

provided by the Association that give rise to establishment of the Cost Center will benefit Owners of Lots within the Cost Center disproportionately (by a factor of ten percent (10%) or more).

Section 3.02. Annual Assessments.

(a) Establishment of Annual Assessment. Not less than sixty (60) days before the beginning of each calendar year of the Association, the Board shall meet for the purpose of preparing the proposed operating statement or budget for the forthcoming calendar year (the calendar year shall be the fiscal year unless the Board specifies otherwise), and establishing the annual Assessments for the forthcoming calendar year, subject to the power of disapproval of the Owners, as specified in Article XII of the Bylaws and section 116.3115 of the Act; provided, however, the Board may not establish an annual Assessments amount per Lot for any calendar year which increases by more than fifteen (15) percent over the annual Assessments per Lot of the prior year (except the first such year if that year should be less than twelve (12) months), without the approval, by vote or written consent, of Owners holding a majority of the voting rights.

(b) Components of the Annual Assessment. The Common Expenses of the Association exclusive of Common Expenses budgeted to any Cost Center (the "General Assessment Component") shall be allocated among and charged to all the Owners of Lots, with each Lot being allocated an equal share of the General Assessment Component (see Section 3.05, below). In calculating the General Assessment Component the Board shall take into account the amount of contributions to be made by the Declarant pursuant to any Subsidy Agreement to defray Common Expenses that would otherwise be included in the General Assessment Component. If any Cost Centers are established, the expenses of operating, maintaining and replacing the included improvements or maintenance areas (including, without limitation, an adequate reserve fund for the maintenance, repairs and replacement of the Cost Center capital components, if any) shall be borne solely by the Owners of the Lots within the designated Cost Center ("Cost Center Assessment Component").

Section 3.03. Special Assessments. If the Board of Directors determines that the estimated total amount of funds necessary to defray the Common Expenses of the Association for a given fiscal year is or will become inadequate to meet expenses for any reason, including, but not limited to, delinquencies in the payment of Assessments, then the Board shall determine the approximate amount necessary to defray such expenses; and if the amount is approved by a majority vote of the Board, it shall become a special Assessments; provided, however, the Board may not approve one or more special Assessments in any calendar year which in the aggregate exceed twenty-five (25) percent of the annual Assessments per Lot for that calendar year, without the approval by vote or written consent of Owners holding a majority of the voting rights. The Board may, in its discretion, prorate such Special Assessments over the remaining months of the fiscal year or levy the Assessments immediately against each Lot Owner.

Section 3.04. Special Individual Assessments. In addition to its power to levy and collect Annual Assessments, Cost Center Assessments and Special Assessments as a means of defraying Common Expenses that are unrelated to specific Governing Document enforcement actions, the Association shall have the power to incur expenses for maintenance and repair of the

improvements on any Lot and for other costs of remedying violations of provisions of this Declaration and the Association's other Governing Documents, when an Owner is in violation of provisions of this Declaration or other Association Governing Document, provided the Lot Owner has failed or refused to cure the violation within thirty (30) days after written notice of the necessity of such cure has been delivered by the Board to such Lot Owner, or to commence to cure the violation within such thirty (30) day period, and diligently pursue the same to completion within a reasonable time thereafter, if more than thirty (30) days is reasonably required to cure. The Board may levy a Special Individual Assessment against an Owner to pay for all costs the Association incurs to enforce provisions of the Declaration caused by the conduct of an Owner in violation hereof. Enforcement hearings shall be conducted in accordance with Section 13.02, below, and all applicable provisions of the Act.

