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Sierra Bonita Village HOA, Inc.

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Titles: 1 Pages: **22**



Fees	77.00
Taxes	0.00
Others	7.00
PAID	<u>84.00</u>

AND WHEN RECORDED RETURN TO:
Sierra Bonita Village HOA, Inc.
c/o Andrew W. Hays
Attorney at Law
1220 Marsh Street
San Luis Obispo, CA 93401

MODIFICATION AND AMENDMENT TO
SIERRA BONITA VILLAGE
DECLARATION OF RESTRICTION

TRACTS 1143, 723, 811, 812, 813, 849, and 2276

WHEREAS, on January 15, 1999 a Declaration of Restriction for Tracts 1143, 723, 811, 812, 813, 849, and 2276 was recorded as Document Number 1999-003278 of Official Records, County of San Luis Obispo, State of California, and a modification and an amendment was recorded on November 15, 2007 as Document Number 2007074962; and

WHEREAS, the following amendment has been adopted by an affirmative vote of 2/3 of the votes cast pursuant to Paragraph 20 of the Covenants, Conditions and Restrictions.

NOW, THEREFORE, SIERRA BONITA VILLAGE HOMEOWNERS ASSOCIATION amends the above-referenced Covenants, Conditions and Restrictions for the Tracts as follows:

I. RULES AND REGULATIONS

PARAGRAPH 1. DEFINITIONS:

This property interest conveyed by deed to a grantee is designated as ownership; the grantee (or the grantees) is designated an owner, and the area in which the owner is given fee title is designated a living unit (including the lot), and the owner of the living unit located on the adjoining lot and having a common wall shall be known as the adjoining owner.

PARAGRAPH 2. RESIDENTIAL PURPOSES ONLY:

Said lots and homes shall be used for residential purposes only and no building or buildings shall be erected, constructed, altered or maintained on any of the said lots other than the customary outbuilding as permitted from time to time by the City of Paso Robles Zoning Ordinances and duly approved in writing by the Board of Directors.

PARAGRAPH 3. RESIDENCE AND AGE RESTRICTIONS::

- A. A sole resident of a unit, whether an owner or lessee, shall be at least fifty-five years of age as of the first day of occupancy.
- B. Of the persons residing in a unit, whether or not related by blood, one must have attained the age of fifty-five, and none shall be under the age of twenty-five years.
- C. A spouse who is not yet fifty-five years of age, is an owner of title and has resided in the home for more than twelve months at the time of the death of prolonged absence (due to illness) of the qualifying person who is fifty-five years of age or older may continue to reside in the home.
- D. The number of residents in a unit shall be no more than three for a two-bedroom unit and no more than five for a three-bedroom unit.
- E. Guests may visit but not reside in a unit. Babysitting is considered a visit and is also limited to fourteen days a year per person. Visitation shall not exceed a total of six weeks per year with no more than fourteen days consecutively. In the event of dispute between the Board of Directors and any owner regarding the owners' compliance with the terms of this section, it shall be the responsibility of the owner to furnish evidence of compliance to the Board of Directors.

PARAGRAPH 4. BOARD OF DIRECTORS

- A. There shall be a Board of Directors, consisting of a minimum of seven persons and a maximum of nine persons. There shall be held an annual election no later than April 1 of each year to elect three members of the Board, each for a three (3) year term and each of whom shall be both owners and occupiers of units within Sierra Bonita Village.
- B. Said Board shall have the right and power to interpret and enforce all covenants, conditions and restrictions in its sole discretion, exercised in good faith, and independently of the owners as per State Mandated law. Decisions by the Board are final and legally binding pertaining to judgments rendered regarding claims for breach of these covenants.
- C. The Board of Directors shall have the right to adopt, amend, or revise reasonable Bylaws governing the operations of the Board members, officers, election procedures, committee records, financial matters, and other matters relating to organization and operation of the Board.

- D. Each unit owner shall pay annual dues as established by the Board of Directors, subject to increase when the Board of Directors deems necessary. Dues statements will be sent to the owner of record at an address currently on record.

PARAGRAPH 5. STRUCTURES

No building of any kind shall be moved onto any lot without the prior written permission of the Board of Directors.

No structure shall be more than one story in height.

PARAGRAPH 6. TRASH, RECYCLE AND GREEN WASTE RECEPTACLES

All trash, recycle, and green waste receptacles must be kept out of sight except for the day before and the day of scheduled pickup.

PARAGRAPH 7. TRAILERS, BOATS AND RECREATION VEHICLES

No trailer, boat, recreational vehicle, inoperative or "unlicensed" motor vehicle, or part thereof, shall be placed or stored in any front or side yard of any lot or its driveway that is visible from the street for more than seventy-two hours. Recreation vehicles (motor homes, fifth wheels, campers, etc.) may be parked for up to seventy-two hours for preparation of the vehicle for departure and upon return an additional seventy-two hours to prepare the vehicle for return to storage at an off-site storage facility.

