



AUBERGE
AT DEL SUR

Auberge Community Guidelines

Version 2020.03

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Changes

#	Description	Approved	Effective
1	Change Fitness Center Hours Replace III.F Add III.H Tot Lot	18 JUL 2017	01 SEP 2017
2	Allow up to 3 open house signs on day of event Reorganize flags and banners to match CC&Rs	24 JUL 2018	01 SEP 2018
3	Replace IV Enforcement Guidelines	18 SEP 2018	01 NOV 2018
4	Renumbering	Administrative	01 JAN 2019
5	Insert Annual Policy Statement which delineates certain previously approved policies.	Administrative	01 JAN 2019
6	¶2.2.5 stricken as incorrect regarding limits on use. ¶2.3.1(b) & (c) stricken as irrelevant Declarant exceptions ¶2.4.2(d) moved to 2.10.2 ¶2.6.5 removed references to painted parking areas	Administrative	01 JAN 2019
2019.1	Replace ¶2.1 Age and Occupancy Guidelines	15 JAN 2019	15 JAN 2019
2019.2	Replace “Community Manager” with “General Manager”	Administrative	09 FEB 2019
2019.3	¶5 deleted; material incorporated by reference in ¶1.3.9 ¶3.7 New Park Pickleball Rules ¶6.1 Updated to match KPPM	Administrative 28 MAY 2019 1 JUL 2019	28 MAY 2019 1 JUL 2019
2020.01	¶1.3.10 Updated with current DRC Members ¶2.6 Restated Parking Rules ¶5.0 Added Statutory Dispute Resolution Policy	Administrative 19 NOV 2019 Administrative	19 NOV 2019 19 NOV 2019 19 NOV 2019
2020.02	¶1.4 Add Vehicle Listing & ¶1.5 Add Garage Use ¶8 Add Election Rules	23 JUN 2020 23 JUN 2020	23 JUN 2020 23 JUN 2020
2020.03	¶2.6 Add reverted Parking and Vehicles to 2019.03 Renumber ¶1.4 Vehicle Listing & ¶1.5 Garage Use changed to ¶2.6.11 Vehicle Listing & ¶2.6.12 Garage Use	25 AUG 2020 Administrative	25 AUG 2020 4 SEPT 2020

Section 1 Introduction

1.1 Governing Documents

Auberge at Del Sur is a Common Interest Development as defined under California Law. It is governed by the Auberge Community Association (**Association**), which was incorporated as a nonprofit mutual benefit corporation on April 26, 1016. Every Owner is a member of the Association. The Association is governed by the following documents:

- (a) Bylaws of the Auberge Community Association,
- (b) Declaration of Covenants, Conditions Restrictions, and Reservation of Easements for the Auberge Community Association (CC&Rs), and
- (c) Auberge Community Guidelines, and
- (d) Auberge Policies and Procedures.

The Bylaws and CC&Rs are recorded documents. The Auberge Community Guidelines (**Guidelines**) and Auberge Policies and Procedures are operating rules defined by the Association Board of Directors.

Some, but not all, operating rules require a 30-day comment period prior to approval.

Although the operating rules in these Guidelines support the CC&Rs, they do not cover the entire document. In the event of a conflict between the CC&Rs and these Guidelines, the CC&Rs shall control.

1.2 Meetings

Both the Association Bylaws and the California Civil Code provide more detailed information regarding the types of meetings that are held by the Association. However, these are the most common meetings that will be held.

- 1.2.1 Owners Meetings are held annually to elect directors. Ballots must be provided no less than thirty days prior to the meeting.
- 1.2.2 Board Meetings (Open Sessions) are used to conduct the regular business of the Association. Participation by Owners other than Directors is limited to the Homeowner's Forum. Open Sessions of the Board must be announced no less than four days prior to the meeting.
- 1.2.3 Board Meetings (Executive Sessions) are used to consider matters related to litigation, matters relating to the formation of contracts with third parties, Member discipline, and personnel matters. Attendance is limited to Directors and invited individuals. Executive Sessions of the Board must be announced no less than two days prior to the meeting.
- 1.2.4 Committee Meetings are usually limited to appointed members; however, committees may occasionally hold open meeting to collect Owner input. Committees are not required to provide notice of their meetings.
- 1.2.5 With the exception of Committee Meetings, all meetings are conducted in accordance with parliamentary procedures.



1.3 Civil Code §5310 Annual Policy Statement

The following policies and procedures are provided to the Members of the Association in fulfillment of the requirements of California Civil Code §5310.

1.3.1 Official Association Communications

The Association designates **Marty Ignacio** as the person to receive official communications to the Association and to act as Agent for Service of Process on behalf of the Association. Formal communications with the Association must be submitted in writing to:

Keystone Pacific Property Management,
16775 Von Karman Avenue, Suite 100
Irvine, CA 92606

Informal communications and requests for information may be submitted to the General Manager at mignacio@keystonepacific.com.

1.3.2 Multiple Member Addresses

Civil Code §5730 requires that, upon receipt of a request by a member, pursuant to Section 5260, identifying a secondary address for delivery of notices of the following types, the association shall deliver an additional copy of those notices to the secondary address identified in the request.

1.3.3 Posting of General Notice

The Association will provide general delivery of notices to the membership by the following means:

- (a) Posting of a printed document at The Club by the General Manager's office; and
- (b) Emailing the document to the address each Member has on file with the General Manager.

This resolution does not affect the right of any Member of the Association, on written request to the General Manager, to receive individual delivery of notices by mail.

1.3.4 Option for Individual Delivery

In accordance with Civil Code §4045(b) Members are entitled to receive individual delivery of general notices via mail. Members must request individual delivery in writing.

1.3.5 Right to Receive Meeting Minutes

As of November 15, 2017, the Association will post minutes of any open meeting of the Board of Directors on the community website within thirty days of that meeting. If meeting minutes have not been approved, draft minutes will be available. Members may download copies of minutes from www.aubergecommunity.org. Members may also request written copies of minutes by submitting a request to the Community Manager and paying any applicable fees and postage.

1.3.6 Assessment Collection Policies

Civil Code 5730 specifies the content of Notice Assessments and Foreclosure provided in Section 6 of these Guidelines.

1.3.7 Enforcement of Lien Rights

The Auberge Delinquent Assessment Collection Policy is provided in Section 6 of these Guidelines.

1.3.8 Enforcement Policy

The policy for enforcing compliance with the operating rules and governing documents is provided in Section 4 of these Guidelines.

1.3.9 Dispute Resolution

- (a) **Internal Dispute Resolution.** The Association will comply with Civil Code §5915 (Default Meet and Confer Procedure) for the resolution of internal disputes.
- (b) **Alternative Dispute Resolution.** Civil Code 5730 specifies the following Alternative Dispute Resolution Notice be provided in this Annual Policy Statement:

Failure of a member of the association to comply with the alternative dispute resolution requirements of Section 5930 of the Civil Code may result in the loss of the member's right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law.

1.3.10 Approval of Architectural Changes

The Design Review Committee is responsible for review and approval of physical changes to individual properties.

- (a) Current members of the Design Review Committee are listed under the Auberge community website;
- (b) The process for obtaining approval is provided in Section 7;
- (c) The necessary forms are provided under the Auberge community website.

The Design Review Committee is currently using Del Sur Community Association Site and Landscape Design Guidelines dated November 2015 as the criteria by which landscaping changes are reviewed.

1.3.11 Address for Overnight Payment

The mailing address for overnight payment of assessments is:

Auberge Community Association
Keystone Pacific Property Management,
16775 Von Karman Avenue, Suite 100
Irvine, CA 92606

Section 2 General Guidelines

2.1 Age and Occupancy Qualifications.

The purpose of these rules is to provide clarity concerning the Association's occupancy restrictions. The Association's age restrictions are a big benefit to the community, and it is up to the members and the Board of Directors to ensure that the community does not lose its age-restricted status by allowing non-qualified residents to residence in this community.

- 2.1.1 **Occupancy:** Each residence must be occupied by at least one Qualifying Resident. All other occupants must either be a Qualified Permanent Resident or a Permitted Health Care Resident. These individuals are Residents for the purposes of these guidelines. (CC&R¶2.9.1 & 2.9.5)
- (a) A **Qualifying Resident (QR)** is a person at least 55 years old. (CC&R¶1.1.83)
 - (b) A **Qualified Permanent Resident (QPR)** is a person who resides with a QR and meets at least one of the following requirements: (CC&R¶1.1.82)
 - (i) Is at least 45 years old;
 - (ii) Is the spouse or cohabitant of a Qualifying Resident;
 - (iii) Is providing primary physical or economic support to the Qualifying Resident.
 - (iv) Is the disabled child or disabled grandchild of a Qualified Permanent Resident;
 - (c) A **QPR** is also a person who was residing with a QR prior to the death or hospitalization of the QR, or became divorced or separated from the QR and meets at least one of the criteria in subparagraph (b) above; or
 - (d) A **Permitted Health Care Resident (PHCR)** is either a health care professional or a family member providing either medical treatment or assistance with daily activities. The care provided by the PHCR must be substantial in nature. Assistance with daily activities means that the QR needs assistance from the PHCR to get by on a day-to-day basis. (CC&R¶1.1.74)
- 2.1.2 **Continuing Occupancy:** Upon the death or prolonged absence of the Qualifying Resident the following categories of Resident may remain in the home for the indicated period of time. (CC&R¶2.9.2)
- (a) Qualified Permanent Resident (QPR): Indefinitely.
 - (b) Permitted Health Care Resident (PHCR): Up to 90 days. The Board may extend this interval at its own discretion.
- 2.1.3 **Cohabitant** means persons who live together as husband and wife, or persons who are domestic partners within the meaning of California Family Code Section 297.
- 2.1.4 **Guests:** All persons not meeting the above requirements are deemed Guests for the purposes of these guidelines and may not reside in a residence for more than sixty days per calendar year. (CC&R¶2.9.5)
- 2.1.5 Each Owner is responsible for providing the Association with an accurate Age Verification Survey. This survey must be updated whenever anyone moves into or out of a home within Auberge at Del Sur. (CC&R¶2.9.6)
- (a) Residents whose qualification is based on age must provide government issued identification that indicate their date of birth.

