

ARTICLE V
Environmental Management

Section 1 Environmental Control Committee Approval of Improvements.

- (a) *Basic Objectives of Environmental Management.* The objectives of the Association's environmental management authority and the policies and regulations promulgated pursuant to that authority are to insure that Improvements (as defined below) and individual and collective membership activities shall be directed and pursued with a view toward enhancement of the natural beauty and character of the Properties and the quiet enjoyment thereof by all Owners, residents and guests. Although the principal responsibility for administration and implementation of environmental management policies rests with the Board of Directors, management and the Environmental Control Committee, membership support of these objectives is basic to their successful implementation. The Association's environmental management policies are primarily concerned with effective enforcement, administration and implementation of Articles V and VIII of this Declaration, the ECC Rules and other Association Rules pertaining to such articles.
- (b) *Definition of Improvement.* The term "Improvement," as used herein, shall include, but shall not be limited to, the construction, installation, alteration, remodeling, and exterior color selection of buildings, walls, fences, landscaping structures, landscaping, retaining walls, piers, boat shelters, floats, privacy structures, outdoor spas, antennas, television satellite reception dishes, heating or air conditioning equipment or swimming pools, including above ground pools and wells.
- (c) *Approval Generally.* Before commencing construction or installation of any Improvement on any Lot within the Properties, the Owner planning such Improvement must submit to the Association's Environmental Control Committee (the "Committee") a written request for approval. The Owner's request shall include plans and specifications satisfying the requirements of the ECC Rules (see Section 5, below). Unless the Committee's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Committee shall base its decision to approve, disapprove or conditionally approve any proposed Improvement on the criteria described in Section 6, of this article V.

- (d) *Modifications to Approved Plans Must Also Be Approved.* Once a work of Improvement has been duly approved by the Committee, no material modifications shall be made in the approved plans and specifications therefor and no subsequent alteration, relocation, addition or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Committee. If the proposed modification will have, or is likely to have, a material affect on other aspects or components of the work, the Committee, in its discretion, may order the Owner, his or her contractors and agents to cease working not only on the modified component of the Improvement, but also on any other affected component.

In the event that it comes to the knowledge and attention of the Association, the Committee, or the agents or employees of either that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Association shall be entitled to exercise the enforcement remedies specified in Section 12 of this article V, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement until such time as proper Committee review and approval is obtained.

Section 2 Committee Membership. The Environmental Control Committee shall be composed of three Members of the Association appointed by the Board. In selecting the Committee, the Board of Directors shall endeavor to appoint individuals whose occupations or education will provide technical knowledge and expertise relevant to matters within the Committee's jurisdiction. The Committee shall also be assisted by a compliance officer who shall be a staff employee and have such duties and responsibilities as specified in the ECC Rules.

Committee members shall serve for one-year terms subject to the Board's power to remove any Committee member and to appoint a successor. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto, unless otherwise approved by the Board of Directors. The Committee members shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of any Committee functions. Requests for reimbursement shall be supported by adequate documentation and shall be submitted to, and approved by, the Board of Directors.

Section 3 Duties of the Environmental Control Committee. It shall be the duty of the Committee to consider and act upon the proposals and plans

submitted to it pursuant to this Declaration, to adopt Environmental Control Committee Rules pursuant to Section 5 hereof, to undertake periodic inspections of Lots and the Common Area within the Properties to assure compliance with the Governing Document's land use and environmental control regulations, to perform other duties delegated to it by the Board of Directors and to carry out all other duties imposed upon it by this Declaration.

Section 4 **Meetings.** The Environmental Control Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Committee members shall constitute an act by the Committee and the Committee shall keep and maintain a written record of all actions taken.

The Owner-applicant shall be entitled to appear at any meeting of the Committee at which the Owner's proposal has been scheduled for review and consideration. The Owner shall be entitled to be heard on the matter and may be accompanied by his or her architect, engineer and/or contractor. Other Owners whose properties may be affected by the proposed Improvement (in terms of the view or solar access of their Lot, noise or other considerations) shall also be entitled to attend the meeting.

Reasonable notice of the time, place and proposed agenda for Committee meetings shall be communicated before the date of the meeting to any Owner-Applicant whose application is scheduled to be heard.