Section 3.05. Uniform Rate of Assessment, Exceptions. Except for Assessments related to Cost Centers, Limited Common Elements, and Special Individual Assessments, or as otherwise specifically provided in this Declaration, Assessments of the Association must be fixed at a uniform rate for all Lots that are subject to Assessments. Unless otherwise provided herein or in a Supplemental Declaration, Assessments related to Limited Sierra Canyon Common Areas or Limited Common Elements shall be allocated solely to those Lots to which the Limited Sierra Canyon Common Areas are appurtenant as a form of Cost Center Assessment. Cost Center Assessments shall be allocated among, assessed against, and charged to each Owner of a Lot in the Cost Center according to the ratio of the number of Lots in the Cost Center owned by the assessed Owner to the total number of Lots within the Cost Center that are subject to the Cost Center Assessment so that each such Lot bears an equal share of the total Cost Center Assessment. Special Individual Assessments shall be charged solely against the Owner or Owners who are determined to have been in violation of this Declaration and/or other Association Governing Documents.

Section 3.06. Assessment Period. The Annual Assessment period shall commence on January 1 of each year and shall terminate on December 31 of such year. Annual Assessments shall be payable in advance monthly unless the Board of Directors adopts some other basis for collection. However, the initial Annual Assessment for each Lot shall be prorated for the calendar year in which the Assessment becomes due. At the close of escrow in the purchase of a Lot, the new Owner shall pay the prorated Assessment for the month in which the closing occurs and the Assessment for the next succeeding month.

Section 3.07. Notice of Assessments; Time for Payment. The Association may, in its discretion, give written notice of Assessments to each Owner, which notice shall specify the amount of the Assessment and the date or dates of payment of the same. No payment on account of Assessments shall be due fewer than fifteen (15) days after such written notice has been given. Each delinquent Assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due together with a late charge of twenty-five dollars (\$25.00) for each delinquent installment. An Assessment payment is delinquent if not paid within thirty (30) days after its due date. Failure of the Association to give notice of the Assessment shall not affect the liability of the Owner for such Assessment, but the date when payment shall become due in such a case shall be deferred to a date fifteen (15) days after such notice shall have been given.

**Section 3.08. Collection of Assessments.** The right to collect and enforce Assessments is vested in the Board acting for and on behalf of the Association. The Board of Directors or its authorized representative, including any manager, can enforce the obligations of the Owners to pay Assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity; or the Board may enforce Assessments by judicial proceedings or, to the extent permitted by the Act, through the exercise of the power of sale granted to the Board. Suit to recover a money judgment against an Owner for unpaid Assessments together with all other amounts allowed by law or described in this Article shall be maintainable without first foreclosing against the real estate subject to the lien for such Assessments or waiving the lien rights granted hereby.

**Section 3.09. Lien for Assessments; Priority of the Association's Lien.**

(a) **Creation of Lien.** All sums assessed for each Lot pursuant to this Article III, together with interest, fees, charges, fines and other expenses allowed by law, shall be secured by a lien on that Lot in favor of the Association as provided in the Act from the time the Assessments or fine becomes due. Unless this Declaration otherwise provides, any penalties, fees, charges, late charges, fines, construction penalties and interest charged pursuant to paragraphs (j), (k) and (l) of subsection 1 of NRS 116.3102 are enforceable as Assessments under this Article III. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due. Recording of the Declaration in the Official Records of the County of Washoe constitutes record notice and perfection of the Association's lien. No further recordation of any claim of lien for Assessments under this section is required.

(b) **Priority of Association Liens.** A lien under this section 3.09 is prior to all other liens and encumbrances on a Lot except:

(i) Liens and encumbrances recorded before the recordation of the Declaration;

(ii) A first security interest on the Lot recorded before the date on which the Assessments sought to be enforced became delinquent and perfected before the date on which the Assessments sought to be enforced became delinquent; and

(iii) Liens for real estate taxes and other governmental Assessments or charges against the Lot.

The Association's lien is also prior to all security interests described in subparagraph (ii), above, to the extent of the Assessments for Common Expenses based on the periodic budget adopted by the Association pursuant to NRS 116.3115 and the Bylaws which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien. This paragraph does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other Assessments made by the Association and if the Master Association and the Association both have liens against an Owner's Lot for Assessments created at any time, those liens have equal priority.