(b) Owners with Residents in the following categories must provide an additional statement as indicated below:

- (i) Spouse or Cohabitant: I hereby attest that <Name of Supporting QPR>, is the spouse or cohabitant (within the meaning of California Family Code Section 297) of <Name of QR>.
- (ii) Supporting QPR: I hereby attest that <Name of Supporting QPR> provides primary physical or economic support to <Name of QR>.
- (iii) Disabled QPR: I hereby attest that <Name of QR or QPR> is the child or grandchild of <Name of QR or QPR>, is disabled and requires assistance with daily activities.
- (iv) Permitted Health Care Resident: I hereby attest that <Name of QR or QPR> is disabled and requires assistance with daily activities. <Name of PHCR> is a full-time resident of who provides that assistance on a daily basis.

2.1.6 All persons not identified as Residents on the current Age Verification Survey shall be considered guests.

2.1.7 Owners who violate these rules will be subject to reasonable fines as determined by the Board of Directors, and may have their Common Area rights suspended, including their use of Common Area amenities and ability to vote or serve on the Board of Directors.

2.2 Common Area Guidelines

2.2.1 Littering in the Common Areas is strictly prohibited.

2.2.2 Smoking is not permitted inside The Club or inside any other Association buildings. Smoking is not permitted in outdoor Common Areas, except as designated.

2.2.3 Owners are allowed to bring alcohol to The Club (see page 11 for more information), although Owners must obtain permission from the Association prior to alcohol being served at an event/homeowner private party. Glass objects are prohibited in the pool and spa areas.

2.2.4 No owner shall have any right whatsoever to make any change or improvements to the Association property without prior written authorization from the Association.

2.2.5 Each Owner is liable to the Association for all damage to the Common Property that is sustained due to the negligence or willful act of the Owner, the Owner's family, contractors, tenants or invitees, and any other persons who derive their use of the Common Property from the Owner or from the Owner's family, tenants or invitees.

2.2.6 No unsightly articles shall be permitted to remain on any portion of a Residence so as to be visible from any other portion of a Property.

2.3 Business and Commercial Activities

2.3.1 No Owner or other occupant of the Community may undertake any activity in any Lot nor use any portion of the Common Property, for any business, commercial or non-residential purposes, nor for any other purposes that is inconsistent with the Governing Documents. Such purposes include manufacturing, storage, vending, auctions, vehicle or equipment repair, entering into any lease or rental agreement under which the Residence would be occupied by

numbers of persons in excess of the maximum occupancy permitted under applicable law, and transient occupancy of the Residence (such as hotel, inn, bed & breakfast, vacation rental, time-share or similar temporary lodging). Exceptions are:

- (a) The hiring of employees or contractors to provide maintenance, construction or repair services that are consistent with the Governing Documents;
- (b) The provision of in-home health care or assisted-living services to any resident of the Community;
- (c) The provision of family home childcare services as defined in California Health and Safety Code Section 1597.40, et seq., so long as such services comply with all applicable state and local laws, including licensing, inspection and zoning requirements. Provided, however, that the Association has the power to limit or prohibit use of the Recreational Facilities, mini-park and other common amenities in the Common Area by clientele of the business;
- (d) Small home-based service businesses or other non-residential or commercial uses that does not create a nuisance to other Owners or generate unreasonably traffic into the Community. Visits by clientele or suppliers must be limited to regular business hours and such clientele/suppliers are only permitted to park their vehicles in the garage of the Residence. Business activity must take place solely in the home.

2.4 Nuisances

- 2.4.1 Noxious or offensive activities are prohibited in the Community and on any street abutting or visible from the Community. The Board is entitled to determine if any device, noise, odor or activity constitutes a nuisance.
- 2.4.2 Nuisance devices may not be kept or operated in the Community or on any public street abutting the Community or exposed to the view of other lots, or Common Area. Nuisance devices include the following:
 - (a) All horns, whistles, bells or other sound devices (except security devices used exclusively to protect the security of a Residence or a vehicle and its contents);
 - (b) Noisy or smoky vehicles, power equipment (excluding lawn mowers and other equipment used in connection with ordinary landscape maintenance), and Restricted Vehicles (defined below);
 - (c) Devices that create or emit loud noises or noxious odors;
 - (d) Devices that unreasonably interfere with television or radio reception to a Lot;
 - (e) Plants or seeds infected with noxious insects or plant diseases;
 - (f) The presence of any other thing in the Community which may (i) increase the rate of insurance in the Community, (ii) result in cancellation of the insurance, (iii) obstruct or interfere with the rights of other Owners or the Association, (iv) violate any law or provisions of the Governing Documents, or (v) constitute a nuisance or other threat to health or safety under applicable law or ordinance.
- 2.4.3 Nuisance activities may not be undertaken in the Community or on any public street abutting the Community or exposed to the view of other Lots or Common Area without the Board's prior written approval. Nuisance activities include the following:

- (a) Hanging, drying or airing clothing, fabrics or unsightly articles in any place that is visible from other Lots, Common Area or public streets.
- (b) The creation of unreasonable levels of noise from gatherings, outdoor activities, recorded music, radios, television or related devices, or live music performance.
- (c) The creation of unreasonable levels of noise from a barking dog or other animal (including caged birds) kept in the Community (e.g., chronic daily nuisance barking by a dog over extended periods of time).
- (d) Repair or maintenance of vehicles or mechanical equipment, except in a closed garage or rear yard screened from view by other Lots or Common Area.
- (e) Outdoor fires, except in barbecue grills and fire pits designed and used in such a manner that they do not create a fire hazard.
- (f) Outdoor storage of bulk materials or waste materials except in temporary storage areas designated by the Committee.
- (g) Any activity which may (i) increase the rate of insurance in the Community, (ii) result in cancellation of the insurance, (iii) obstruct or interfere with the rights of other Owners, (iv) violate any law or provisions of the Governing Documents, or (v) constitute a nuisance or other threat to health or safety under applicable law or ordinance.

2.5 Signs

No sign, advertising device or other display of any kind shall be displayed in the Community or on any public street in or abutting the Community except for the following signs:

- 2.5.1 For each Lot, one (1) sign advising of the existence of security system protecting a Lot.
- 2.5.2 One (1) sign advertising the Lot for sale or lease.
 - (a) Such sign must have reasonable design and dimensions (which shall not exceed eighteen (18) inches by thirty (30) inches in size),
 - (b) Such sign shall be promptly removed at the close of the resale escrow or the lease, or upon the Owner's withdrawal of the Lot from the resale or lease market.
- 2.5.3 For each Open House at a Lot being advertised for sale, the following additional signs may be displayed subject to the following rules:
 - (a) Signs may be displayed between the hours of 10:00 am and 6:00 pm on the day of the open house;
 - (b) Signs may be placed as follows: one at the front entrance of the Auberge Community, one inside the gate to give direction to the area where the open house is being held and one at the driveway of the courtyard where the open house is being held.
 - (c) Open House signs must be small "sandwich board" style no more than 18" x 24" and may not include balloons or flags but may be topped with directional arrows.
- 2.5.4 For each Lot, one (1) noncommercial sign, poster, flag, or banner may be placed on the Lot.
 - (a) The signs or poster may not be more than 9 square feet in size.
 - (b) The flag or banner may not be more than 15 square feet in size.

(c) Signs, posters, flags or banners may not be made of lights, roofing, siding, paving materials, flora, balloons or any other similar building, landscaping or decorative component or include the painting of architectural surfaces.

2.5.5 Owners are otherwise prohibited from placing signs, flags, or banners upon any Common Areas or on any Association Property.

2.6 Parking and Vehicles

2.6.1 Only “Authorized Vehicles” are permitted to park in the Community. An Authorized Vehicle is an automobile, a passenger van designed to accommodate ten (10) or fewer people, a motorcycle, or a pickup truck having a manufacturer’s rating or payload capacity of one (1) ton or less.

2.6.2 The following vehicles are considered “Restricted Vehicles” and are prohibited in the Community except for two (2) hours or less in any 24-hour period during loading, unloading or emergency repairs:

- (a) Large commercial-type vehicles (for example, stake bed trucks, tank trucks, dump trucks, step vans, and concrete trucks);
- (b) Buses, limousines or vans designed to accommodate more than ten (10) people;
- (c) Inoperable vehicles or parts of vehicles;
- (d) Aircraft;
- (e) Boats, jet skis and other watercraft;
- (f) Trailers (for example, trailers designed for horses, boats, motorcycles or other equipment or materials);
- (g) Motor homes and recreational vehicles (for example, fifth-wheels, folding camping trailers, travel trailers, but not including van conversions and truck campers);
- (h) Any vehicle or vehicular equipment deemed a nuisance by the Association;
- (i) Any other vehicle that is not classified as an Authorized Vehicle.

2.6.3 A resident may park a Restricted Vehicle in the garage so long as the garage door is kept closed and the presence of the Restricted Vehicles does not prevent the Owner from parking the Owner’s Authorized Vehicles in the garage at the same time.

2.6.4 The garages shall be used for parking of two (2) vehicles and storage of personal property only, provided that no Person may store personal property except to the extent that the Authorized Vehicles owned or operated by the Owner and the other residents of the Lot can be parked in the garage at the same time up to its original design capacity. No garage may be converted for use as a dwelling, or for commercial, recreational, or other purpose other than parking and storage of personal property. Garage doors must be kept closed except as necessary for entry or exit of vehicles or persons.

2.6.5 Common Area parking is for temporary, short-term use by residents and invitees of residents only on a first-come first-served basis. Long term parking in these spaces is prohibited. There is no parking in the motor courts or private alleys.

2.6.6 No person may repair, maintain or restore any vehicle in the Community, unless such work is conducted in a garage with the garage door closed.