PARAGRAPH 8. PLANS AND SPECIFICATIONS:

No building, improvement, or other structure shall be commenced upon any of said lots until the location and the complete plans and specifications, including the color scheme of each building, fence and/or wall to be erected upon the lot have been approved in writing by the Board of Directors and no structure shall be located on any lot in front of the setback line as noted in the City ordinance. Nothing shall be done in any unit which will impair the structural integrity of the building, or which would structurally change the building, except as is otherwise provided herein.

PARAGRAPH 9. EXTERIOR ALTERATIONS

No alterations shall be made in the exterior design or color of any structure unless such alteration, including any addition, shall have been first approved in writing by the Board of Directors. All colors must be neutral, including repainting. Colors of attached units must match, including garage doors.

PARAGRAPH 10. TENTS, SHACKS, SIGNS, ANTENNAS/SATELLITE DISHES, ETC.

- A. No tent, shack, canopy, shed, trailer, vehicle, garage or outbuilding shall at any time be used for occupancy. Nor shall any such unit be placed or stored in the front or side of any lot, or so that it is visible from the street.

- B. No signs of any kind or for any use or purpose whatsoever other than signs of customary and reasonable dimensions, not to exceed 3 ft. x 3ft, advertising the property for sale or rent, or relating to political elections (which must be removed within one week of the conclusion of the election), shall be erected, posted, pasted, painted, or displayed upon any said lots or upon any building or other structure thereon, without the prior written permission of the Board of Directors.
- C. To ensure adequate aesthetic controls and to maintain the general attractive appearance of the Development, no Owner, resident, or lessee shall place or maintain any objects, such as masts, towers, poles, or radio or television antennas, on the exterior of any building within the Development unless approval of the Board is first obtained.

PARAGRAPH 11. ANIMALS

Keeping, raising, and/or breeding of animals or birds of any kind on any premises shall not be allowed except for the keeping of household pets. A household may have no more than two domestic pets. Poultry or pigs are not considered domestic animals. No animal or bird, of any kind, shall be bred or maintained for any commercial purpose. All pets shall be confined to owners' lot or be under leash control at all times.

PARAGRAPH 12. MAINTENANCE

- A. Required Maintenance of Lots and Residences. If any Lot of Residence is maintained so as to become a nuisance, fire, or safety hazard for any reason, including without limitation, failure to perform maintenance pursuant to Section B of this Paragraph, the Association shall have the right to enter the Lot, correct the offensive or hazardous condition and recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner. Any entry on the property of any Owner by the Association shall be limited as follows:
 - 1. The right of entry may be exercised immediately and without prior notice to the Owner or resident in case of an emergency originating in or threatening the Lot when entry is required onto any adjoining Lots. The Association's work may be performed under such circumstances whether or not the Owner or resident is present.
 - 2. In all non-emergency situations involving routine repair and/or maintenance activities, the Association, or its agents, shall furnish the Owner or resident with at least 24 hours prior written notice of its intent to enter the Lot, specifying the purpose and scheduled time of such entry, and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing on the Lot.
 - 3. In all non-emergency situations involving access by the Association for purposes of enforcing the Governing Documents against an Owner in default, the Association's entry shall be subject to observance in the

notice and hearing requirements imposed by these governing documents.

- B. Painting, Maintenance and Repairs. In the event that the Board of Directors, in its sole discretion, determines that painting, maintenance or repair, hereinafter referred to as "work", of a unit or yard is reasonably necessary to preserve the appearance and value of an adjoining unit yard or driveway, the Board of Directors shall give written notice of the necessity of such work to the owner of such unit, yard or driveway in which event said owner shall be obligated, at his sole cost and expense, to perform said work. Any such work is to be performed within the time stated in notification. Failure to perform said work will result in the Board performing the work at the Owner's expense pursuant to Paragraph 12A, above.

PARAGRAPH 13. COMMERCIAL BUSINESSES

No commercial business shall be conducted on any lot.

PARAGRAPH 14. GENERAL NUISANCE

A nuisance is defined as any act defined as a nuisance by law or any act which is considered by the Board of Directors to be obnoxious or offensive.