(c) Duration of Association's Lien. The Association's lien for unpaid Assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the Assessment becomes due.

(d) Association's Right to Pursue Other Collection Remedies. This Section does not prohibit actions by the Association to recover sums for which the Association has a lien pursuant to this Section 3.09 or from taking a deed in lieu of foreclosure.

(e) Right to an Award of Costs and Attorney's Fees. A judgment or decree in any action brought under this Section must include costs and reasonable attorney's fees for the prevailing party.

Section 3.10. Obligation of Association to Provide Owners With Statement Regarding Assessments. The Association, upon written request, shall furnish to a Lot Owner a statement setting forth the amount of unpaid Assessments against the Owner's Lot. If the interest of the Lot Owner is real estate or if a lien for the unpaid Assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, its Board of Directors and every Owner of the Lot to which the statement pertains.

Section 3.11. Exempt Property. The following property shall be exempt from payment of Assessments to the Association:

- (a) all Association and Master Association Sierra Canyon Common Areas; and
- (b) any property dedicated to and accepted by any government entity or public utility (including easements).

Section 3.12. Suspension of Owner's Rights. Subject to the provisions of Article XII, Section 2 of the Master Declaration and 13.02, below, the Association shall not be required to transfer memberships on its books or to allow the exercise of any rights or privileges of membership, including voting rights, to any Owner or to any person claiming under said Owner year unless or until: (i) all Assessments due on an Owner's Lot for which the Owner is liable have been brought current; and (ii) the Owner has cured any continuing violation of this Declaration by such Owner found to exist by the Board.

Section 3.13. Fiscal Year. The Board may adopt a fiscal year other than the calendar year.

#### ARTICLE IV Property Usage

Section 4.01. Application of Sierra Canyon Use Restrictions of the Master Declaration. Except as supplemented by the additional or modified property use restrictions set forth in Section 4.02, below, the property use restrictions of Article IV of the Master Declaration are

incorporated herein by reference and shall apply to all Lots in Sierra Canyon and to the Owners of such Lots. In the event that any portion of Article IV of the Master Declaration is later modified or amended this Section 1 will be deemed to have been similarly modified or amended, except as otherwise specifically provided in Section 4.02, below.

Section 4.02. Supplemental Property Use Restrictions Applicable to Sierra Canyon.

(a) Age Restrictions on the Occupancy of Residences in Sierra Canyon. Sierra Canyon is intended to provide housing primarily for persons fifty-five (55) years of age or older. Sierra Canyon shall be operated as an age restricted community in compliance with all applicable state and federal laws. No person under nineteen (19) years of age shall stay overnight in any Residence for more than sixty (60) days in any calendar year. Each Residence, if occupied, shall be occupied by at least one Age- Qualified Occupant, fifty-five (55) years of age or older; provided, however, that once a Residence is occupied by an Age-Qualified Occupant, other Qualified Occupants of that Residence may continue to occupy the Residence, regardless of the termination of the Age-Qualified Occupant's occupancy; subject to the requirement that, at all times, at least eighty percent (80%) of the Residences in Sierra Canyon shall be occupied by at least one person who is fifty-five (55) years of age or older. The Board shall establish policies and procedures from time to time as necessary to maintain its status as an age restricted community under state or federal law. The Association shall provide, or contract for the provision of, those facilities and services designed to meet the physical and social needs of older persons as may be required under such laws."

(b) Yard Objects. The reference in Article IV, Section 5 of the Master Declaration to the "Committee" shall mean and refer to the Sierra Canyon Architectural Review Committee.

(c) Sign and Flag Restrictions. Notwithstanding any provision of the Governing Documents to the contrary, and except as otherwise provided in this section, any Owner is entitled to display the flag of the United States, in a manner that is consistent with the Federal Flag Code, from or on:

(i) A flagpole or staff which is located on exterior property within the boundaries of his or her Lot or which is attached to an exterior Limited Common Element that forms a portion of the Owner's Lot.