Section 5 **ECC Rules.** The Environmental Control Committee may, from time to time and with approval of the Board of Directors, adopt, amend and repeal rules and regulations to be known as "ECC Rules." The ECC Rules shall interpret and implement the provisions hereof by setting forth: (a) the standards and procedures for Environmental Control Committee review (including, without limitation, minimum requirements for submitting a complete application for project approval); (b) guidelines for the design features, and placement of any work of Improvement or color schemes, exterior finishes and materials and similar features which are recommended or required for use within the Properties; (c) minimum content of plans and specifications for any improvement; (d) the criteria and procedures for requesting variances from any property use restrictions; or minimum construction standards that would otherwise apply to the proposed Improvement under the Governing Documents (see Section 13, below); and (e) minimum requirements for the maintenance, supervision and restoration of construction sites by Owners and their contractors. Notwithstanding the foregoing, no ECC Rule shall be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the ECC Rules and this Declaration, the provisions of the Declaration shall prevail. The ECC Rules are

currently set forth in a booklet entitled "Environmental Control Committee Guidelines".

Section 6 **Basis for Approval of Improvements.** When a proposed work of Improvement is submitted to the Environmental Control Committee for review, the Committee shall grant the requested approval only if the Committee, in its sole discretion, finds that all of the following provisions have been satisfied.

- (a) The Owner's plans and specifications: (i) conform to this Declaration and to the EM Rules in effect at the time such plans are submitted to the Committee; (ii) will result in the construction of an Improvement that is the harmony with the external design of other structures and/or landscaping within the Properties; and (iii) will not interfere with the reasonable enjoyment of any other Lot Owner of his or her property, including, without limitation, the other Owner's rights to scenic and solar access free of unreasonable obstructions; and
- (b) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within the Properties and with the overall plan and scheme of development of the Properties and the purposes of this Declaration.
- (c) *Delivery of Plans and Specifications.* Plans and specifications shall be submitted to the Committee by personal delivery or first-class mail addressed to the Secretary of the Association or the Chairman of the Committee at the Association's principal office.

While it is recognized that the Committee's determination to approve or disapprove an Improvement will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith and shall consider such factors as the quality of workmanship and materials proposed for the Improvement project, the harmony of the proposed Improvement's exterior design, finish materials and color with that of other existing structures, and the proposed location of the Improvement in relation to the existing topography, finished grade elevations, roads, the Common Area and other existing structures. The Committee shall also be entitled to determine that a proposed Improvement or component thereof is unacceptable when proposed on a particular Lot, even if the same or a similar Improvement /component has previously been approved for use at another location if factors such as drainage, topography or visibility from roads, the Common Area or other Lots or prior adverse experience with the product or design of the Improvement mitigate against erection of the Improvement or use of a particular component within the Improvement on the Lot involved in the Owner's submittal.

Section 7 **Inspection Fee and Deposits.** The Association shall be entitled to charge a reasonable fee in order to defray the time, cost and expense involved in reviewing and processing the materials submitted to the Committee. Should it be determined that all or a portion of the materials submitted require resubmittal, an additional fee may be imposed to defray the time, costs and expense involved in re-reviewing such materials, provided that the applicant is notified of the estimated fee to be charged along with notification that such matters must be resubmitted.

As part of its submittal to the Committee, each Owner shall be obligated to make or deposit in an amount established by the Board from time to time. This sum is in addition to the initial plan submittal fee and shall be used: to pay for any clean-up on Lots or streets and repairs of any streets within the Properties made necessary by the Owner's construction. Because such cleanup and repair will need to be done right away, no notice shall be required. These funds shall be available so that the provisions of Section 1, above, may be strictly enforced. The Association shall place deposit funds in an account with a financial institution selected by the Board, and once construction and all clean up are complete, shall refund the unused portion of the deposit, without interest, to the Owner.

Section 8 **Time limits for Approval or Rejection.** Within thirty (30) days after submission of plans and specifications satisfying the requirements of the ECC Rules, the Committee shall return one set of such plans to the applicant, with either written notice of approval or disapproval or with written suggestions of changes required for approval accompanying the returned set of plans. The applicant may implement such changes to the plans and within thirty (30) days resubmit plans incorporating such changes for approval to the Committee, which approval it shall not unreasonably withhold so long as the Owner has complied in all material respects with the requested changes. If no written notice of approval or disapproval is received by the Owner-applicant within thirty (30) days after the Owner's plans and specifications (or revisions thereto) are submitted to the Committee, the plans shall be deemed to have been approved as submitted.