2.6.7 Vehicles are prohibited from parking in fire lanes and will be towed at the Owners expense.

- 2.6.8 No vehicle of any kind may be parked in any alley or motor court, except for brief periods during loading or unloading. When present in the alley or motor court, vehicles must not interfere with normal use of the alley or motor court by other Residents or visitors.
- 2.6.9 The Board has the right and power to enforce all parking and vehicle regulations applicable to the Community, including the removal of violating vehicles from alleys or motor courts, streets and other portions of the Community in accordance with California Vehicle Code Section 22658 or other applicable laws. The Board has the power to establish additional guidelines concerning parking in the Common Area, including designating parking, guest parking, and no parking areas.
- 2.6.10 If a vehicle qualifies as both an Authorized Vehicle and a Restricted Vehicle, then the vehicle is presumed to be a Restricted Vehicle, unless the vehicle is expressly authorized in writing by the Association.
- 2.6.11 All “Authorized Vehicles,” as defined in the CC&Rs, leased, rented, and/or used by one or more residents shall be listed with the Association if driven, towed, stored, garaged, or parked within the Auberge community with their Age and Occupancy Survey Form. Each Owner is responsible for providing the Association with a Vehicle Listing Form.
- (a) All “Restricted Vehicles,” as defined in the CC&Rs, shall be listed with the Association provided each such vehicle is located in the respective resident’s closed door garage and does not prevent the resident’s authorized vehicles from being in the same garage at the same time;
 - (b) Community gate opening transponders for each residence may be purchased from the Association and affixed to each of the resident’s authorized vehicles listed with the Association;
 - (c) The resident primarily responsible for each such vehicle shall complete and provide the General Manager a corresponding Association form when the vehicle first enters Association confines, or as soon thereafter as possible. Such resident shall further notify the General Manager when the vehicle will no longer be present in the Auberge community;
 - (d) Required forms for completion will be provided to residents by the General Manager in either paper or electronic format;
 - (e) Additional Transponders may be purchased apart from the two (2) that were originally given to the homeowner. One (1) additional transponder may be given to one immediate family member (parent, sibling, child) and one (1) additional transponder may be given to a qualified and verified health care provider;
 - (e) The necessary forms are provided under the Auberge community website (attached).
- 2.6.12 All Owners shall provide proof that their garage is available for parking of two (2) vehicles and storage of personal property only. However, if an Owner owns only one (1) vehicle, that Owner shall provide proof that their garage is available for parking of one (1) vehicle and storage of personal property only. Each Owner is responsible for providing the Association with a Garage Use Compliance Form. Initial proof of compliance can be provided by two methods:
- (a) An Owner may submit one or more pictures of the Owner’s garage that show the Resident’s vehicle(s) parked in the garage. Please make sure your house number appears in the garage picture. If your house number is not within the garage site please

include a picture of your neighbor's house number (and indicate that you are referencing your neighbor's home) or a landmark that identifies your house; or alternatively, should an Owner be unable for any reason to comply with this method;

- (b) An Owner may make arrangements for the General Manager to inspect the Owner's garage for compliance.
- (c) Proof of compliance by certification shall be completed by each current Owner every year. Forms are due annually on September 30th.
- (d) The garage use certification shall be made in substantially the following form:
"We hereby certify that our garage is available for parking of vehicles and storage of personal property only, and that we are storing personal property in the garage to the extent that the Authorized Vehicles of the residents living on the property can be parked in the garage at the same time up to its original design capacity. We further certify that our garage has not been converted for use as a dwelling, or for commercial, recreational, or other purpose other than parking and storage of personal property."

2.7 Tenant Guidelines

Owners may lease/rent their homes to Qualifying Residents and Qualifying Permanent Residents (see Age and Occupancy Qualifications).

- 2.7.1 All lease or rental agreements must be in writing and for a term of not less than thirty (30) days. All lease or rental agreements must state that at least one (1) permanent occupant is fifty-five (55) years of age or older and each other permanent occupant on the lease meets the age and occupancy requirements in the CC&Rs.
- 2.7.2 The Residence must not be used for hotel or transient purposes including bed & breakfast, vacation rental, timeshare, or similar temporary lodging.
- 2.7.3 The lease or rental agreement must provide that all lessees, tenants, and their families, contractors, agents, Residents, and invitees are bound by the Governing Documents including the age and occupancy requirements, and any violation of the Governing Documents by a lessee, tenant or their families, contractors, agents, Residents, and invitees also constitutes a default under the lease or rental agreement.
- 2.7.4 A copy of the Governing Documents and these Community Guidelines must be provided to each tenant/lessee.
- 2.7.5 Owners are responsible for payment of assessments and cannot delegate this responsibility to their tenants. Failure to pay assessments will result in a notice of lien and potentially, foreclosure.
- 2.7.6 Owners, and not tenants, are responsible for the actions of their tenants and their tenant's compliance with all of the provisions of Governing Documents and these rules and regulations. Fines and/or other actions may be assessed to an Owner due to a tenant's action.
- 2.7.7 The Owner shall assign its rights to use The Club and all other private Common Area amenities to the tenant during the term of rental or lease agreement. Owners are prohibited from using such Common Area facilities (including Del Sur's facilities) while their Residence is occupied by a tenant.

2.7.8 Careful screening of tenants prior to renting your property is important to protect your investment in your property. Disturbances and disorderly conduct by tenants can result in a fine or legal action against the owner. Preserving the community and maintaining harmony among residents are the ultimate goals of any Association. If a tenant is violating these goals, the owner is required to take the immediate necessary measures to correct the situation.

2.8 Animal Guidelines

2.8.1 No person may keep more than two (2) dogs or two (2) cats or one (1) dog and one (1) cat on any Lot. Residents may keep in the Residence a reasonable numbers of small household pets that live in containers or cages, including fish and birds, so long as there is no external evidence of their presence in the Community. In accordance with state and federal laws, duly qualified service animals are not counted in the numeric limits above.

2.8.2 No commercial or farm livestock, including poultry, may be brought into or kept in the Community. No person may bring or keep in the Community any animal that is determined by the Board to be a nuisance to other residents in the Community.

2.8.3 Animals belonging to Owners, tenants, residents or guests in the Community must be kept in the Residence or in fenced areas of the Lot. Whenever outside the enclosed area of the Lot, animals must be kept under the control of a Person capable of controlling the animal either on a leash or other appropriate restraint or carrier.

2.8.4 Each Owner shall be absolutely liable to each and all remaining owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the property by the Owner or by members of his or her family, his or her tenants or his or her guests.

2.8.5 It shall be the absolute duty and responsibility of each owner to clean up after such animals, which have used any portion of the Common Area or other yards. Please note that this includes excrement and/or fur.

2.8.6 Excessive dog barking or other animal noise will be deemed a nuisance. The Board has the power and discretion to determine whether the types or numbers of any animals kept on a Lot are a nuisance.

2.9 Antenna Guidelines

2.9.1 No Person may install on any Lot any antenna, satellite dish or other over-the-air receiving device unless it is an "Authorized Antenna." An Authorized Antenna is an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is:

- (a) One (1) meter or less in diameter
- (b) (An antenna designed to receive video programming service, including multi-point distribution service
- (c) An antenna designed to receive television broadcast service
- (d) An antenna used to receive and transmit fixed wireless signals.

- 2.9.2 The preferred installation locations are rooftops or fascia board at the rear of the Residence. The Design Review Committee may adopt additional restrictions on the location such antenna equipment may be installed.
- 2.9.3 The Design Review Committee may prohibit the installation of an Authorized Antenna in a particular location if, in the Design Review Committee's opinion, the installation location or maintenance unreasonably affects the safety of the owners or any other person.
- 2.9.4 The Design Review Committee may review the location and installation of an Authorized Antenna after it is installed and may require such antenna to be moved to a preferred location for safety reasons or to comply with the original approval.

2.10 Trash

- 2.10.1 Trash and recyclables must be stored in closed sanitary containers. No trash, recyclable materials or containers may be stored in view of other Lots or Common Area, except that closed containers may be set out for pickup for a reasonable period of time on trash collection days (not to exceed twenty-four (24) hours before and after scheduled trash collection hours). At all other times, Owners must store closed trash containers in the garage or in a fenced yard area, out of sight of other Lots and Common Area, until scheduled collection times.
- 2.10.2 Construction or demolition waste containers are not permitted unless approved in writing by the Association.

Section 3 Recreation Facilities

3.1 Hours of Operation

3.1.1 The Club at Auberge is open daily from 6 a.m. - 10 p.m.

3.2 The Club Guidelines

3.2.1 All persons under the age of eighteen (18) are not allowed at The Club.

3.2.2 Pets are not allowed in The Club or other recreation facilities.

3.2.3 Trash or other items must be removed and cleaned up before leaving The Club. Personal items are not to be stored or left in The Club once a person leaves.

3.2.4 Owners are responsible for any damage to The Club caused by such Owner, or Owners family members, guests, tenants or other invitees.

3.2.5 Smoking is prohibited in The Club or any other recreation facility including the pool, spa and outdoor pickle ball/bocce courts. This includes the use of e-cigarettes.

3.2.6 Members may bring up to five (5) guests to all facilities but must always accompany them.

3.2.7 Members are responsible for their guest's compliance with all Community Guidelines for personal injuries, for any damage to Association Property caused by the members or their guests, and are liable for all repair or replacement costs. Neither the Management Company nor the Association Board of Directors are responsible for accidents or injuries.

3.3 Pool and Spa

3.3.1 Pool hours are 6 a.m. - 10 p.m.

3.3.2 All persons using the facilities do so at their own risk. There is no lifeguard on duty.

3.3.3 All persons under the age of eighteen (18) are not allowed at the pool or spa.

3.3.4 Spray guns, hard balls, squirting devices or any other items that could jeopardize the safety of others or affect another person's enjoyment of the facility are not permitted.

