to a fine as prescribed in the Enforcement Procedures and Fine Schedule of the Rules in the TKPOA Annual Disclosures. A second notification letter stating that the owner must comply within 72 hours after first attempt to deliver a certified letter or contact the Association informing them of the time period by which compliance will be achieved.

**In the event ACC rule violations are recurrent, then ACC at its discretion may start the enforcement process with the third and final notification.**

(c) Third and Final Notification - A certified letter will be sent informing the property owner that the violation has not been resolved. The letter will inform the owner, at least 15 days before the meeting that a hearing will be held before the ACC considers imposing a fine. The owner has a right to appear and address the ACC at the hearing. If a fine is imposed, the owner will be notified in writing of the decision within 15 days following the action.

(d) Owner's Right to Appeal - The owner has the right to appeal to the Board if the owner is not satisfied with the ACC's decision. In those cases where an individual assessment (fine) has been imposed upon the property and the Board finds in favor of the property owner, a release can be issued.

(e) Lien on Owner's Property - Individual Assessments imposed upon a property are due by the date set by the Board. If the payment is not made on or before this date, the Association will follow its collection policy.

#### **Section 22 - Stop Work Orders**

**22.01** In the event that a violation is determined by the ACC to be of such a nature that further progress of the work will result in a material adverse impact upon the Association's ability to correct the violation, the ACC is authorized to order that the work be stopped by the issuance of a "Stop Work Order".

The "Stop Work Order" will be served, posted on the structure, or adjacent to the place where the work is being done. Upon service or posting of the order, all persons will stop

work until written permission to resume work is issued by the ACC. A letter will also be sent to the owner with a copy of the "Stop Work Order" and Notice of Violation.

The Association may use any part of or the entire compliance deposit to correct any violations of the ACC regulations. Any sum expended exceeding the compliance deposit, will be charged and billed to the owner. In the event that the compliance deposit is expended in part or in total, the expended amount will be reimbursed to the TKPOA within ten (10) days of the owner's receiving the bill so that the deposit remains at the original amount. If the bill is unpaid within thirty (30) days, the ACC will recommend that the Association impose a special assessment on the owner. The entire deposit will be subject to forfeiture to the TKPOA and may not be returned to the owner if the construction of any improvement is:

- (a) Not in compliance with the CC&Rs and/or ACC Regulations;
- (b) Not in compliance with the plans submitted by the owner and approved by the ACC;
- (c) Not in compliance with the time of commencement and completion;
- (d) Not in compliance with cleanup requirements.

In addition to the possible forfeiture of the compliance deposit, if any of the above conditions occur, any final inspection deficiencies existing after expiration of the completion time limit will be considered as outstanding violations, subject to enforcement procedures. The Association is authorized to utilize the compliance deposit, if forfeited, in any manner deemed appropriate by the Board of Directors of the TKPOA.

If the owner brings the property into compliance and receives a satisfactory final inspection within the completion time limit or any extension granted, any remaining amount of the compliance deposit will be refunded to the owner.

# Architectural Control Applications

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<u>Type of Application</u>	Form #
New Construction	1-5
Minor Remodel	1-5A
Roofing	6
Painting / Siding	7
Driveway	8
Fence	9
Walls / Bulkheads / Revetments	9A
Landscape	10
Tree Removal	10A
Spa / Sauna / Hot Tub	12
Boat Dock / Landings / Over Water Platforms	13
Boat Dock Lift	13A
Boat Dock Relocation	13
Unclassified Modification	14-16
Satellite Dish	17
Variance Request	18
Lagoon Bottom Barriers	19

## Exhibit C

### TKPOA Architectural Control Rules – Section 13 Boat Docks and Over-Water Platforms

The following standards have been established by the ACC with respect to the construction and modification of boat docks, landings, ramps and Over Water Platforms.