(ii) A window, ledge, sill, railing, patio, terrace or balcony of his or her Lot or an exterior Limited Common Element that forms a part of the boundaries of his or her Lot, whether or not the flag is displayed from a flagpole or staff.

As used in this subparagraph (c): "Federal Flag Code" means the rules and customs pertaining to the display and use of the flag of the United States which are codified in 4 U.S.C. §§ 5 to 10, inclusive, as altered, modified or repealed by the President of the United States pursuant to 4 U.S.C. § 10, and any additional rules pertaining to the display and use of the flag of the United States which are prescribed by the President pursuant to 4 U.S.C. § 10; and "Flag of the United States" does not include a depiction or emblem of the flag of the United States that is

made of balloons, flora, lights, paint, paving materials, roofing, siding or any other similar building, decorative or landscaping component or material.

The Association may adopt rules that: (i) Prohibit the display of the flag of the United States in a manner that is inconsistent with the Federal Flag Code; (ii) prohibit the display of the flag of the United States if the flag exceeds four (4) feet in its vertical dimension or six (6) feet in its horizontal dimension (the horizontal dimension of the flag is the dimension that is parallel with the horizontal stripes of the flag, regardless of the position in which the flag is displayed); (iii) establish a maximum number of flags of the United States that may be displayed from, on or around the exterior of a unit (the maximum number is one); (iv) prohibit the display of the flag of the United States from a flagpole or staff that exceeds twenty-five (25) feet in height; (v) prohibit the display of the flag of the United States in a manner that poses a real and substantial danger to health or safety.

(d) Antennae/Exterior or Roof-Mounted Equipment. Article IV, Section 34 of the Master Declaration is supplemented in the following respects in order to conform this Declaration to current laws pertaining to satellite reception equipment:

Outside television antennas, aerials, satellite dishes or similar devices for the transmission or reception of television, radio, satellite, of other signals or any kind are prohibited, except:

(i) The Declarant and the Association shall have the right, without obligation, to erect, place or install and maintain any such apparatus for the benefit of all or a portion of Sierra Canyon.

(ii) Antennas or satellite dishes with a diameter or diagonal measurement not greater than thirty-six inches (36") which are designed to receive direct broadcast satellite services, video programming services via multi-point distribution services, or television broadcast signals (collectively "Permitted Devices") may be erected, placed or installed on a Lot, provided that:

(A) Any such Permitted Device is placed in the least conspicuous location on the Residence at which an acceptable quality signal can be received and is either not visible from neighboring property or is screened from the view from streets of any neighboring Lot or Sierra Canyon Common Area.

(B) Reasonable restrictions which do not significantly increase the cost of installation of a Permitted Device or significantly decrease its efficiency or performance, including, without limitation, screening material, location or complimentary-color painting of the Permitted Device, may be imposed as part of the Design Guidelines.

(e) Children. Children shall only be permitted to reside in Residences within Sierra Canyon in accordance with the restrictions on Occupancy set forth in Section 4.02(a), above.

(f) Access, Use and Enjoyment of the Association Recreation Center. Access to, and the use and enjoyment of, the Association's Recreation Center facility shall be limited to the Declarant (for so long as the Declarant owns any property in Sierra Canyon), Qualified Occupants of Residences within Sierra Canyon, and the directors, officers, agents, contractors, employees and other authorized agents of the Association.