3.3.5 Soap, bath oils, etc. are prohibited in the pools or spa.

3.3.6 Diving is not permitted. Running, pushing or boisterous play are not permitted.

3.3.7 Glass objects are prohibited in the pools and spa areas.

3.3.8 Pets (dogs, cats, etc.) are prohibited in the pool and spa areas.

3.3.9 Proper swim attire is required in the pools and spa. Cotton materials are not allowed in the pool or spa.

3.3.10 Bicycles, roller-skates, in-line skates, skateboards and hover boards, etc. are not permitted in the pool and spa areas.

3.3.11 Be considerate of noise levels.

3.3.12 Portable barbecues are not permitted in the pool and spa areas.

3.3.13 The General Manager and/or the Association Board of Directors reserve the right to deny use of



the pools and spa to anyone at any time.

3.4 Fitness Center

- 3.4.1 The Fitness Center hours are 5 a.m. to 10 p.m.
- 3.4.2 All equipment should be wiped down after use.
- 3.4.3 No food or drinks are allowed in the Fitness Center except for water in plastic bottles.
- 3.4.4 Personal radios are permitted but are to be used only with individual earphones.
- 3.4.5 Persons under the age of eighteen (18) are not allowed in the Fitness Center.
- 3.4.6 Residents should be considerate of others and limit their use to thirty (30) minutes if someone is waiting.
- 3.4.7 Reasonable items (towels, music devices, bottled water, etc.) may be brought into the Fitness Center when in use. No personal items are allowed to be stored or left in the room after a person leaves.
- 3.4.8 Residents must clean up after use. Trash and other items are not allowed to be left in the Fitness Center.

3.5 Barbeques

- 3.5.1 Barbecues are available on a first-come first-served basis.
- 3.5.2 All persons using the barbecues must make sure the barbecue is turned off and cleaned after each use.
- 3.5.3 The Barbecue area must be cleaned, and all personal items must be removed after each use.

3.6 Meeting Rooms

Owners may rent one or both general purpose rooms for private events to which not all residents are invited. The Meeting Rooms are rented on a first-come, first-served basis.

- 3.6.1 The five-guest rule is waived for private events. However, the applicable maximum occupancy restrictions for the Meeting Rooms may not be exceeded.
- 3.6.2 Rentals must be made no less than seven (7) days in advance by submitting a completed Auberge Rental Agreement, a check for the deposit, and proof of general comprehensive liability insurance and the required additional insured endorsements.
- 3.6.3 Insurance must be valued at no less than \$1,000,000 and name the Auberge Community Association and its management companies as additional insured parties.
- 3.6.4 If alcohol is being served, the insurance must include a host alcohol liability endorsement. The endorsement must also provide coverage for the additional insured as required by 3.6.3 above. In addition, the Association reserves the right to place additional conditions on the use of the Meeting Rooms when alcohol is being served (such as requiring a security guard, etc.)

(a) The rental fee for private events is \$250 per room. This amount is non-refundable. The first installment of \$100 must be paid when the rental is booked and the remainder is due no less than seven (7) days prior to the event. The rental of a Meeting Room does not include access to the kitchen facilities or the recreation facilities, including, but not limited to the pool and spa areas.

3.6.5 Commercial activities, including charging guests for participation, are not permitted in the rented Meeting Rooms.

3.6.6 Noise levels from within the Meeting Rooms must not unreasonably disturb or annoy other uses of The Club and shall at all times comply with all applicable noise ordinances.

3.7 Pickleball Courts

3.7.1 Use of Pickleball courts is restricted to Residents and their Guests.

3.7.2 Pickleball Courts are for pickle ball only. No other activities are permitted on the courts.

(a) Playing hours at the courts in the Auberge Activity Park are from 7:00 AM to 10:00 PM daily.

(b) Playing hours at the courts in The Club are from 8:00 AM to 8:00 PM.

3.7.3 Players are required to wear court shoes. No other types of shoes are permitted on the pickleball courts.

3.7.4 Players are required to examine the court for the presence of materials such as decomposed granite (which may be tracked in from community walk-ways) and remove the granite from the court prior to commencing play.

3.7.5 The Pickleball Club is authorized to coordinate individual court reservations on the Auberge Activity Park courts. However, the Residents of any Lot may not schedule both courts simultaneously and may not schedule courts in consecutive time-slots.

3.7.6 The Pickleball Club is authorized to coordinate formal group play sessions and tournaments on all Auberge courts. These events shall be restricted to Residents.

3.7.7 The Pickleball Club is authorized to coordinate league play on the Auberge Activity Park courts, provided that the number of non-resident participants and spectators is roughly equivalent to the number of resident participants and spectators. (Note: this rule supersedes other rules related to the number of guests that a resident may host.)

3.7.8 The authorization granted in 3.7.7 and 3.7.2(a) above will expire on September 30, 2019 unless extended by the Board prior to that date. In support of the decision to extend, Pickleball Club is required to track and report the number of residents and guests (non-resident participants and spectators) at each match as well as the associated parking impact.

3.8 Bocce Court

3.8.1 The Bocce Court is for playing Bocce only. No other activities are permitted on the court.

3.8.2 Bocce Court: Rolling and tossing the balls are the preferred method of playing the game. Balls should not be thrown beyond the halfway point between the foul line and center of the court.

3.9 Tot Lot

- 3.9.1 The Tot Lot hours are 8:00 am to 9:00 pm.
- 3.9.2 All persons using the equipment do so at their own risk.
- 3.9.3 All children under the age of 18 must be accompanied by an adult at least 18 years of age.
- 3.9.4 Glass objects are prohibited.
- 3.9.5 For health and safety reasons, bicycles, scooters, roller-skates, in-line skates, skateboards, hoverboards, etc. are not permitted.
- 3.9.6 Pets (dogs, cats, etc.) are prohibited anywhere in the Tot Lot, except for Service Animals as provided by applicable laws and regulations.
- 3.9.7 Portable barbecues are not permitted.
- 3.9.8 Be considerate of noise levels.

Section 4 Enforcement Guidelines

By purchasing a home within the Auberge Community, each Owner has agreed to comply with its governing documents. Owners who rent their homes are responsible for ensuring the Residents of that home comply. Owners are also responsible for ensuring that their guests comply.

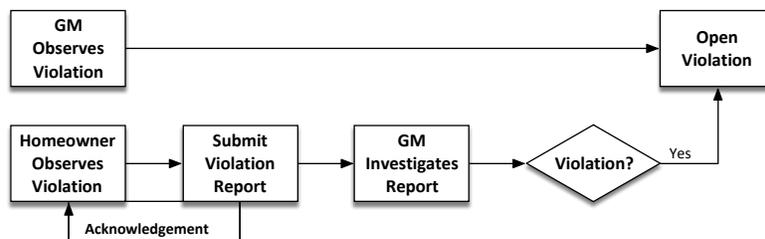
4.1 Definition

A violation is defined as an act in conflict with one or more of the following governing documents of the Auberge Community Association.

- Declaration of Covenants, Conditions and Reservation of Easements (CC&Rs);
- Auberge Community Association Bylaws;
- Auberge Community Guidelines; or
- Auberge Design Guidelines.

4.2 Violation Reporting (Origination)

The Board of Directors has tasked the General Manager with enforcing compliance with the above stated documents. This will primarily be accomplished through routine community inspections.



Opening a Violation

Any Owner or Resident may report an alleged violation of the governing documents to the General Manager. Reports of alleged violations must provide the following information:

4.2.1 Nature of Alleged Violation

- (a) What is the rule (document and paragraph number)?
- (b) In what way is it being violated?
- (c) When does the alleged violation occur?
- (d) How frequently does the violation occur or is it ongoing?

4.2.2 Identity of the alleged violator.

- (a) Name and/or address
- (b) Steps taken to resolve the violation without Association involvement.

4.2.3 Resident’s contact information.

4.2.4 Reports may be submitted to the General Manager by mail, the KPPM violation reporting form on the community website, or email containing “Auberge Violation Report” in the subject line.

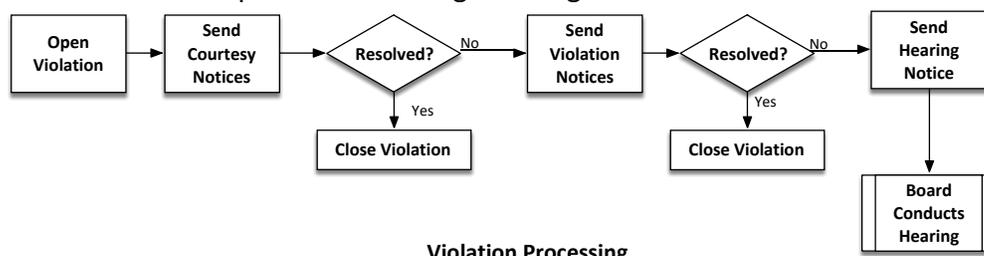
4.3 Violation Investigation

The General Manager will investigate the reported situation to determine whether or not a violation exists.

- 4.3.1 The General Manager will only act on alleged violations that can be viewed during an inspection of the community or for which photographic evidence is provided.
- 4.3.2 The General Manager will not act on nuisance violations (such as barking dogs and other noise) unless there are reports from two or more Residents.
- 4.3.3 The General Manager will not disclose the name of a reporting Owner or Resident.
- 4.3.4 The General Manager will not provide feedback regarding the alleged violation to the reporting Owner or Resident.

4.4 Violation Processing

The Board of Directors has tasked the General Manager with evaluating alleged violations to ensure that they constitute non-compliance with the governing documents.



If the General Manager determines that an alleged violation is an infraction of one of the documents listed in paragraph A, the following actions will be taken until the violation is corrected.

- 4.4.1 Send Courtesy Notice requesting that the Owner correct the alleged violation by a specific date.
 - (a) Courtesy Notices will be sent by first class mail.
 - (b) The Owner required to respond.
 - (c) The General Manager will acknowledge the Owner response and indicate whether or not it closes the violation.
- 4.4.2 Send Violation Notice requiring the Owner to correct the alleged violation and indicating that a Violation Hearing will be conducted if the violation is not corrected by a specific date.
 - (a) Courtesy Notices will be sent by first class mail.
 - (b) The Owner required to respond.
 - (c) The General Manager will acknowledge the Owner response and indicate whether or not it closes the violation.
- 4.4.3 4.4.3 Conduct Violation Hearing.
 - (a) Hearing Notices will be sent by certified mail at least fifteen (15) days prior to the hearing date.
 - (b) Unless the violation has been closed, the scheduled hearing will proceed whether or not the Owner is present.
 - (c) Hearings will be conducted in accordance with paragraph 4.6 below.