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

Section 9 **Proceeding With Work.** Upon receipt of approval from the Environmental Control Committee, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction and excavation pursuant to said approval. In all cases, work on an

Improvement project shall commence within one year from the date of such approval and shall be completed within one construction season. If the Owner fails to comply with this paragraph, any approval given pursuant to this article V, shall be deemed revoked unless the Committee, upon written request of the Owner prior to the expiration of the initial one year period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Committee that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the Improvement project within the time specified in the extension request.

Section 10 Failure to Complete Work. Unless the Owner has been granted an extension of time to complete the Improvement project by the Environmental Control Committee, construction, reconstruction, refinishing or alteration of any such Improvement must be complete within one construction season after construction has commenced, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner because of strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his or her agents. In the case of building Improvements, the requirements of this Section 10 shall be deemed to have been met if, within the permissible construction period, the Owner has completed construction of the building's foundation and all exterior surfaces (including the roof, exterior walls, windows and doors).

If the Owner fails to comply with this Section 10, the Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Section 11(c) and (d), below, as though the failure to complete the Improvement was a noncompliance with approved plans.

Section 11 Inspection of Work by Environmental Control Committee. Inspection of the work relating to any approved Improvement and correction of defects therein shall proceed as follows:

- (a) During the course of construction, the ECC compliance officer or other representatives of the Environmental Control Committee shall have the right to inspect the job site to confirm that the work of Improvement is proceeding in accordance with the approved plans and specifications.
- (b) Upon the completion of any work of Improvement for which Committee approval is required under this Article V, the Owner or his or her contractor shall give the Committee a written notice of completion.

- (c) Within thirty (30) days thereafter, the Committee, or its duly authorized representative, may inspect the Improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approved plans. If the Committee finds that the Improvement was not erected, constructed or installed in substantial compliance with the Owner's approved plans, then within the 30-day inspection period the Committee shall give the Owner a written notice of noncompliance detailing those aspects of the project that must be modified, completed or corrected. If the violation or nonconforming work is not corrected within a reasonable time (to be determined by the Committee), the Association and the Committee shall have the enforcement rights and remedies set forth in Section 14, below.
- (d) If for any reason the Committee fails to notify the Owner of any noncompliance within thirty (30) days after receipt of the Owner's notice of completion, the Improvement shall be deemed to have been constructed in accordance with the approved plans for the project, unless it can be demonstrated that the Owner knew of the noncompliance and intentionally misled the Committee with respect thereto.

Section 12 Enforcement of Environmental Control Matters.

- (a) In addition to other enforcement remedies set forth in this Declaration, the Environmental Control Committee shall have enforcement authority with respect to any matters required to be submitted to and approved by it, and, subject to prior approval by the Board, may enforce such architectural control by any proceeding at law or in equity. In addition, the Committee shall have the authority to order an abatement of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Committee or if it does not conform to the plans and specifications submitted to and approved by the Committee. No work of Improvement for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work.
- (b) If the Owner fails to remedy any noncompliance with respect to which notice has been given within thirty (30) days from the date of such notification, the Committee shall notify the Board in writing of such failure. The Committee shall then set a date on which a hearing regarding the alleged noncompliance not be more than thirty (30) days

nor less than fifteen (15) days after the notice of the noncompliance is issued by the Committee to the Owner and, in the discretion of the Committee, to any other interested party.

- (c) At the hearing, the Owner, one or more representatives of the Committee and any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the Committee shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance is determined to exist, the Committee shall require the Owner to remedy or remove the same within such period or within any extension of such period as the Committee, in its discretion, may grant. If the Owner fails to take corrective action after having a reasonable opportunity to do so, the Board, at its option, may either remove the non-complying Improvement or remedy the noncompliance and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not properly repaid by the Owner to the Association, the Board shall recover such expenses through the levy of a Special Individual Assessment against such Owner.
- (d) Legal proceedings to compel compliance with the ECC Rules, eliminate architectural or environmental violations or other violations of the Governing Documents that are under jurisdiction of the Environmental Control Committee must be approved by the Board and maintained in the name of the Association. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.
- (e) The approval by the Environmental Control Committee of any plans, drawings or specifications for any work of Improvement done or proposed, or for any other matter requiring the approval of the Committee under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Different locations for Improvements, the size of the Improvement structure, proximity to other Residences or Common Facilities and other factors may be taken into consideration by the Committee in reviewing a particular submittal.