PARAGRAPH 15. RENTALS AND PROSPECTIVE PURCHASERS

- A. Obligations of Owners. Owners of Lots within the Development shall be subject to the following:
- (i) Delegation of Use and Leasing of Residence. Any rental or lease of a residence shall be subject to the provisions of the Governing Documents all of which shall be deemed incorporated by reference in the lease or rental agreement. Each Owner-lessor shall provide any tenant or lessee with a copy of all Governing Documents and shall be responsible for compliance by the tenant or lessee with all of the provisions of the Governing Documents during the tenant/lessee's occupancy and use of the residence.
 - (ii) Owner's Duty to Notify Association of Tenants and Contract Purchasers. Each Owner shall notify the administrator of the Association of the names of any contract purchaser or tenant residing in the Owner's Lot.
 - (iii) Contract Purchasers. A contract seller of a Lot must delegate the seller's voting rights as a Member of the Association to any contract purchaser in possession of the Lot. Notwithstanding the foregoing, the contract seller shall remain liable for any default in the payment of Assessments by the contract purchaser until title to the Lot sold has been transferred to the purchaser.
 - (iv) Notification to Prospective Purchasers.

- a. As more particularly provided in California Civil Code §1368, 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:
- (1) A copy of any Governing documents distributed by the Association under California Civil Code §1365;
 - (2) A true statement in writing from an authorized representative of the Association (delinquency statement) as to (1) the amount of the Association's current regular and special assessments and fees, and (2) the amount of any assessments levied on the Owner's Lot that remain unpaid as of the date of the delinquency statement and any monetary fines or penalties levied on the Owner's Lot and unpaid as of the date of the delinquency statement. The delinquency statement shall also include true information on late charges, interest, and costs of collection that, as of the date of the delinquency statement, are or may become a lien against the Owner's Lot under Civil Code §§1367 and 1367.1;
 - (3) A copy or a summary of any notice previously sent to the Owner under Civil Code §1363(h) that sets forth any alleged violations of the Governing Documents that remain unresolved at the time of the request; and
 - (4) A statement disclosing any change in the Association's current Regular and Special Assessments and fees that have been approved by the Board but have not become due and payable as of the date the information is provided.
- b. Within 10 days of the mailing or delivery of a request for the information described above, the Association shall provide the Owner with copies of the requested items. The Association shall be entitled to impose a fee for providing the requested items equal to (but not more than) the reasonable cost of preparing, reproducing and mailing the requested items.
- c. The provisions of this Section, except for those relating to the furnishing of a delinquency statement, shall not apply to any Owner who is subject to the requirements of California Business and Professions Code §11018.1 (which requires certain sellers to provide prospective purchasers with a California Department of Real Estate Public Report in connection with the sale of a Lot).

II. RIGHTS AND REMEDIES OF HOMEOWNERS AND SIERRA BONITA VILLAGE HOMEOWNERS ASSOCIATION

PARAGRAPH 16. EXTENSION OF CONDITIONS AND RESTRICTIONS--BREACH AND DEFAULT:

- A. Remedy at Law Inadequate. Except for the non-payment 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-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, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers, or Board of Directors, or by their respective successors in interest.
- B. Nuisance. Without limiting the generality of the foregoing Section (a), 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.
- C. Attorneys Fees. Reasonable attorneys' fees and costs shall be awarded to the prevailing party in any procedure to enforce the Governing Documents or a party's rights arising under the Governing Documents. Such enforcement procedure includes an action brought in any court having jurisdiction over any alternative dispute resolution procedure implemented under the Governing Documents or Civil Code §§1354 and 1363.820-1363.840, as those sections may be renumbered and revised from time to time. In any enforcement procedure, such as mediation, conducted under Civil Code § 1363.830, in which there is not an agreement between all of the parties that attorneys will represent them, recoverable costs are limited to attorney fees and costs incurred in providing the notices required under statute.
- D. 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.
- E. Failure Not a Waiver. The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any 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 on the Association or the Board, or any of its officers or agents.

F. Rights and Remedies of the Association.

- (i) 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, may enforce the obligations of each Owner to obey the Association Rules, covenants, or restrictions through the use of such remedies as are deemed appropriate by the Board and available at law or in equity, including but not limited to hiring legal counsel, imposing fines and monetary penalties, pursuing legal action, or suspending the Owner's voting rights as a Member of the Association, provided, however, that the Association's right to undertake disciplinary action against its Members shall be subject to the conditions set forth in this Section F.

The decision on whether it is appropriate or necessary for the Association to take enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Association's Board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have the rights of enforcement under California Civil Code §§1363.830, and 1369.590, or otherwise by law.

- (ii) Schedule of Fines. The board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or illegally parked vehicles). Once imposed, a fine or penalty may be collected as a Special Individual Assessment, subject to the limitation on the use of lien and foreclosure remedies stated in Paragraph 17.
- (iii) What constitutes a 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.
- (iv) Limitations of Disciplinary Rights.
- a. The Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Lot due to the failure by the Owner (or his or her family members, tenants, guests, or invitees) to comply with any provision of the Governing Documents or of any duly enacted Association Rule except when 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 the Owner's failure to pay

Assessments levied by the Association, or when the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents, so long as the Association's actions satisfy the due process requirements set forth below.

