

## ARTICLE 5

### RENTING OR LEASING

5.1 Requirements for Renting. An Owner renting his or her Lot shall:

(a) Do so pursuant to a written lease or rental agreement. The lease or rental agreement shall be for a minimum term of at least one (1) year and shall expressly provide that its terms are subject to all the provisions of the Governing Documents and that failure of the tenant, members of the tenant's household, invitees or guests to comply with applicable provisions of the Governing Documents shall constitute a breach of the terms of such lease or rental agreement.

(b) File a copy of the signed lease or rental agreement with the Board within five (5) days after the lease becomes effective. The Owner may redact or blackout the financial terms (i.e., the amount of rent and security deposit) from the copy of the lease or agreement provided to the Board.

(c) Provide the tenant(s) with a copy of the Governing Documents and any subsequent changes thereto.

(d) Notify the Board of the name of each tenant and of the members of the tenant's household.

5.2 Rental of Entire Lot. No Owner shall rent or lease less than the entire Lot. The preceding sentence is intended to prohibit the operation of a rooming house or similar operation within the Development. No garage, accessory building, or other facility shall be rented, leased, or hired to anyone who does not have the right of possession of the entirety of the Lot. This section is not intended to prohibit a resident Owner from sharing his or her Lot with a roommate or other person(s) with whom the Owner maintains a common household.

5.3 Restriction on Number of Lots Leased or Rented. Except as provided in the subsections below, not more than twenty-five percent (25%) of the Lots within the Development shall, at any particular time, be leased or rented or occupied by anyone other than an Owner together with members of his or her household or temporary guests, such that at least 111 of the Lots in the Development are Owner-occupied. For purposes of this Section 5.3, a resident of a Lot who is a beneficiary under a trust shall be deemed an Owner-occupant if legal title to the Lot is in the name of the trustee(s) of the trust.

5.3.1 Grandfathered Lots. The limitation on the number of permitted rentals as set forth in Section 5.3 shall not apply to any member who is

an Owner of a Lot on the date this Declaration is recorded, but shall apply to any such Lot or Lots upon transfer of title to such Lot, such that if the number of Lots then being leased or rented is more than the number permitted pursuant to Section 5.3, the Lot shall be sold to an Owner-occupant and not for rental.

5.3.2 Implementation. Upon request from the Board after this Declaration is recorded, each Owner renting or leasing a Lot shall provide such information as the Board may reasonably require to implement the provisions of this Article 5, including but not limited to the names of the tenants and the members of the tenants' household and the duration of the lease.

5.3.3 Hardship Waivers. Upon written request of an Owner, the Board shall have the right, but shall not be obligated to, waive the limitation on the number of permitted rentals or the order of prior requests to rent in cases of deserving and unusual hardship (for instance, a family illness requiring temporary relocation for treatment) provided: (1) each such waiver shall be for a limited term, not to exceed one (1) year; (2) the Owner in question shall deliver to the Board a signed statement representing that he or she will retake possession and occupancy of the Lot as a resident thereof upon the expiration of such limited term; and (3) such waiver shall be subject to other conditions as the Board may determine, which conditions may include but shall not be limited to Board review and approval of the lease for such limited term.

5.3.4 List of Rented Lots. The Board shall maintain a list of all Owners currently leasing or renting a Lot, which list shall include: (i) the Owner's name and mailing address; (ii) the address of the rented Lot and the Owner's record date of ownership; and (iii) term of the lease. Such list shall be made available to any Owner upon payment of a reasonable administrative charge to be set by the Board.

5.3.5 Written Request to Rent; Priority List. Any Owner desiring to lease or rent his or her Lot shall submit to the Board a written application for permission to rent to the Board on a form provided by the Board (the "Application"). The Application shall state: (i) the Owner's name, mailing address, and current telephone number(s); (ii) the Lot address and the Owner's record date of ownership; (iii) the proposed lease term; and (iv) such other information as the Board may reasonably require from time to time. The Owner shall have the right, upon written request delivered to the Association, to appear in person before the Board to discuss the request to lease or rent his or her Lot. The Board shall establish and maintain a priority list of the written requests to rent, organized in the order of date received by the Board.

5.3.6 Review of Application to Rent. Within thirty (30) days after receipt, of the Application, the Board shall review and shall approve or deny the Application. Written notice of the Board's decision shall be transmitted to the requesting Owner and, if the request is denied, the notice shall specify the reason(s) for denial. The Board shall approve the application unless doing so will increase the number of Lots leased or rented within the Development to more than the number permitted under Section 5.3, or will otherwise result in the violation of any provision of this Article 5 or any other provision of the Declaration. When the number of Lots leased or rented in the Development is less than the number permitted under Section 5.3, the Board shall authorize the Owner who submitted the earliest received written request to rent his or her Lot. When the number of Lots leased or rented in the Development equals or exceeds the number permitted under Section 5.3, Owner Applications to rent shall be added to the priority list maintained pursuant to Section 5.3.4.

5.3.7 Reconsideration of Denied Request. If a request to lease or rent is denied, the requesting Owner shall have a right, upon written request, to reconsideration by the Board. Within ten (10) days after such reconsideration, the Board shall transmit its written determination to the requesting Owner and, if again disapproved, shall specify the reasons for such disapproval.

5.3.8 Duration of Authorization to Rent; No Subletting. Subject to the provisions of this Section 5.3, once an Owner obtains permission to lease or rent a Lot, that Owner shall have the right to continue renting that Lot to consecutive lessees or renters for consecutive terms without having to submit or re-submit a request to rent; provided such lease or rental is otherwise in compliance with the provisions of this Article 5 and is without interruption of more than sixty (60) days or, in the case of approved remodeling of the Lot, ninety (90) days and provided, further, that during such interruption in rental the Owner shall not reoccupy the Lot for a period exceeding sixty (60) days. No subletting shall be permitted.