Yes: Item required for application and has been considered prior to approval  
 No: Item not required for application and has not been considered prior to approval  
 N/A: Does not apply to application

#### TKPOA Application Checklist (Exhibit C)

Y	N	N/A	
			<b>13.01</b> Plans for all dock construction or modification must be submitted to the ACC for approval prior to commencement of construction, modification or relocating. A compliance deposit and review fee is required at the time of plan submittal.
			<b>13.02</b> All applications are reviewed at a regularly scheduled meeting of the ACC. Applications are to include the full description of the location, size, materials, color, side elevation, size and location of pilings. Refer to application Form 13 for necessary requirements. Approved applications are valid for 1 year.
			<b>13.03</b> All docks must be located at or as close as possible to the center of lot water frontage unless a different location is reviewed and approved by the ACC.
			<b>13.04 Temporary Dock Relocations:</b> This includes all the appurtenant structures such as ramps, landings and pilings. Relocation approvals are valid for one (1) year only from date of approval. Time extensions are reviewed on a case-by-case basis.
			<b>13.05</b> The ACC Committee reserves the right to review dock location at any time.
			<b>13.06</b> Each lot as defined by the CC&Rs Article 1, section 22, page 4, is allowed only one (1) boat dock. This does not guarantee that the dock may accommodate more than one (1) boat. The one dock will be located on the owner's lot or easement, but not on both. This is intended as a clarification, not a change to the rule. (This does not apply to townhomes; Section 13.06a For Townhouse Boat Slips reference CC&Rs Article II, Section II(b)).
			<b>13.07</b> Changes of size, location, and/or access must be submitted to the ACC prior to construction.
			<b>13.08</b> No boat dock or landing structure can encroach on neighboring property. Boat dock and/or landing must conform to a five-foot side setback.
			<b>13.09</b> All applicants must comply with the Dock Guidelines below and as specified within the Form 13 Boat Dock application.
			<b>13.10 Dock Guidelines</b> <u>Dock Dimensions:</u>

			New docks: Any construction of a new dock (either where there is no existing dock on the property or, where an existing dock is relocated) shall not exceed 225 sq. feet.
			<b>Replacement in Kind:</b> Applications for “replacement in kind” of an existing dock in the same location and of the same design and configuration shall not be considered a new dock and shall not be subject to the 225 sq. foot limit for new docks; however, the size of the new replacement in kind dock shall be not exceed the square footage of the existing dock. Any application to change the location, design and/or configuration of an existing dock will be deemed a “new dock” application subject to the 225 sq. foot limit.
			<b>Dimensions Applicable to All Docks:</b> Height: 18 inches above water level or high water mark. Fascia will extend from decking to not less than 8 inches above the water line. All pilings must be contained within the dock. The height of all pilings must not exceed 3 feet above the high water line (HWL). Dock pilings must be a minimum of 2 ½ inches in diameter.
			<b>13.10a</b> Plastic Floating Motorized Personal Watercraft docks prohibited.
			<b>13.10b</b> Boat or personal watercraft lifts may be considered.
			<b>13.10c</b> Non-motorized Kayak/Standup paddleboard ports may be considered. <ul style="list-style-type: none"> <li>• One per dock</li> <li>• Color to match dock</li> <li>• Only for facilitating ingress and egress (no storage or moorage)</li> <li>• Must conform to setback requirements</li> </ul>
			<b>13.11</b> Maximum height of all docks cannot exceed eighteen inches (18") above water level.
			<b>13.12</b> All piling and other stabilizing or retaining materials of dock construction must be contained within the size limitations stipulated in these rules and regulations and incorporated within the dock structure.
			<b>13.13</b> No carpet is allowed on boat docks, landings, ramps or over water platforms.
			<b>13.14</b> Covers on docks and over water platforms are prohibited.
			<b>13.15</b> All flotation must be approved by the ACC and must meet the following criteria: <ul style="list-style-type: none"> <li>A) All flotation material must be enclosed. The use of a fascia board is mandatory.</li> <li>B) All flotation will be polyethylene or ABS plastic.</li> <li>C) Use of Styrofoam floats is <u>prohibited</u>.</li> <li>D) Repair to existing docks with Styrofoam floats is <u>prohibited</u>.</li> </ul>
			<b>13.16</b> Boats docked year round, may only use white shrink- wrap and must only be wrapped from September 15 <sup>th</sup> through May 15 <sup>th</sup>
			<b>13.17</b> <u>Over Water Platforms (OWPs)</u> - The maximum width, parallel to the high waterline, is limited to 25% of that measurement. Under no circumstances can the width, as measured parallel to the high waterline, be more than twenty feet (20'). Height limitations not to exceed twelve inches (12") above the bulkhead and no more than three feet (3') above high water where there is riprap.
			<b>13.18</b> The depth of the OWP, as measured perpendicular to the high waterline, cannot exceed ten feet (10').
			<b>13.19</b> OWPs will be founded at the high waterline and located as close as possible to the center of the parcel, but under no circumstances can the platform be any closer than fifteen feet (15') to either adjacent property line.