- b. Monetary penalties imposed by the Association (i) for failure of a Member to comply with the Governing Documents; (ii) as a means of reimbursing the Association for costs incurred by the Association in repairing damage allegedly caused by a Member; or (iii) in bringing the Member and his or her Lot into compliance with the Governing Documents, may not be characterized nor treated as an Assessment that may become a lien against the Member's Lot enforceable by a sale of the Lot in non-judicial foreclosure, provided, however, that this limitation on the Association's lien rights shall not apply to charges imposed against an Owner consisting of reasonable late payment penalties to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorney fees) in the Association's efforts to collect delinquent Assessments.
- c. No disciplinary action, penalty, or temporary suspension of rights shall be imposed under this Article unless the Owner alleged to be in violation is given at least ten (10) days prior notice by personal delivery or first-class mail that the Board of Directors will be meeting to consider imposing such discipline. The notice shall include, at a minimum, the date, time, and place of the meeting, the nature of the alleged violations for which the Owner may be disciplined, and a statement that the Owner has a right to attend and address the Board at the hearing. The Board shall meet in executive session if requested by the Owner.
- d. If disciplinary action is taken, the Board shall notify the accused Owner, in writing, either by personal delivery or first-class mail, of the Board's decision within fifteen (15) days following conclusion of the hearing.
- e. In accordance with Civil Code §1363(h), disciplinary action shall not be effective against an Owner unless the Board fulfills the requirements of this Section. The hearing and disciplinary procedures shall be those set forth in Civil Code §1363.840.

Notwithstanding the foregoing, under circumstances involving conduct that constitutes (i) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; (ii) a traffic or fire hazard; (iii) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as late payment of Assessments or parking violations), the Board of Directors, or its duly authorized agents, may undertake immediate corrective or disciplinary action and on the offending Owner's request

(which must be received by the Association, in writing, within five (5) days following the Association's disciplinary action), or on its own initiative, conduct a hearing as soon thereafter as reasonably possible.

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

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

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

- (vi) Notices. Any notice required by this Article shall, at a minimum, set forth the date and time for the hearing, a brief description of the action or inaction constituting the alleged violation of the Governing Documents, and a reference to the specific Governing Document provision alleged to have been violated. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice, provided, however, that if notice is given by mail it shall be sent by first-class or certified mail sent to the last address of the Member shown on the records of the Association.
- (vii) Rules Regarding Disciplinary Proceedings. The Board, or an appropriate committee appointed by the Board to conduct and administer disciplinary hearings and related proceedings, shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings, so long as such rules meet the minimum requirements of Civil Code §§1363(h) and 1363.810-1363.850. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

- G. Court Actions. Court actions to enforce the Governing Documents may be initiated on behalf of the Association only by resolution of the Board. Before filing any court action seeking declaratory or injunctive relief to interpret or

enforce the Governing Documents (including either such action coupled with a claim for monetary damages not in excess of \$5,000), the Association shall first comply with the provisions of California Civil Code §§1369.510-1369.580 relating to alternative dispute resolution.

- H. Assessment Collection Actions. The notice and hearing procedures set forth in Section F shall not apply to any actions by the Association or its duly authorized agents to collect delinquent assessments. Assessment collections shall be subject to the notice and procedural requirements imposed by these Governing Documents, and any other notice, hearing and/or dispute resolution requirements or procedures as may be specifically applicable by law to community association assessment collection efforts.

PARAGRAPH 17. NOTICE OF CLAIM OF BREACH--ASSESSMENTS

A. Assessments Generally.

- (i) Covenant to Pay Assessments. Each Owner of one or more Lots, by acceptance of a deed or other conveyance therefore (whether or not it shall be so expressed in such deed or conveyance), covenants and agrees to pay to the Association (a) Regular Assessments; (b) Special Assessments; (c) Special Individual Assessments; and (d) Emergency Assessments, as defined and levied under this Article.
- (ii) Extent of Owner's Personal Obligation for Assessments. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorney fees) for the collection thereof, shall be a debt and a personal obligation of the person who is the Owner of the Lot at the time the Assessment is levied. Each Owner who acquires title to a Lot (whether by conventional conveyance, at judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Lot which become due and payable after the date that the person acquires title. Accordingly, when a person acquires title to a Lot, he or she shall not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability. However, if the acquired Lot is conveyed subject to a valid lien for delinquent Assessments (and related costs of collection), the Association may continue to exercise its foreclosure remedies against the Lot, regardless of the change of ownership, and/or the Association may pursue its collection remedies against the prior Owner, individually.
- (iii) Creation of Assessment Lien. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorney fees) for the collection thereof, shall be a charge on the Lot and shall be a continuing lien on the Lot against which such Assessment is made from and after the time that the Association records a Notice of Delinquent Assessment. Any lien for unpaid Assessments created under the provisions of this Article may be subject to foreclosure.
- (iv) No Avoidance of Assessment Obligations. No Owner may exempt himself or herself from personal liability for Assessments duly levied by the

Association, nor release the Lot or other property owned by him/her from the liens and charges hereof.