4.5 Recurring Violations

Certain violations are easily closed but may recur frequently. For example, a motor court parking violation is easily cured by moving the car; but closing the individual violation does not address the problem of a car being repeatedly parked in a fire lane.

- 4.5.1 A recurring violation is defined as a violation similar to one that was previously closed.
- 4.5.2 The first two recurring violations in any twelve-month period will be handled in accordance with 4.4 above.
- 4.5.3 The third recurring violations in any twelve-month period will proceed directly to a Violation Hearing without sending either a Courtesy Notice or a Violation Notice.

4.6 Violation Hearings

Violations Hearings will generally be held during an Executive Session of the Association Board of Directors. The alleged violators may request an open hearing. Violation hearings will be conducted as follows:

- 4.6.1 Chairperson explains session procedures and reads a statement of the alleged violation.
- 4.6.2 Alleged Violator provides statement and presents oral or written evidence.
- 4.6.3 Directors may question the alleged violator regarding the statement or presented evidence.
- 4.6.4 Alleged Violator may make a short closing statement.
- 4.6.5 Alleged Violator is dismissed.
- 4.6.6 Board rules regarding the alleged violation, which may be restated to accurately reflect new information.
- 4.6.7 If the Board rules that there is still a violation, it may take one or more of the following actions:
 - (a) Suspend or limit the Owner's right to use any facilities the Community Association owns;
 - (b) Suspend the Owner's voting privileges as a member;
 - (c) Levy a fine;
 - (d) With appropriate notice, enter upon a residence to make the necessary repairs, or perform maintenance which is the responsibility of the Owner;
 - (e) Record a notice of noncompliance encumbering the Owner's residence, or
 - (f) Seek remedy by use of alternative dispute resolution such as mediation or arbitration, or
 - (g) A combination thereof.
- 4.6.8 The Chair adjourns the hearing.
- 4.6.9 The General Manager informs the alleged violator of the outcome.

4.7 Fines

- 4.7.1 If the result of a Violation Hearing is the imposition of a fine, then the fine shall be
 - (a) First Offence: \$100
 - (b) Second Offence: \$250

(c) Third Offence: \$500

- 4.7.2 If the violation continues past the hearing and first fine stage, the Board, may at its discretion, at the initial hearing set up additional fines for not correcting the violation on a timely basis. Any fines not paid may result in legal action in accordance with California law.
- 4.7.3 If the result of a Violation Hearing is to use alternative dispute resolution, then the Owner shall be responsible for associated costs and/or legal fees.
- 4.7.4 If the result of the Violation Hearing is to cause correction of the violation to effect a cure, then the Owner shall be responsible for associated costs and/or legal fees.

Section 5 Dispute Resolution

California *Civil Code* Sections 5925 through 5965 require community associations and their homeowners to offer to participate in some form of Alternative Dispute Resolution (“ADR”) prior to initiating certain types of lawsuits in superior court. ADR means mediation, arbitration, conciliation, or other non-judicial procedure that involves a neutral party in the decision-making process. ADR may either be binding or non-binding, as may be agreed to by the parties. This Summary of the ADR statutes is being distributed as required by California *Civil Code* Section 5960.

5.1 When ADR Must be Offered Prior to Initiating Enforcement Action:

An association or an owner may not file certain lawsuits in superior court unless an effort has been made to submit the dispute to ADR as required by law. Generally, ADR must be offered before filing a civil action or proceeding that seeks:

- (a) A judicial declaration of the rights and responsibilities of the parties, only; or
- (b) A writ of mandate or a writ of prohibition, only; or
- (c) Permanent injunctive relief only; or
- (d) Declaratory relief, writ relief, or injunctive relief, combined with a claim for monetary damages of five thousand dollars or less

It is not necessary to offer ADR prior to filing any other type of superior court action, or prior to filing any type of small claims action. Except as otherwise provided by law, the ADR requirement does **not** apply to an assessment dispute.

5.2 Compliance Procedures:

The ADR process is initiated by one party serving all other parties with a “Request for Resolution,” which shall include:

- (a) A brief description of the dispute between the parties;
- (b) A request for ADR;
- (c) When directed to an owner, the request must be accompanied by a copy of the ADR statutes;
- (d) A notice to all parties that they are required to respond within 30 days of receipt, or else the offer of ADR is deemed rejected; and

Service of the Request must be by personal delivery, first-class mail, express mail, facsimile transmission, or other means reasonably calculated to provide the intended recipient actual notice of the Request. If the Request is accepted, ADR must be completed within 90 days of the receipt of the acceptance, unless the parties sign a written agreement extending the completion date.

The cost of ADR is to be borne by the parties. Unless the parties agree, no oral or written evidence or statements made in an ADR proceeding, other than arbitration, are admissible as evidence in a later lawsuit.

Each homeowner should consult with his or her own attorney regarding appropriate compliance with the ADR statutes.

5.3 Failure to Participate in Some Form of ADR Prior to Enforcement Action:

Should a party unreasonably refuse to participate in ADR before the lawsuit is filed, the court may, in its discretion, take this refusal into consideration in determining the amount of attorney’s

fees and costs ultimately awarded at trial. In accordance with the disclosure requirement of California *Civil Code* Section 5965, please be advised that:

“Failure of a member of the Association to comply with the alternative dispute resolution requirements of Section 5930 of the Civil Code may result in the loss of your right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law.”

5.4 Association’s Policy of Early Dispute Resolution:

In accordance with the California *Civil Code*, a fair, reasonable, and expeditious procedure exists for resolving disputes between Association and an owner involving their rights, duties or liabilities under the Davis Stirling Common Interest Development Act, the Nonprofit Mutual Benefit Corporation Law, or the Association’s governing documents. The procedure supplements but does not replace the ADR process summarized above. The procedure follows:

- (a) Either party may request the other, in writing, to meet and confer. While a homeowner may refuse a request to meet and confer, the Association may not.
- (b) The Board shall designate a member of the Board to meet and confer with the owner.
- (c) The parties shall meet promptly at a mutually convenient time and place to explain their positions and confer in good faith in an effort to resolve the dispute.
- (d) A resolution of the dispute shall be memorialized in writing and signed by the parties.
- (e) An agreement reached using this procedure binds the parties and is judicially enforcement if it is not in conflict with the law or the governing documents and the agreement is either consistent with the authority granted by the Board of Directors to the Board member who met with the owner, or if the agreement is ratified by the Board.
- (f) An owner may not be charged a fee to participate in the process.

5.5 Internal Dispute Resolution:

California *Civil Code* Sections 5900 through 5920 require community associations and their homeowners to participate in some form of Internal Dispute Resolution (“IDR”) prior to initiating certain types of disputes in superior court. This summary of the IDR procedure is being distributed as required by California *Civil Code* Section 5920. The below applies in an Association that does not otherwise provide a fair, reasonable, and expeditious IDR procedure meeting the minimum requirements described in California *Civil Code* 5910.

- (a) The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be made in writing.
- (b) A member of an Association may refuse a request to meet and confer. An Association may not refuse a request to meet and confer.
- (c) Upon an Owner’s request that the Association participate in an IDR proceeding, the Association has thirty (30) days to respond and must make a good faith attempt to hold the IDR proceeding within sixty (60) days of receipt of the written request.
- (d) The Association’s Board of Directors shall designate a member of the Board to meet and confer.
- (e) Although not precluded, attorney participation in the IDR Process is discouraged in order to maintain direct discussions between the parties of the Dispute and to maintain the goal of

resolution through an expeditious process. To the extent the Owner requires that his/her/its attorney attend the IDR proceeding, the Owner shall be required to give at least five (5) business days' notice to the Association so that the Association can ascertain if it desires its corporate counsel to also attend.

- (f) The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute.
- (g) A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the Board designee on behalf of the Association.
- (h) An agreement reached under this section binds the parties and is judicially enforceable if both of the following conditions are satisfied:
 - 1. The agreement is not in conflict with the law or the governing documents of the common interest development or Association.
 - 2. The agreement is either consistent with the authority granted by the Board of Directors to its designee or the agreement is ratified by the Board.
- (i) A member of the Association may not be charged a fee to participate in the process.

Section 6 Collections and Foreclosures

6.1 Delinquency Policy

Prompt payment of assessments by all owners is critical to the financial health of the Association and to the enhancement of the property values of our Association. Your Board of Directors takes very seriously its obligation under the CC&R's and the California Civil Code to enforce the members' obligation to pay assessments. The Board has adopted this Collection Policy in an effort to discharge that obligation in a fair, consistent, and effective manner. Therefore, pursuant to the CC&R's and Civil Code, the following are the Association's assessment collection practices and policies:

- 6.1.1 Assessments, late charges, interest, collection costs, and any attorneys' fees, are the personal obligation of the owner of the property at the time the assessment or other sums are levied.
- 6.1.2 Regular monthly assessments are due and payable on the first day of each month. A courtesy billing statement is sent each month to the billing address on record with the Association. However, it is the owner of record's responsibility to pay each assessment in full regardless of whether a statement is received. All other assessments, including special assessments, are due and payable on the date specified by the Board in the notice imposing such assessment.
- 6.1.3 Any payments made shall be first applied to assessments owed, and, only after the assessments owed are paid in full, shall such payments be applied to late charges, interest and collection expenses, including attorneys', trustee or small claims fees, unless the owner and that Association enter into an agreement providing for payments to be applied in a different manner.
- 6.1.4 When any regular or special assessment remains unpaid fifteen (15) days past its due date, said assessment shall be subject to a late charge not exceeding ten percent (10%) of the delinquent assessment or ten dollars (\$10.00), whichever is greater in accordance with California Civil Code 5650(b)(2), unless the declaration specifies a smaller amount.
- 6.1.5 In accordance with California Civil Code 5650(b)(3), the Board of Directors may impose interest on all sums, including the delinquent assessment, reasonable costs of collection, and late charges, at a rate not to exceed twelve percent (12%) per annum, commencing 30 days after the assessment becomes due, unless the declaration specifies a rate of a lesser amount.
- 6.1.6 When any assessment remains unpaid forty-five (45) days past its due date, the Association, through its Management Company, shall mail a Pre-Lien Notification to the owner as required by California Civil Code 5660 by certified and first class mail, to the owner's mailing address of record advising you of the delinquent status of the account, impending collection action and the owner's right to request that the Association participate in the "meet and confer" program or in some form of internal dispute resolution process ("IDR"). The owner will be charged a fee for the pre-lien notification, which shall be charged to the delinquent member's account.