			<b>13.20</b> OWPs must be constructed of appropriate and adequate materials and subject to the approval of the ACC. Platforms are to be constructed in such a manner that they are architecturally appealing and under no circumstances can the platforms impair, impose, or obstruct any lagoon, right-of-way, easement or view. No tents or canopies allowed on OWPs. Railing should be constructed in such a manner as to not obstruct views of the lagoons.
			<b>13.21</b> OWP pilings are to be of a material not subject to deterioration or discoloration by the weather or by the lagoon water.
			<b>13.21a</b> Mooring of boats on OWPs is prohibited.
			<b>13.22</b> <u>Landings</u> : A landing is a stationary platform used to gain access to a ramp and/or boat dock. The width of the landing cannot exceed four feet (4') cannot be placed closer than 5' from the adjacent property line. Railings are not to exceed thirty-six inches (36") in height. Landings can be adjoined to OWPs.
			<b>13.23</b> <u>Ramps</u> : A ramp is defined as a movable platform anchored to shore, landing or OWP and used for access to the boat dock. Ramps are not to exceed four feet (4') in width and railing is not to exceed thirty-six inches (36") in height.
			<b>13.24</b> <u>Maintenance and Cleaning</u> are recurring activities not requiring ACC approval. They are associated with maintaining accessory structures in a good condition. They include tasks such as washing, painting (same colors) and replacement of lighting fixtures, hardware, bumpers (in kind) and resetting of pilings.
			<b>13.25</b> <u>Repairs and Modifications</u> are activities requiring ACC approval. They are associated with maintaining accessory structures in a safe and operable condition. They include tasks such as structural replacements of decking and pilings with no change to structure, size or shape, repairing/replacing floatation (except Styrofoam, which cannot be replaced) and railings.

## Exhibit D

### TKPOA Architectural Control Rules – Section 19 Lagoons

#### Checklist (Exhibit D)

Y	N	N/A	
			<b>19.01</b> Nothing is to be thrown into lagoon waters. Lagoon banks are not to be disturbed, except for clearing weeds, overgrowth, debris, etc.
			<b>19.02</b> There will be no alteration to lagoon contours, bulkhead integrity, rip rap banks, and revetments by dredging, rock removal, or installation of any type of retaining wall, fill, or riprap without the approval of the ACC and TRPA.
			<b>19.03 Retaining Walls:</b> If a retaining wall is necessary, it cannot be more than one foot (1') above the high waterline when placed immediately behind the high waterline. Retaining walls cannot be beyond the high waterline, toward the lagoon. Additional height of the retaining walls may be considered if it is two feet (2') or more behind the high waterline. Retaining walls may be of the following materials: rock, concrete, concrete blocks, interlocking vinyl or steel sheet piling. All submitted plans are reviewed on a case-by-case basis.
			<b>19.04 Lake Bottom Barriers:</b> All barrier installations must be approved by the ACC and will be reviewed on a case-by-case basis.
			<b>19.05</b> All motorized vessel operational speeds are limited to five miles per hour (5mph)/no wake, including personal watercraft within Tahoe Keys waterways, to protect and maintain the lagoon banks, bulkheads, docks, piers, and moored vessels from wave and wake action. No boats with motors are allowed on Tallac Lake or Tallac Lagoon. Property owners are responsible to advise all renters of waterway rules and owners will be fined for their renter's violations in accordance with the Enforcement Procedure and Fine Schedule and/or Owner, Renter, and Vacation Renter Policy, Rules, and Regulations.
			<b>19.06</b> Buoys and navigation aids or signs are not to be damaged, disturbed, or used as mooring devices
			<b>19.07</b> Boat owners, operators, guests, passengers, repair service, or maintenance people cannot dump or allow leakage of oil, gas, diesel, sewage tanks, or any such containers in any lagoon waters, lagoon banks, or in the street gutters in the Tahoe Keys (the street gutters drain into the lagoons). All boat operations in lagoons and waterways must be in accordance with the adopted Tahoe Keys Property Owners' Rules and Regulations Information Packet available in the Association Pavilion office. Boats can only be moored to a dock, not to another boat. (No rafting) Homeowners must not discharge any form of wastewater, i.e. foundation sump water, spa water, chemicals or any non-native species (aquarium dump) into lagoons.
			<b>19.08</b> Excluding Town Homes, Tahoe Keys Property Owners can rent out dock space as stated in the current rules and regulations as adopted by the Board of Directors.