- (v) Limitation on Amount of Assessments. The Association shall not impose or collect an Assessment or fee that exceeds the amount necessary to defray the costs for which the Assessment or fee is levied.

B. Regular Assessments.

- (i) Preparation of Annual Budget; Establishment of Regular Assessments. Not less than 30 days nor more than 90 days before the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year by preparing and distributing to all Members a budget. If the Board fails to distribute the budget for any fiscal year within the time period specified in the first sentence of this Section, the Board shall not be permitted to increase Regular Assessments for that fiscal year unless the Board first obtains the Members' approval.
- (ii) Establishment of Regular Assessment by Board; Membership Approval Requirements. The total annual expenses estimated in the Association's budget (less projected income from sources other than Assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year, provided, however, that, except as relates to Emergency Assessments, the Board of Directors may not impose a Regular Assessment that is more than 20 percent greater than the Regular Assessment for the Association's immediately preceding fiscal year without the Members' prior approval.
- (iii) Allocation of Regular Assessment. The total estimated Common Expenses shall be allocated among, assessed against, and charged to each Owner according to the ratio of the number of Lots within the Development owned by the assessed Owner to the total number of Lots subject to Assessments so that each Lot bears an equal share of the total Regular Assessment.
- (iv) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded in an Assessment roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or his or her authorized representative for any purpose reasonably related to the Owner's interest as a property Owner or as a Member. The Assessment roll (which may be maintained in electronic form) shall show, for each Lot, the name and address of the Owner of Record, all Regular, Special and Special Individual Assessments levied against each Owner and his or her Lot, and the amount of such Assessments which have been paid or remain unpaid. The delinquency statement required shall be conclusive on the Association and the Owner of such Lot as to the amount of such indebtedness appearing on the Association's Assessment roll as of the date of such statement, in favor of all persons who rely thereon in good faith.

- (v) Mailing Notice of Assessment. The Board of Directors shall mail to each Owner, at the street address of the Owner's Lot, or at such other address as the Owner may from time to time designate in writing to the Association, a statement of the amount of the Regular Assessment for the next succeeding fiscal year.
- (vi) Failure to Make Estimate. If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made for that year, shall be assessed against each Owner and his or her Lot on account of the then current fiscal year, and installment payments (as hereinafter provided) based on such automatic Assessment shall be payable on the regular payment dates established by the Board.
- (vii) Payment of Assessment. The total Regular Assessment levied against each Owner and his or her Lot shall be all due and payable to the Association on or before April 1st of each year.

C. Special Assessments.

- (i) Purposes for Which Special Assessments May Be Levied. Subject to the membership approval requirements set forth below, the Board of Directors shall have the authority to levy Special Assessments against the Owners and their Lots, if at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for that fiscal year, then, except as prohibited by Section 17B(i), the Board of Directors shall levy and collect a Special Assessment, applicable to the remainder of such year only, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder.
- (ii) Special Assessments Requiring Membership Approval. The following Special Assessments require prior membership approval: (a) any Special Assessments which, in the aggregate, exceed 5 percent of the Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied, and (b) any Special Assessments imposed when the Board has failed to timely distribute a budget to the Members. The foregoing Member approval requirements shall not apply, however, to any Special Assessment imposed to address any "emergency situation" as defined below.
- (ii) Allocation and Payment of Special Assessments. When levied by the Board or approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charged to each Owner and his or her Lot in the same manner prescribed for the allocation of Regular Assessments. The Special Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner.

Special Assessments shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable in full to the Association within 30 days after the mailing of such notice or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Special Assessment.

D. Special Individual Assessments.

(i) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners, the Board of Directors may impose Special Individual Assessments against an Owner in any of the circumstances described below, provided, however, that no Special Individual Assessments may be imposed against an Owner under this section until the Owner has been afforded the notice and hearing rights to which the Owner is entitled, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Special Individual Assessments include the following in the event that the Association incurs any costs or expenses to (i) accomplish the payment of delinquent Assessments; (ii) perform any repair, maintenance, or replacement to any portion of the Development that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion; or (iii) otherwise bring the Owner and/or his or her Lot into compliance with any provision of the Governing Documents, the amount incurred by the Association (including reasonable fines and penalties duly imposed hereunder, title company fees, accounting fees, court costs and reasonable attorney fees) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