Within fifteen (15) days from the date of the postmark of the Pre-Lien Notification, a delinquent owner may submit a written request to the Association to meet with the Board to discuss a payment plan for the amount set forth in the Pre-Lien Notification letter. The Board shall meet with the delinquent homeowner in executive session within forty-five (45) days of the date of the postmark of the written request. Each request is handled on a case-

by-case basis. The Board is under no obligation to grant payment plan requests. Payment plans shall not interfere with the Association's ability to record a lien on an owner's separate interest to secure payment for the owner's delinquent assessments. If the Board authorized a payment plan, it may incorporate payment of ongoing assessments that accrue during the payment plan period. If a payment plan is approved, additional late fees for the homeowner will not accrue while the owner remains current under the terms of the payment plan. If the owner breaches an approved payment plan, the Association may resume its collection action from the time the payment plan was approved.

- 6.1.7 If an owner fails to pay the amounts set forth in the Pre-Lien notification and fails to request IDR within forty-five (45) days of the date of the Pre-Lien notification, the Board shall decide, by majority vote in an open meeting, whether to record a Notice of Delinquent Assessment (Lien) for the amount of any delinquent assessments, late charges, interest and/or costs of collection. This lien shall be recorded in the office of the County Recorder and mailed to the delinquent member. A fee for the lien processing work and a fee for the preparation and mailing said Notice of Delinquent Assessment by the Agent, Trustee or Attorney employed by the Association, shall be charged to the delinquent member's account. The lien may be enforced in any manner permitted by law, including without limitation, a small claims judgment, judicial or non-judicial foreclosure.
- 6.1.8 The decision to foreclose on a lien must be made by a majority of the Board of Directors in an Executive Session meeting and the Board of Directors must record their votes in the minutes of the next open meeting of the Board. The Board must maintain the confidentiality of the delinquent owner(s) by identifying the matter in the minutes by only the parcel number of the owner's property. Prior to initiating any foreclosure sale on a recorded lien, the Association shall offer delinquent homeowners the option of participating in IDR or Alternative Dispute Resolution ("ADR")
- 6.1.9 After thirty (30) days from recording the Notice of Delinquent Assessment, the Association may turn the members account over to the Association's Attorney or Trustee to enforce the lien by proceeding with judicial or non-judicial foreclosure sale when either (a) the delinquent assessment amount totals One Thousand, Eight Hundred Dollars (\$1,800.00) or more, excluding accelerated assessments and specified late charges and fees or (b) the assessments are delinquent for more that twelve (12) months. However, upon review of the Association Member's delinquent account, the Board may decide to take small claims court action. The Association is authorized under California law to charge the owner reasonable costs of collection for any action utilized.

"IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION"

- 6.1.10 An owner is entitled to inspect the Association's accounting books and records to verify the amounts owed on their account pursuant to California Civil Code 5205. If it is determined that the owner has paid the assessments on time, the owner will not be liable to pay the charges, interest, and costs of collection associated with collection of those assessments.

6.1.11 Owners have the right to provide a secondary address for mailing for purposes of collection to the Association. An owner may identify or change a secondary address at any time, provided that, if a secondary address is identified or changed during the collection process, the Association shall only be required to send notices to the indicated secondary address from the point the Association receives the request.

Prior to recordation of the release of any lien, or dismissal of any legal action, all assessments, late charges, interest, and costs of collection, including attorneys' fees, must be paid in full to the Association. The mailing address for overnight payments of assessments is 16775 Von Karman, Suite 100, Irvine, CA 92606 unless the account has been turned over to the association's trustee or attorney, then the homeowner would need to call said party for the full amount owed and their correct mailing address.

6.1.12 Collection Fees

Service	New Fee
Late Notice	\$10.00
Pre-lien Letter	\$100.00
Lien Processing	\$325.00
Foreclosure Prep Fee	\$100.00
Small Claims Prep Fee	\$100.00
Small Claims Attendance Fee	\$100.00
Small Claims Collection Fee	\$100.00
Payment Plan Fee (per 6 months)	\$ 75.00
Return Payment Fee	\$25.00

6.2 Civil Code §5730 Statement – Notice Assessments and Foreclosure

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

(a) Assessments and Foreclosure

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure, or without court action, often referred to as non-judicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or non-judicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months delinquent, an association may use judicial or non-judicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or non-judicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 5700 through 5720 of the Civil Code, inclusive)

In a judicial or non-judicial foreclosure, the association may recover assessments, reasonable costs of



collection, reasonable attorney's fees, late charges, and interest. The association may not use non-judicial foreclosure to collect fines or penalties, except for costs to repair common area damaged by a member or a member's guests, if the governing documents provide for this. (Section 5725 of the Civil Code)

The association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 5675 of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 5660 of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 5685 of the Civil Code)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

(b) Payments

When an owner makes a payment, the owner may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Section 5655 of the Civil Code)

An owner may, but is not obligated to, pay under protest any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part 5 of Division 4 of the Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 5685 of the Civil Code)

(c) Meetings and Payment Plans

An owner of a separate interest that is not a time-share interest may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exists. (Section 5665 of the Civil Code)

The board must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5665 of the Civil Code)

Section 7 Design Review Process

This section guides the homeowner through the Design Review Process at Auberge at Del Sur. The DRC is committed to assisting the homeowner through the Design Review Process as a member of the design team as opposed to a regulatory review agency.

Improvement plans will be reviewed by the Design Review Committee (DRC) to ensure that the proposed design is compatible with the design intent at Auberge at Del Sur. This Design Review Process must be followed for any of the following improvements:

- Landscape design including planting, irrigation, hardscape and landscape structures for portions of the private residential lot that have not be landscaped by the guest builder;
- Landscape adjustments to the existing, installed landscape;
- Construction of, additions to, or changes to fences or enclosure structures;
- Architectural revisions/changes to the exterior of the residence, which also includes, paint colors, garage doors, windows and door and screen door modifications;
- Landscape structures; and
- Changes to or additions to the irrigation system.

All landscape improvements will require review and approval by the DRC as outlined in this document and as indicated in the CC&R. Architectural revisions and/or additions shall be submitted separately to the DRC and shall follow the requirements set forth in the Architectural Guidelines under separate cover.

7.1 Step One – Plan Submittal

7.1.1 Landscape Design Drawing Submission Requirements. The applicant shall submit to the DRC a design package that includes all the submission materials as described below. Plans that do not contain required details may be returned incomplete and will require the application be resubmitted. There may be a cost depending on the extent of the revisions. The DRC approval is based on the completeness and clarity of the drawings and detailed and descriptive drawings may alleviate the need to resubmit. Inadequate or unclear information may result in denial of the application or deem the application incomplete. Please note: additional fees may be required for re-submittals and/or if additional experts (architects, structural or civil engineers, etc.) are required to review the plans. The design package shall include:

- (a) Landscape Site Plan shall be a scaled drawing with a minimum scale of 1'=10' and no more than a 24" x 36" size sheet and shall include: graphic scale, north arrow, building footprint with finished floor elevation(s), driveway, fences, walls, patios, decks, water features and any other site amenities. Include lot number, lot square footage and location including street name and address number. The site plan shall indicate proposed layout of hardscape and plant materials as follows:
 - Indicate new and existing components, such as paving, walls, fences, gates, water features, landscape structures and irrigation
 - Plan shall be dimensioned and provide comprehensive descriptions of proposed improvements including, color, texture, shape, finish and manufacturer's name and contact information.

- Plan shall also indicate outdoor lighting through a symbol on the plan as well as a call out in the legend that includes type, size, bulb size, manufacturer's name and contact information.
- Planting shall be indicated botanical name, common name, size, quantity, spacing and any special notes for form or planting instructions that variety from industry standards.
- Plants shall be shown on plan and listed in a plant legend.

Note: Applicant may choose to submit a set of drawings that separate the layout and hardscape materials from the planting.

- (b) Grading and Drainage Plan: (this plan is only necessary if there is proposed grading or changes to the existing grading). Plan shall indicate existing and proposed grading at one (1) foot intervals, drainage elements and erosion control methods. Indicate the established drainage pattern and where it may be altered by the proposed improvements. Indicate the location of the bottom and top of slope, existing and proposed drain inlets and drain lines.
- (c) Materials Sample Board: presented on an 11" x 17" board as necessary: Wall materials and colors, stone and rock materials, fence materials and stain or paint colors and paving materials.
- (d) Additional submittal requirements are required for photovoltaic systems and artificial turf. Reference the applicable appendix/section.
- (e) Plot plan for the lot shall be submitted with all applications.

7.1.2 Landscape Design Fees and Form Requirements. The applications shall include:

- (a) Provide three (3) sets of drawings as described above. Include product description, scale, date of submittal and any relevant specifications.
- (b) Provide a completed and signed copy of the Del Sur Homeowner's Association Property Improvement Form, Exhibit C in the appendix of this document.
- (c) Provide a completed Del Sur Homeowner's Association Neighbor Statement, See Appendix for forms.
- (d) Photographs (two (2) copies), where applicable. Photographs will not be returned to the applicant.
- (e) Fee: A required \$150 fee, payable to the Del Sur Homeowner's Association, will be collected through escrow. This fee will cover the cost of review on initial standard improvements. Please note, additional fees may be required for re-submittals and/or if additional experts (architects, structural or civil engineers, etc.) are required to review the plans.