5.3.9 Decision of Board Conclusive. The decision of the Board of Directors in approving or denying a request to rent shall be final and conclusive.

5.4 Association as Third Party Beneficiary. The Owner and the tenant(s) of any Lots subject to this Declaration shall be conclusively deemed to have agreed that the Association is an intended third party beneficiary to the contract between the Owner and the tenant(s); that failure of the tenant, members of the tenant's household, or guests to comply with the Governing Documents shall constitute a breach of the terms of the contract between the Owner and the tenant(s); and that the Association shall have the right but not the obligation to enforce the contract and to pursue every remedy available under the contract, under the Declaration, including but not limited to the rights granted pursuant to Section 5.5 below, or under the law, including eviction, to the same

extent as the Owner of the Lot. The Association's right to maintain an eviction action shall arise only in the event that: (i) the Association has given notice to the Owner detailing the nature of the infraction and the Owner has had a reasonable opportunity to take corrective action or to appear before the Board to present arguments against eviction by the Association, and (ii) the Owner has not taken action to prevent and/or correct the actions of the tenant giving rise to the damage or nuisance.

5.5 Assignment of Rents as Security for Payment of Liens. As security for the payment of all liens provided for under the Declaration, including those described in Section 8.2, each Owner hereby gives to and confers upon the Association the right, power, and authority during the continuance of such ownership to collect the rents, issues, and profits of the Owner's Lot, reserving unto the Owner the right, prior to any default by such Owner in performance of that Owner's obligations under the Governing Documents in payment of any indebtedness to the Association or in performance of any agreement thereunder including but not limited to those set forth in Section 8.2, to collect and retain such rents, issues, and profits as they may become due and payable. Upon any such default, the Association may at any time, upon ten (10) days written notice to such Owner, then (either in person, by agent, or by a receiver to be security for such indebtedness) enter upon and take possession of such Owner's Lot or any part thereof, in its own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any such indebtedness, and in such order as the Association may determine or as required by applicable law. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, and the application thereof as aforesaid, shall not cure or waive any default under the Governing Documents or invalidate any act done pursuant to this Declaration, including but not limited to imposition of a Reimbursement Assessment and any Additional Charges. The assignment of rents and powers described in this Section 5.5 shall not affect, but shall in all respects be subordinate to, the rights and power of the holder of any first Mortgage on any Lot, or any part thereof, to do the same or similar acts.

5.6 Owner Responsible for Tenant's Actions; Indemnification of Association. Each Owner leasing or renting a Lot shall be responsible and strictly liable to the Association for the action of such Owner's tenant(s) in or about all Lots and Common Area and for each tenant's compliance with the provisions of the Governing Documents. To the fullest extent permitted by law, every Owner of a Lot that is occupied by persons other than the Owner pursuant to a rental agreement or lease or otherwise, agrees to and shall indemnify and defend the Association, its directors and agents and shall hold them harmless from and against any cost, loss, claim or damages of any kind, arising out of the

conduct or presence of the occupants of the Lot, including but not limited to attorneys' fees, any claims for consequential damages, and any claims arising or alleged to arise out of the enforcement or non-enforcement by the Association of the Governing Document with respect to such occupants. Any amounts owed pursuant to this Section 5.6 may be assessed as a Reimbursement Assessment.

5.7 Owner Prohibited From Using Common Facilities While Lot Rented. Any Owner who leases or rents his or her Lot and does not still reside in the Development shall not be entitled to use and enjoy any common facility during the period the Lot is occupied by a tenant or tenants.

5.8 Time-Share Arrangements Prohibited. No Lot or Lots shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time-sharing agreement, plan, program or arrangement, including, without limitation, any so-called "vacation license," "travel club," "extended vacation," or other membership or time interval ownership arrangement. The term "time-sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement under which the right to use, occupy, or possess any Lot or Lots in the Development rotates among various persons, either corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like-kind use privileges, according to a fixed or floating interval or period of time. This section shall not be construed to limit the personal use of any Lot in the Development by any Owner or his or her or its social or familial guests.

## ARTICLE 6

### MAINTENANCE OF PROPERTY

#### 6.1 Association Responsibility.

6.1.1 Common Area. The Association shall provide maintenance, repair, and replacement of the Common Area and all facilities, improvements, and landscaping thereon including private/common streets, curbs, street gutters, public sidewalks, public pathways, development entry gate, Common Area landscape water systems and electrical systems, and Common Area landscaping (up to but not including any fence or wall located on a Lot) including Development perimeter fences that do not enclose individual Lots, and utility facilities (except for those utility facilities which are maintained by public or private utility companies or agencies) or lines located outside the boundaries of a separate interest and serving more than one Lot, keeping such property in good condition and repair.

6.1.2 Maintenance of Lots. The Association shall provide maintenance, repair and replacement upon each Lot which is subject to

**RECORDING REQUESTED BY,  
AND WHEN RECORDED, MAIL TO:**

Recorded in Official Records,  
Solano County  
Doc#: 200900029807  
4/22/2009 9:46 AM

**HUGHES GILL COCHRANE, P.C.  
Attn: Michael J. Hughes, Esq.  
1600 S. Main Street, Suite 215  
Walnut Creek, California 94596**

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**(Space Above For Recorder's Use)**

**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
SIENA OWNERS' ASSOCIATION**