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

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

E. Purpose and Reasonableness of Assessments. Each Assessment made in accordance with the provisions of this Declaration is hereby declared and agreed to be for use exclusively (i) to promote the recreation, health, safety, and

welfare of individuals residing within the Development; (ii) to promote the enjoyment and use of the Development by the Owners and their families, tenants, invitees, licensees, guests, and employees; Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation (with respect to which a separate lien may be created hereby) of the Owner of the Lot against which the Assessment is imposed that shall be binding on the Owner's heirs, successors, and assigns, provided, however, that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

- F. Exemption of Portions of the Development From Assessments. Any portion of the Development dedicated and accepted by a local public authority shall be exempt from the Assessments and the lien thereof provided.
- G. Notice and Procedure for Member Approval Under Articles. If Member approval is required in connection with any increase or imposition of Assessments under Paragraphs 17B and 17C, the affirmative vote required to approve the increase shall be a Majority of a Quorum of the Members. The quorum required for such membership action shall be a majority of the Members.
- H. Maintenance of Assessment Funds.
- (i) Bank Accounts. All sums received or collected by the Association from Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more federally insured checking, savings or money market accounts in a bank or other financial institution selected by the Board of Directors. In addition, the Board shall be entitled to make prudent investment of reserve funds in insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board and such officers or agents of the Association as the Board shall designate shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by Civil Code §1365.5. Any interest received on deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association
 - (ii) Expenditure of Assessment Funds. Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of

any Special Assessment exceed the requirement of which such Assessment was levied, such surplus may, in the Board's discretion, be: (i) returned proportionately to the contributors thereof; (ii) reallocated among the Association's reserve accounts if any such account is, in the Board's opinion, underfunded; or (iii) credited proportionately on account of the Owners' future Regular Assessment obligations.

- (iii) Separate Accounts; Commingling of Funds. To preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. For purposes of accounting, but without requiring any physical segregation of assets, the Association shall keep a separate accounting of all funds received by it in payment of each Assessment and of all disbursements made therefrom, provided, however, that receipts and disbursements of Special Assessments shall be accounted for together with the receipts and disbursements of Regular Assessments, and a separate accounting shall be maintained for each capital improvement for which reserve funds for replacement are required to be maintained by the Association.

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.

- I. Collection of Assessments; Enforcement of Liens. Installments of Regular Assessments shall be delinquent if not paid within 15 days of the due date as established by the Board. Special Assessments, Special Individual Assessments, and Emergency Assessments shall be delinquent if not paid within thirty (30) days. When an Assessment becomes delinquent, the amount thereof may, at the Board's election, 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 reasonable late charges for any delinquent Assessments, subject to the limitations imposed by California Civil Code §§1366(c) and 1366.1 or comparable successor statutes. Once an assessment becomes delinquent, the Association may elect one or both of the following remedies:

- (i) Enforcement of an Owner's Personal Obligation to Pay Assessments. The Association may bring a legal action directly against the Owner for breach of the Owner's personal obligation to pay the Assessment and in such action shall be entitled to recover the delinquent Assessment or Assessments, accompanying late charges, interest, costs, and reasonable

attorney fees. Commencement of a legal action shall not constitute a waiver of any lien rights as described in subparagraph (ii), below.

- (ii) Imposition and Enforcement of Assessment Lien; Limitations. Except as otherwise provided in subparagraph (b), with respect to the limitation on the imposition of liens for Special Individual Assessments, the Association may impose a lien against the Owner's Lot for the amount of the delinquent Assessment or Assessments, plus any reasonable costs of collection (including reasonable attorney fees), late charges, and interest by taking the following steps:
- a. Issuance of Delinquency Notice; Contents. When any assessment is more than ninety (90) days past due and at least thirty (30) days before recording a lien on the Owner's Lot to collect a delinquent Assessment, the Association shall notify the Owner in writing by certified mail of the following (the Delinquency Notice):
- (1) A general description of the Association's collection and lien enforcement procedures and the method of calculating the amount; a statement that the Owner of the Lot has the right to inspect the Association records under Corporations Code §8333; and the following statement in 14-point boldface type (if printed) or in capital letters (if typed): "IMPORTANT NOTICE: IF YOUR LOT IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."
 - (2) An itemized statement of the charges owed by the Owner, including items on the statement that indicate the amount of any delinquent Assessments, the fees and reasonable costs of collection, reasonable attorney fees, any late charges, and interest, if any.
 - (3) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection previously levied by the Association if it is subsequently shown that the Assessment was paid on time.
 - (4) The right of the notified Owner to request a meeting with the Board as provided below.
- b. Application of Payments. Any payments made by the Lot Owner toward the delinquent Assessment shall first be applied to the Assessments that are owed at the time the payment is made, and only after the Assessments owed are paid in full shall the payments be applied to the fees and the costs of collection, attorney fees, late charges, or interest. When an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the person who received the payment on behalf of the Association. The Association shall provide its Members with a mailing address for overnight payment of Assessments.