Section 13 Variances. The Environmental Control Committee shall be entitled to allow reasonable variances in any procedures specified in this Article V, the minimum construction standards specified in Article VI or in any land use restrictions specified in Article VIII to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardship to Owner-applicants, provided all of the following conditions are met:

- (a) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise be applicable under this Declaration, the Committee must conduct a public hearing on the proposed variance after giving prior written notice to the Board and to any Owner of a Separate Interest located within three hundred (300) feet of the Separate Interest affected by the variance.
- (b) The Committee must make a good faith written determination that the variance is consistent with one or more of the following criteria: (i) the requested variance will 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 (ii) the variance relates to a requirement land use restriction or minimum construction standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances; or (iii) the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance with respect, to any other portion of 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 and regulation of the timely and proper completion of such improvements, the Environmental Control Committee shall also be vested with authority and responsibility to regulate continued compliance by Lots with the provisions of this Article V and Articles VI and VIII of this Declaration. To this end, the Committee may 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 Committee agrees that the compliance officer has identified an architectural/land use violation on any Lot, the Committee shall so notify the owner, in writing. The notice shall detail the nature of the alleged violation and advise the Owner of his or her right to be heard on the matter in

accordance with Article XIV hereof. If the Owner fails to make a timely request for a hearing the 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 which the Owner is unable or unwilling to correct or eliminate within a reasonable period of time, the Association shall be entitled to execute and record against the subject Lot a Notice of Noncompliance With Recorded Use Restrictions which shall identify the subject Lot, describe the nonconforming use and specify the Article and Section number of the Governing Document which is being violated. The ECC Rules shall include other reasonable rules, policies and procedures concerning the correction and/or elimination of existing land use violations including, without limitation, rules which prohibit any expansion of the nonconforming use of which require compliance with the Governing Documents when the nonconforming improvement is in need of substantial repair or replacement.

- (b) *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 V, which shall reference any previously recorded Notice of Noncompliance With Recorded Use Restrictions, rescind said notice and confirm that the Lot is in compliance with all applicable Governing Document provisions referenced in the Notice of Noncompliance.

Section 15 Estoppel Certificate. Within thirty (30) days after written demand is delivered to the Environmental Control Committee by any Owner, and upon payment to the Association of a reasonable fee (as established from time to time by the Board, in its sole discretion), the Committee shall record an estoppel certificate, executed by any two 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 non-complying improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser of the subject Lot from the Owner, or from anyone deriving any interest in said Lot through the Owner, shall be entitled to rely on the Association's estoppel certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, all Owners and any persons deriving any interest through them.

Section 16 Limitation on Liability. Neither the Association, the Environmental Control Committee nor any member thereof shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any mistakes in judgment, negligence or nonfeasance arising out of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings or specifications; (c) the development of any Lot within the Properties; or (d) the execution and filing of a Notice of Noncompliance pursuant to Section 14, above, or an estoppel certificate pursuant to Section 15, above, whether or not the facts therein are correct; provided; however, that such member has acted in good faith on the basis of such information as he may possess. Accordingly, by acceptance of title to any Lot, the grantee hereby releases the Association, the members of the ECC, and the Association's agents, employees and independent contractors from all loss or damage or claim thereof arising from any defect or alleged defect in such plans and specifications; and the grantee further waives the benefit of section 1542 of the California Civil Code which pertains to the release of unknown claims. Also, the grantee agrees to indemnify and hold harmless the Association, the ECC and any agents, employees and independent contractors of the Association from any claim asserted by third parties arising out of any such defects.

Section 17 Effect of Approval of Lake Improvements. Whenever the Association shall approve plans and specifications for a pier, boat shelter, float or similar Improvement on or extending into any lake within the Properties, such approval shall constitute a mere revocable license from the Association for the construction, placement, and maintenance of the proposed structure.