Submit completed application to the following address: Auberge Community Association, 7921 Auberge Circle, San Diego, CA. 92127

7.2 Step Two – Review Process

The Community Landscape Architect initially reviews all plans. The DRC reviews non-confirming plans or plans that request a variance. The DRC typically meets on a monthly basis to review plans. The members of the DRC shall set the date and time of the meetings. Each submittal package shall be reviewed for completeness and consistency with the design guidelines. The DRC will either approve or deny a submittal and approval may be granted with conditions. See CC&R Article V, Section 4.3.4.

7.3 Step Three – City of San Diego Approvals

The applicant is responsible for obtaining all applicable building permits from the City of San Diego and any other governing agencies after receiving approval from the DRC. Any adjustments to DRC-approved plans required by City review must be resubmitted to the DRC for review and approval prior to commencing construction. The issuance of any approvals by the DRC implies no corresponding compliance with the legally required demands of other agencies.

7.4 Step Four – Start Construction

Once an applicant receives written approval from the Community Landscape Architect or DRC and the appropriate permits have been obtained from the City of San Diego, construction shall proceed with the approved drawings. Please note: Contractor signs are not allowed to be placed on any portion of the homeowner's lot or in the community common areas, with the exception of security or alarm notification signs.

7.5 Additional Requirements

- 7.5.1 **Resubmittal of Plans.** In the event that at any step in the review process the Community Landscape Architect or DRC does not approve submittals, the applicant shall follow the same procedures for a resubmission as for original submittals.
- 7.5.2 **Subsequent Changes.** Subsequent construction, landscaping or other changes in the intended improvements that differ from approved final design documents must be submitted in writing to the Community Landscape Architect or DRC for review and approval prior to making changes. The DRC may ask the Community Landscape Architect for review, which may include a fee.
- 7.5.3 **Work in Progress Observations.** During construction, the Community Landscape Architect or DRC will review construction for compliance with approved construction documents. If changes or alterations have been found that have not been approved, the DRC will issue a Notice to Comply.
- 7.5.4 **Notice to Comply.** When, as a result of a construction observation, the Community Landscape Architect or DRC finds changes and/or alterations that have not been approved, the DRC will issue a Notice to Comply within three working days of the observation. The DRC will describe the specific instances of non-compliance and will require the Guest Builder to comply or resolve the discrepancies.
- 7.5.5 **Notice of Completion.** Upon completion of the approved improvement(s), a Notice of Completion (Exhibit E) must be submitted to the DRC coordinator.
- 7.5.6 **Appeal Procedure.** If a proposed improved is denied by the DRC, the applicant is entitled to reconsideration by the Del Sur Community Association Board of Directors at an open meeting that satisfies the requirements of Civil Code Section 1363.04. Refer to the CC&R document for other important details in Article V, Section 4.10.
- 7.5.7 **Non-Liability.** Neither the DRC nor any member, employee or agent will be liable to any party for any action, or failure to act with respect to any matter if such action or failure to act was in good faith and without malice.

Section 8 Election Rules

These Election Rules apply to all Member votes undertaken by Auberge Community Association (“Association”). These Election Rules shall be effective on the date of adoption, shall supersede any other rules of the Association affecting voting or elections, and shall remain in effect until modified by the Board of Directors (the “Board”).

8.1 MEMBER VOTING RIGHTS

- 8.1.1 **Member Voting Rights.** Notwithstanding anything to the contrary in the Association’s governing documents, all Members shall be entitled to vote, and no Member shall be denied a ballot for any reason other than not being a Member. “Member” means a person who holds legal title to the separate interest (i.e., is named in the recorded deed for the separate interest property). The “separate interest” property means the lot owned by a Member.
- (a) **Entity Owners.** In the case of a Member that is not a natural person (such as a trust, corporation or other entity), the vote of such Member may be cast by any authorized representative of the Member designated by written notice to the Association.
 - (b) **General Power of Attorney.** A person with general power of attorney for a Member, who has provided satisfactory evidence thereof, shall not be denied a ballot and said ballot shall be counted if returned by the deadline for voting.
- 8.1.2 **Voter List.** The Association shall maintain a “Voter List” which shall include for each separate interest: the Member’s name; voting power; and, unless the Member has “opted out” of the public distribution of their address, the physical address of the Member’s separate interest, or the parcel number, or both, and the mailing address of the Member if it is different than the physical address of the separate interest (or if the parcel number is used). Upon request, the Association shall permit Members to verify the accuracy of their individual information on the Voter List at least 30 days before the ballots are mailed. The Member shall report any errors to the Inspector of Elections who shall make the correction within two business days. The Association may, at its discretion, report any known errors to the Inspector of Elections. The Voter List shall be retained as “association election materials” as required by law.
- 8.1.3 **Voting Power of Each Membership.** On each matter before the Members, only one (1) vote shall be cast for each separate interest. Once a ballot is received by the Inspector of Elections, it may not be rescinded. Votes on behalf of a separate interest owned by more than one person or entity shall be treated as a single member for voting purposes. The vote for such separate interest shall be exercised as the owners among themselves shall determine, but in no event shall more than one (1) vote be cast with respect to any separate interest. If the joint owners of a separate interest are unable to agree among themselves as to how their vote is to be cast, they shall lose their right to vote on the matter in question. If any joint owner of a separate interest casts a vote representing the separate interest, it will thereafter be conclusively presumed for all purposes that such owner was acting with the authority and consent of the other owners of that separate interest.

8.1.4 **Cumulative Voting.** Cumulative voting is permitted in the election of more than two (2) directors.

8.1.5 **Proxies.**

- (a) Use of Proxies. Proxies may be used by the Members at a membership meeting. Proxies in writing are filed with the secretary in advance of each meeting. Proxies shall otherwise be prohibited. "Proxy" shall mean a written authorization signed by a Member or the authorized representative of the Member that gives another Member or Members the power to vote on behalf of that Member.
- (b) **Ballot Required.** Notwithstanding use of a proxy, in any election or vote of the Members conducted by the Association, only official ballots issued by the Association shall be counted as votes. Proxies are not ballots and are not valid as votes in any election or vote conducted by the Association.
- (c) **Form of Proxy.** In order to be valid, a proxy shall be consistent in content with the established guidelines set forth in the Corporations Code and the Civil Code. All proxies shall include a separate sheet that will be formatted to allow the Member to provide instruction for the proxy holder on each matter to be voted upon. Any proxy which does not comply with this Section may be deemed invalid and rejected by the Inspector of Elections.
- (d) **Voting Process.** Following submission of the proxy to the Inspector of Elections, the instruction sheet shall be detached and given to the proxy holder to retain. The proxy holder shall cast the member's vote by secret ballot. Neither the Association nor the Inspector of Elections shall have any obligation to verify that a proxy holder has voted in a manner consistent with what is directed on the proxy form.

8.1.6 **General Power of Attorney.** A Member may delegate their voting rights to a third party by use of a general power of attorney that conforms to the laws of the state in which the power is conveyed. The power of attorney must be returned to the Association at or before the casting of the ballot for which voting rights have been delegated.

8.2 VOTING PROCEDURE

8.2.1 **Notice of Election Information.** At least thirty (30) days before the ballots are distributed, the Association shall provide general notice of all of the following: (i) the date and time by which, and the physical address where, ballots are to be returned by mail or handed to the Inspector of Elections; (ii) the date, time, and location of the meeting at which ballots will be counted; and (iii) the "Candidate Registration List," as defined in Section 3.3 below.

8.2.2 **Distribution of Ballots.** For a vote on any of the matters specified in Civil Code section 5100(a), voting by the Members shall be conducted by secret ballot using a "double envelope system" as described in Civil Code section 5115(a). Ballots and two envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered to all Members in such vote or election. Ballots shall be distributed a minimum of thirty (30) days prior to the deadline for voting. These matters are: (i) elections regarding assessments legally requiring a Member vote, (ii) election and removal of directors, (iii) amendments to the governing documents, and (iv) grants of exclusive use of common

area property pursuant to *Civil Code* section 4600.

For votes on any other matters not specified in Civil Code section 5100(a), votes may be by secret ballot or by written ballot, and ballots may be distributed at reasonable time (which may be less than thirty (30) days) prior to the deadline for voting.

- 8.2.3 **Frequency of Director Elections.** The Association shall hold an election for a seat on the Board at the expiration of the corresponding director’s term and at least once every four years, or sooner if required by the Bylaws.
- 8.2.4 **Extension of Voting.** The Board shall be entitled to extend the deadline for the return of ballots one or more times due to the lack of a quorum or for such other reason(s) as the Board deems reasonable and prudent.
- 8.2.5 **Tabulation and Observation.** The Inspector of Elections shall open all ballots and tabulate the votes at a properly noticed open meeting of the Board or Members in a manner that allows the Members to view the opening and tabulation. The Inspector of Elections may appoint additional persons to assist in the opening of ballots and tabulation of votes. Observers must remain at least five (5) feet from the area of opening and tabulation and not communicate, harass, or otherwise interfere with the Inspector of Elections and/or those assisting the Inspector of Elections in any manner whatsoever. The Inspector of Elections or the Board shall have the power and authority to cause the removal of any person who interferes with or disrupts the voting, opening or tabulating process. The Inspector of Elections may suspend the opening and tabulation process if anyone causes interference with or disrupts the process.
- 8.2.6 **Tie Vote.** If there is a tie vote between or among candidates after the ballots of an election have been tabulated, then the tie shall be broken by a flip of a Quarter.
- 8.2.7 **Reporting Election Results.** The tabulated results of the election shall be promptly reported to the Board and shall be recorded in the minutes if reported at a meeting of the Board or recorded in the minutes of the next meeting of the Board if reported at a Member meeting. Within fifteen (15) days of the election, the Board shall give the Members general notice of the tabulated results of the election.
- 8.2.8 **Retention of Association Election Materials.** “Association election materials” shall mean the returned ballots, signed voter envelopes, the Voter List, proxies, and the Candidate Registration List. The association election materials shall at all times be in the custody of the Inspector of Elections or at a location designated by the Inspector of Elections for a period of one (1) year after the Inspector of Elections notifies the Board and Members of the election results, at which time custody shall be transferred to the Association. The Association shall retain the association election materials for the current fiscal year and prior two (2) fiscal years. At the expiration of the retention period all association election materials may be destroyed.