- c. Rights of Owners to Dispute Claimed Delinquencies. An Owner may dispute the amounts claimed as due and owing in the Delinquency Notice by submitting to the Board a written explanation of the reasons for the dispute. If the Owner wishes to submit an explanation, it must be mailed to the Association within 15 days of the postmark of the Delinquency Notice. The Board shall respond in writing to the Owner within 15 days of the date of the postmark of the Owner's explanation.
- d. Rights of Owners to Propose Payment Plans. An Owner may also submit a written request to meet with the Board to discuss a payment plan for the delinquent assessment. This request must also be made within 15 days of the postmark of the Delinquency Notice. The Association shall provide the Owners with the standards for payment plans, if such standards have been adopted. So long as a timely request for a meeting has been tendered, the Board shall meet with the Owner in executive session within 45 days of the postmark of the request for a meeting, unless there is no regularly scheduled Board meeting within that period, in which event the Board may designate a committee of one or more Members to meet with the Owner.
- e. Association Assessment Lien Rights. Except as provided in subparagraph i, below (relating to Special Individual Assessments), the amount of the Assessment, plus any costs of collection, late charges, and interest assessed in accordance with Civil Code §1366 shall be a lien on the Owner's Lot from and after the time the Association causes to be recorded in the Office of the County Recorder a Notice of Delinquent Assessment, which shall state the amount of the Assessment and other sums imposed in accordance with §1366, a legal description of the Owner's Lot against which the Assessment and other sums are levied, and the name of the record owner of the Lot against which the lien is imposed. For the lien to be imposed by non-judicial foreclosure as provided in subparagraph h, below, the Notice of Delinquent Assessment shall state the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment shall be signed by any officer of the Association or by the person designated by the Association for that purpose and mailed in the manner set forth in Civil Code §2924b to all record owners of the Owner's Lot no later than 10 calendar days after Recordation.
- f. Priority of Assessment Liens. A lien created under subparagraphs e or i of this paragraph shall be before all other liens recorded against the Owner's Lot after the Notice of Delinquent Assessment, except as described in Section k.
- g. Enforcement of Assessment Liens. Subject to the limitations of this Paragraph 17I(ii), after the expiration of 30 days following the recording of a Notice of Delinquent Assessment, the lien may be enforced in any manner permitted by law, including sale by the

court, sale by the trustee designated in the Notice of Delinquent Assessment, or sale by a trustee substituted under Civil Code §2934a. Any sale by the trustee shall be conducted in accordance with Civil Code §§2924, 2924b, and 2924c (applicable to the exercise of powers of sale in mortgages and deeds of trusts). The fees of a trustee may not exceed the amounts prescribed in Civil Code §§2924c and 2924d.

- h. Obligation to Record Lien Releases. If it is determined that a lien previously recorded against a Lot was recorded in error, the party who recorded the lien, within 21 calendar days, shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Lot Owner with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission. In addition, within 21 days of the payment of the sums specified in the Notice of Delinquent Assessment, the Association shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Lot Owner a copy of the lien release or notice that the delinquent assessment has been satisfied.
 - i. Limitation on Authority to Use Lien and Foreclosure Remedies to Collect Special Individual Assessments. Only Special Individual Assessments imposed to recover late charges, reasonable costs of collection, and interest assessed in accordance with Civil Code §1366(e) shall be subject to collection by the Association through the lien and foreclosure remedies described in subparagraphs e through h, above.
 - j. Effect of Failure to Adhere to Lien Restrictions. If the Association fails to comply with the procedures set forth in this Section before recording a lien, the Association shall recommence the required notice process. Any costs associated with recommencing the notice process shall be borne by the Association and not by the Lot Owner. The provisions of this Section are intended to comply with the requirements of Civil Code §1367.1 in effect as of January 1, 2003. If these Civil Code sections are amended or modified in the future in a way that is binding on the Association and causes this Section to be in conflict with applicable law, the provisions of this Section automatically shall be amended or modified in the same manner by action of the Board of Directors without necessity of approval of the amendment by the Members.
- J. Transfer of Lot by Sale or Foreclosure. The following rules shall govern the right of the Association to enforce its Assessment collection remedies following the sale or foreclosure of a Lot:
- (i) Except as provided in subparagraph (ii) below, the sale or transfer of any Lot shall not affect any Assessment lien that has been duly Recorded

against the Lot before the sale or transfer, and the Association can continue to foreclose its lien in spite of the change in ownership.