## **Exhibit E**

### **Section 18 - Variances and Variance Procedures**

**18.01** The Architectural Control Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this Article VII (CC&Rs) or in any restrictions specified in Article VIII (CC&Rs) (property use restrictions) in order to overcome practical difficulties, avoid unnecessary expense, or prevent unnecessary hardships, provided the following conditions are met:

A) The variance, if permitted, will not violate any applicable law or governmental regulation.

B) If the requested variance will necessitate deviation from, or modification of a property use restriction that would otherwise be applicable under this Declaration, the ACC must conduct a public hearing on the proposed variance. The ACC must give at least twenty (20) days prior written notice to the Board and to all Owners residing within a 300' radius of the subject lot in the case of any Residence Lot or fifty (50') in the case of any Townhouse Lot. Said notice shall also be posted in the Association office on the Properties. The Owners receiving notice of the proposed variance shall have fifteen (15) days in which to submit to the ACC written comments or objections with respect to the variance. No decision shall be made with respect to the proposed variance until the fifteen (15) day comment period has expired; and

C) The ACC must make a good-faith written determination that: (1) the requested variance does not constitute a material deviation from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (2) that the variance pertains to a requirement hereunder that is unnecessary or burdensome under the circumstances; or (3) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance with respect to any other Lot, Common Area, or Owner within the Properties.

**18.02** A written variance request on form 18, clearly stating the nature of the variance and the reason the variance, must be submitted to the ACC for review.

**18.03** In the event a property owner's request for a variance is denied, the property owner may request a hearing in writing. The hearing procedure will be as stated above. At the hearing, the ACC shall hear the reasons for the variance and objections, if any. Within thirty (30) days, the ACC shall render a decision on the requested variance. The ACC decision shall be final.

**18.04** An appeal can be made to the Board of Directors.

**18.05** A variance applies to the particular request as submitted. If there were changes made after the variance approval, a new variance application and ACC review would be required.

**CC&Rs Article VII, Section 13. Variances.** The Architectural Control Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this article VII or in any restrictions specified in article VIII (Property Use Restrictions) in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided the following conditions are met:

- (a) The variance, if permitted, will not violate any applicable law or governmental regulation;
- (b) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise be applicable under this Declaration, the Committee must conduct a public hearing on the proposed variance after giving at least 20 days prior written notice to the Board and to all Owners residing within 300 feet of the subject Lot in the case of any Residence Lot or 50 feet of the subject Lot in the case of a Townhouse Lot. Said notice shall also be posted in the Association office on the properties. The Owners receiving notice of proposed variance shall have 15 days in which to submit to the Committee written comments or objections with respect to the variance. No decision shall be made with respect to the proposed variance until the 15-day comment period has expired; and
- (c) The Architectural Control Committee must make a good faith written determination that: (1) the requested variance does not constitute a material deviation from any restriction contained herein or that the proposed allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (2) that the variance pertains to a requirement hereunder that is unnecessary or burdensome under the circumstances; or (3) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance, with respect to any other Lot, Common Area or Owner with the Properties.