8.3 CANDIDATES FOR THE BOARD AND NOMINATION PROCEDURES

- 8.3.1 **Qualification of Candidates.** Candidates for the Board must be Members at the time of their nomination and (i) must meet any other qualifications or restrictions set forth in these Election Rules and (ii) must meet any other qualifications or restrictions set forth in the Bylaws so long as they do not conflict with these Election Rules. In the case of a

Member that is not a natural person (such as a corporation or other entity), the entity Member shall have the power to appoint a natural person as the “Member” for purposes of director elections. The Association shall disqualify a nominee for the Board for any of the following reasons:

- (a) The nominee is not a Member.
- (b) If the nominee, if elected, would be serving on the Board at the same time as another owner of the same separate interest and the other person is either properly nominated for the current election or is an incumbent director.
- (c) If the nominee, at the time of nomination, is delinquent in the payment of regular and/or special assessments. A nominee shall not be considered “delinquent” if the delinquency relates to the payment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party and/or if the nominee: (a) has paid the regular or special assessment under protest; (b) has entered into a payment plan for repayment of the delinquent assessments and is not delinquent in payments due under the plan; or (c) the nominee has requested and has not been provided an opportunity to engage in internal dispute resolution.
- (d) If the nominee has been a member of the Association for less than one year.
- (e) If the nominee is not at least 18 years old.
- (f) If the nominee discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the Member was elected, either prevent the Association from purchasing the fidelity bond coverage required by Civil Code section 5806 or terminate the Association’s existing fidelity bond coverage.

8.3.2 Nominations.

- (a) **Solicitation of Candidates.** At least thirty (30) days before the deadline for submitting a nomination, the Association shall provide general notice of the procedure and deadline for submitting a nomination for the Board. Any Member who satisfies the qualifications and is not otherwise prohibited from running for the Board may place their name in nomination for the Board by submitting the nomination before the published deadline for receiving nominations. In addition, the Board may recruit qualified candidates and/or may appoint a nominating committee to nominate qualified candidates.
- (b) **No Write-Ins.** No “write-in” candidates shall be permitted on the ballots in the election of directors.

8.3.3 **Candidate Registration List.** The “Candidate Registration List” shall mean the list of candidates who will appear on the ballot. Upon request, the Association shall permit Members to verify the accuracy of their individual information on the Candidate Registration List at least thirty (30) days before the ballots are mailed. The Member shall report any errors to the Inspector of Elections who shall make the correction within two business days. The Association may, at its discretion, report any known errors to the Inspector of Elections. The Candidate Registration List shall be retained as “association

election materials” as required by law.

- (a) **Notice of Known Candidates.** The names of all persons on the Candidate Registration List shall be set forth on the ballot.
- (b) **Candidacy Statements.** Any candidate who wishes to submit a candidacy statement may only do so using the Association’s authorized form. The content of any candidate statement shall be limited to a statement of the candidate’s qualifications to serve as a director.
- (c) **Declaration of Vacancy for Delinquency.** Any Member serving on the Board shall be current in the payment of regular and special assessments or the delinquent director’s seat may be declared vacant by the Board following notice to the director and an opportunity to meet with the Board in executive session to explain why the director should not be disqualified. A director shall not be considered “delinquent” in the payment of assessments if the delinquency relates to the payment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party and/or if the director: (a) has paid the regular or special assessment under protest; (b) has entered into a payment plan for repayment of the delinquent assessments and is not delinquent in payments due under the plan; or (c) has requested and has not been provided an opportunity to engage in internal dispute resolution.

8.4 USE OF ASSOCIATION MEDIA AND CAMPAIGNING

- 8.4.1 **Access to Association Media** – Candidates for the Board. The Board may, but is not required to, make Association media (e.g., newsletter, notice board, website, or other notices provided to the Members) available to qualified candidates running for election to the Board for purposes that are reasonably related to the election in which that candidate is running. If the Board allows any candidate access to Association media, then all qualified candidates shall be allowed equal access to the same media.
- 8.4.2 **Access to Association Media** – Other Matters. If the Board utilizes Association media to advocate a point of view on any matter (other than election of directors) that requires Member approval or allows any Member access to Association media for that purpose, then all Members advocating a different point of view shall be allowed equal access to the same media. The Board shall not be required to allow access to more than one Member advocating the same point of view.
- 8.4.3 **“Equal Access.”** “Equal access” shall mean publication of written statements not to exceed a predetermined length as determined by the Board. The Board shall not edit or redact any statement but shall not be required to publish any statement that exceeds the predetermined length restrictions. Modifications to formatting may be made so as to allow for space and/or media restrictions. If any formatting modifications should become necessary, they shall be applied equally to all submissions and at no time shall any formatting be applied that may signify a preference or partiality.
- 8.4.4 **Responsibility for Content.** All statements published in Association media pursuant to the “equal access” rules must identify the author or proponent. No anonymous statements will be permitted. The author and/or proponent of any statement or point of view shall be solely responsible and liable for the content of their statements. The

Association shall not be responsible or liable for the content of any statement published pursuant to the “equal access” rules.

- 8.4.5 **Campaigning.** No Association funds shall be expended for the purposes of campaigning in connection with any vote or election other than those funds specifically required to distribute required correspondence, notices, or forms that may contain the names of candidates or necessary information on the issues being voted upon, or as is otherwise deemed by the Board to be necessary or appropriate for the fair and reasonable conduct of a vote or election, or to the extent necessary to comply with duties of the Association imposed by law. Specifically excluded is the expenditure of Association funds for the purposes of expressly advocating approval, election, or defeat of any matter or candidate.

8.5 USE OF COMMON AREA MEETING SPACE

- 8.5.1 **Access to Common Area Meeting Space – Campaigning by Candidates for the Board.** The Board shall ensure that during a campaign all qualified candidates for election to the Board are given access to common area meeting space (if any) upon request, at no cost, for purposes reasonably related to their campaigns.
- 8.5.2 **Access to Common Area Meeting Space – Other Matters.** Whenever the Board places a matter before the Members which requires Member approval, the Board shall ensure that Members advocating a point of view on the matter are given access to common area meeting space (if any) upon request, at no cost, for purposes reasonably related to advocating their point of view, whether or not they agree with the point of view advocated by the Board on the matter at issue.
- 8.5.3 **All Access.** Any use of the common area facilities for the purposes described above shall be regulated by any existing rules and regulations for such use. The Board, in its sole discretion, may reasonably limit a candidate’s or Member’s access to common area facilities in order to facilitate equal access for other candidates and Members, and so as not to unreasonably interfere with other Members’ rights to use such facilities.

8.6 INSPECTOR OF ELECTIONS

- 8.6.1 **Appointment of Inspector of Elections.** Whenever there is a membership vote or election, the Board shall appoint one (1) or three (3) Inspectors of Elections, hereinafter individually or collectively referred to as the “Inspector of Elections,” whose powers and duties shall be as set forth in Civil Code section 5100 et seq. The Board shall have the power to remove an Inspector of Elections who ceases to meet the required qualifications, is unable or unwilling to perform their duties, or for other good reason, and to appoint a new Inspector of Elections in their place.
- 8.6.2 **Qualification of Inspector of Elections.** The Inspector of Elections may be any persons the Board reasonably believes to be independent with respect to the matter or matters being voted on and may include Members of the Association, but may not be (i) a member of the Board or a candidate for election to the Board or be related to a current member of the Board or a candidate for election to the Board or (ii) the Association’s manager, accountant, legal counsel, or any other person, business entity, or subdivision of a business entity that is employed by or under contract with the Association to provide compensable services to it at and/or after commencement of the election

process other than serving as Inspector of Elections.

- 8.6.3 **Payment to Inspector of Elections.** The Board may authorize payment of Association funds to any third party appointed to serve as Inspector of Elections; however, no payment may be authorized for any Member appointed to serve as the Inspector of Elections.
- 8.6.4 **Duties of the Inspector of Elections.** The Inspector of Elections shall be responsible to perform their duties as follows:
- (a) Perform those tasks enumerated in Civil Code section 5110(c); and
 - (b) Perform all duties impartially, in good faith, to the best of the Inspector of Election’s ability, as expeditiously as is practical, and in a manner that protects the interest of all Members of the Association; and
 - (c) Make any necessary corrections to the Candidate Registration List or the Voter List within two business days of being informed of an error by a Member or by the Association; and
 - (d) Deliver (or cause to be delivered) the following documents to the members at least thirty (30) days before an election: (a) the ballot(s) by first-class mail and (b) a copy of these Election Rules by (i) individual delivery or (ii) by posting the internet website address where these Election Rules may be accessed on the ballot together with the phrase in at least 12-point font, “The rules governing this election may be found here: [insert internet website address]”; and
 - (e) Retain the association election materials as provided herein.
- 8.6.5 **Indemnification of Inspector of Elections; Liability Insurance.** The Association may, at the Board’s sole discretion, indemnify the Inspector of Elections to the fullest extent provided by law. The Association shall have the power to purchase and maintain insurance to protect it and/or the Inspector of Elections against any liability asserted against the Association and/or against the Inspector of Elections arising out of the Inspector of Elections’ acts and/or omissions relating to any Association vote or election.

8.7 Amendments

The Board may amend these Election Rules from time to time except that these Election Rules may not be amended less than ninety (90) days prior to an election unless that amendment is merely to conform to non-discretionary changes in the law.