- (ii) The Association's Assessment lien shall be extinguished as to all delinquent sums, late charges, interest, and costs of collection incurred before the sale or transfer of a Lot under a foreclosure or exercise of a power of sale by the holder of a prior encumbrance (but not under a deed-in-lieu of foreclosure). A "prior encumbrance" means any first Mortgage or other Mortgage or lien Recorded against the Lot at any time before Recordation of the Association's Assessment lien.
 - (iii) No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale, or otherwise, shall relieve the new Owner of such Lot (whether it be the former beneficiary of the first Mortgage or other prior encumbrance or a third party acquiring an interest in the Lot) from liability for any Assessments which thereafter become due with respect to the Lot or from the lien thereof.
 - (iv) Any Assessments, late charges, interest, and associated costs of collection that are lost as a result of a sale or transfer of a Lot covered by subparagraph (ii), above, shall be deemed to be a Common Expense collectible from the Owners of all of the Lots, including the person who acquires the Lot and his or her successors and assigns.
 - (v) No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale, or otherwise, shall affect the Association's right to maintain an action against the foreclosed previous Owner personally to collect the delinquent Assessments, late charges, interest, and associated costs of collection incurred before and/or in connection with the sale or transfer.
- K. Priorities. When a Notice of Delinquent Assessment has been Recorded, such notice shall constitute a lien on the Lot prior and superior to all other liens or encumbrances Recorded subsequent thereto, except (a) all taxes, bonds, assessments, and other levies that, by law, would be superior thereto, and (b) the lien or charge of any first Mortgage of Record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value, provided, however, that such subordination shall apply only to the Assessments that have become due and payable before the transfer of such property under the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage or other prior encumbrance.
- L. Assignment of Rents. Each Owner does hereby presently assign to the Association, absolutely and regardless of possession of the property, all rents and other monies now due or hereafter to become due under any lease or agreement or otherwise for the use or occupancy of any or all parts of any Lot owned by the Owner, now existing or hereafter made for the purpose of collecting all Assessments due the Association under this Declaration which are in default. The Association hereby confers on each Owner the authority to collect and retain the rents and other monies derived from any such lease or agreement as they become due and payable, provided, however, that the Association at its sole discretion, may revoke such authority at any time, on

written notice to the Owner of a default in the payment of any Assessment due hereunder. On revocation of such authority the Association may, under court order or by court appointed receiver, collect and retain such monies, whether past due and unpaid or current.

- M. Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created under this Article, the benefit of any homestead or exemption law of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed.

PARAGRAPH 18. NOTICES:

Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered within three (3) days in California and/or ten (10) days out of state after having been deposited in the United States Mail, postage prepaid, certified mail, addressed to each such person at the resident address of such person.

PARAGRAPH 19. COMMON WALL:

This section shall now read:

- A. The common wall is situated between two garages and/or two living units. Both unit owners are responsible for its maintenance and repair. The term "common wall" shall also include all fences erected as part of the original development.
- B. Nothing shall be altered or constructed on or removed from the common wall, except upon the written consent of both unit owners.
- C. The adjoining owner of a unit, upon reasonable notice, may enter the opposite adjoining unit when necessary in connection with any maintenance or construction connected with the common wall. Such entry shall be made after reasonable notice to and with as little inconvenience to the adjoining owner as practicable and any damage caused thereby shall be required by the entering adjoining owner at their expense. No change or modification to the common walls may be made without prior Board approval.

PARAGRAPH 20. INTERPRETATION:

The provision of this declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the real property and improvement thereon. The interpretation and enforcement of these provisions are at the sole discretion of the Board on a case by case and/or individual basis. Failure by the Board to enforce any provision hereof, shall not constitute either a precedent or a waiver of the Board's right to enforce said provision at any time thereafter.

PARAGRAPH 21. AMENDMENT:

Any provision of this Declaration may be amended by vote or written assent of unit owners representing not less than sixty-seven (67%) of the total number of votes cast.

Any such amendment shall be executed by the Board of Directors and recorded in the office of the San Luis Obispo County Recorder.

PARAGRAPH 22. SEVERABILITY:

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

IN WITNESS WHEREOF, SIERRA BONITA VILLAGE HOMEOWNERS ASSOCIATION, A California nonprofit, mutual benefit corporation, has executed this Modification and Amendment to the Declaration of Covenants, Conditions and Restrictions for Tracts 1143, 723, 811, 812, 813 849, and 2276 on this 26 day of August, 2013.

SIERRA BONITA VILLAGE HOMEOWNERS ASSOCIATION

By Ed Toney
(Ed Toney, President)

STATE OF CALIFORNIA)
)
COUNTY OF SAN LUIS OBISPO) ss.

On August 26, 2013, before me, Jackie Romig, a Notary Public, personally appeared **Ed Toney**, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Jackie Romig
Signature of Notary

RECEIVED