Section 18 Compliance With Governmental Regulations. Review and approval by the Environmental Control Committee of any proposals, plans or other submittals pertaining to improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Lot Owner who desires to construct, install, or modify the improvement.

Section 19 Appeals. Appeals from decisions of the Environmental Control Committee may be made to the Board of Directors, which may elect, in its discretion, to hear the appeal or, in the alternative, to affirm the decision of the Committee. The Association Rules shall contain procedures to process appeals pursuant to this Section 19.

ARTICLE VI

Minimum Construction Standards

Unless a variance is requested from, and granted by the Environmental Control Committee in accordance with article V, section 13, hereof, improvements constructed on any Lot shall conform to the following minimum construction standards:

Section 1 Minimum Square Footage/Single Family Residence. Each Single Family Residence constructed shall have a fully enclosed floor area (exclusive of roofed or unroofed porches, decks, terraces, garages, carports or other outbuildings) not less than: (i) one thousand six hundred (1,600) square feet on lakefront Lots; and (ii) one thousand two hundred fifty (1,250) square feet on all other Lots.

Section 2 Minimum Square Footage/Multi-Family Residence Units and Condominiums. There shall be at least two (2) Residence units in each multi-family building. Each Residence unit shall contain a minimum of the following fully enclosed floor areas devoted to living purposes, exclusive of roofed or unroofed porches, decks, terraces, garages or carports: one bedroom, one units - five hundred fifty (550) square feet; one bedroom, one bath, convertible den units - six hundred seventy-five (675) square feet; and two bedroom, two bath units - seven hundred seventy-five (775) feet.

Section 3 Roof Eaves. Roof eaves or overhang on all Residences is to be no less than twenty-four inches (24") horizontally from the wall.

Section 4 Roof Pitch. The roof pitch of all Residences must be minimum of four (4) in twelve (12). All dimensions on overhangs and pitch must be denoted on the plans.

Section 5 Setback Requirements. Setbacks for any Residence or other permanent structure (whether or not attached to the Residence) shall be at least:

- (a) Twenty (20) feet from the front Lot line or according to current standards determined by the County of Tuolumne, whichever is stricter;
- (b) Fifteen (15) feet from the rear Lot line, or according to current standards determined by the County of Tuolumne, whichever is stricter;

- (c) Six (6) feet from the side Lot lines or according to current standards determined by the County of Tuolumne, whichever is stricter;
- (d) Fifty (50) feet from the shoreline of any lakefront Lot using as such line the normal lake elevation of two thousand five hundred fifty (2,550) feet mean sea level, provided that on any lakefront Lot there may be constructed and maintained, at or adjacent to such shoreline, a pier or a dock in respect to the size, design, construction or replacement for which the Association has issued a permit or license.

Section 6 **Elevation of Lakefront Residences.** First floor elevations of all Residences constructed on lakefront Lots shall not be lower than 2,559 mean sea level.

Section 7 **No Used Structures.** No used buildings or structures, intended for use as a Dwelling Unit, shall be placed on any Lot.

Section 8 **Board's Authority to Regulate Other Structures and Improvements.** The Board shall have the authority to set up regulations as to the height and size requirements for all other types of buildings and structures, including fences, walls, chimneys, copings, flagpoles, etc.

Section 9 **Fences, Retaining Walls, Landscape and Privacy Structures.** No fences, retaining walls, landscape or privacy structure shall be constructed or erected on any Lot without the prior written approval of the Association.

Section 10 **Colors and Exterior Finishes.** All exterior colors, textures and materials, including roof materials, must be adequately described in the plans and specifications (with an indication where the colors will be used upon the finish dwelling) and approved in writing by the Environmental Committee prior to initiation of construction. Color samples shall be submitted to the Committee along with the plans and specifications. The Committee is authorized to maintain a chart of approved colors.

Section 11 **Roofing Materials.** Natural wood or shingle roofing materials or composition roofing materials shall not be permitted on any Residence within the Properties unless they are treated with fire retardant materials. The use of other roofing materials, such as tile, gravel or artificial shingles or shakes that have the appearance of natural wood shingles shall be permitted subject to prior Environmental Control Committee approval of the appearance and quality of the material.