Section 4.03. Enforcement of Certain Master Declaration Restrictions by the Association. In addition to those enforcement rights conferred on the Master Association with respect to property use restrictions set forth in Article IV of the Master Declaration, the Association is hereby granted the power and authority to enforce the following provisions of Article IV of the Master Declaration, as incorporated herein by reference, in the event that a violation of any of the enumerated Sections occurs within Sierra Canyon: Master Declaration, Article IV, sections: 1 through 4, 11 through 16, inclusive, 18, 21 through 27, inclusive, 28 (with respect to construction and improvement projects that are within the jurisdiction of the Architectural Review Committee), 29, 32, 33, 35 through 37, 39, 40, 45 through 50, inclusive, 52 through 55, inclusive. Except in emergency situations involving an immediate threat to persons or property or a breach of the peace, before the Association initiates any enforcement action with respect to these enumerated sections of the Master Declaration, the Association or its manager shall provide prior written notice to the Master Association of the Association's desire and intention to enforce the Master Declaration's property use restrictions with respect to a violation occurring within Sierra Canyon in order to afford the Master Association the opportunity to assert its independent enforcement jurisdiction. For purposes of the Association's obligation to provide prior notice to the Master Association, an "enforcement action" shall not include courtesy notices issued by the Association to Owners or residents who appear to be in violation of this Declaration or other administrative processes or procedures within the Association or by its management staff that are intended to resolve and/or eliminate violations of the Governing Documents without necessity of the imposition of fines, suspension of member privileges, or formal legal action.

Subject to this requirement of prior notice to the Master Association, of the Association's intention to initiate an enforcement action hereunder (including, without limitation, enforcement of the restrictions set forth in Section 4.02, above), the Association's enforcement authority is independent from, and not derivative of, the Master Association's jurisdiction and enforcement authority.

## ARTICLE V Architectural Standards

Section 5.01. Building Envelope. The Somersett Aesthetic Guideline Committee may establish a building envelope and recommended a point of access for each Lot. This envelope will be based upon the topography of the Lot, its relationship to neighboring Lots, and any unique feature that the Lot may have, such as trees, meadows, rock outcroppings, etc. The size and shape of the building envelope may vary from Lot to Lot. If, in the opinion of the Somersett Aesthetic Guideline Committee certain Lots do not warrant the establishment of a specially designated envelope, the envelope for those Lots shall be set according to the normal setbacks of the City of Reno for that type of Lot. In general, all building construction shall be confined to the building

envelope area. If, in the opinion of the Committee, the strict compliance with the building envelope will cause the Lot Owner inconvenience in locating his home or accessory improvements, and expansion of the building envelope will not cause unreasonable impairment to the use and enjoyment of an-adjacent Lot Owner, then a variance may be permitted by the Committee.

Section 5.02. Design Guidelines.

(a) Design Guidelines of the Somerset Aesthetic Guideline Committee. The Somerset Aesthetic Guideline Committee shall adopt, by a majority vote, Design Guidelines establishing the architectural standards for construction and uses on all Lots within the Somerset development. Once adopted the Design Guidelines may be amended by a majority vote of the Somerset Aesthetic Guideline Committee from time to time, in the Committee's sole discretion. All Lot Owners shall comply with and abide by the Design Guidelines. Copies of the Design Guidelines shall be available to each Lot Owner at the time of close of escrow and shall be maintained at the office of the Committee. Design Guidelines are intended to be minimum requirements. The Committee may, on a case-by-case basis, adopt or impose more stringent design requirements.

(b) Sierra Canyon Design Guidelines. With the prior approval of the Somerset Aesthetic Guideline Committee, the Sierra Canyon Architectural Review Committee shall have the authority to adopt supplemental Design Guidelines applicable solely to improvement projects within Sierra Canyon (see Section 6.09, below, entitled the "Sierra Canyon Design Guidelines"). In the event of any conflict between the Sierra Canyon Design Guidelines and the Design Guidelines of the Somerset Aesthetic Guideline Committee, the Somerset Design Guidelines shall prevail; provided, however, that different or more stringent design guidelines that are adopted by the Somerset Architectural Review Committee in compliance with this subparagraph (b) shall not be deemed to be in conflict with the Somerset Guidelines.

Section 5.03. Views. No representation or warranties, covenants or agreements are made by Declarant or Association or their agents, with respect to the presence or absence of any current or future view, scene or location advantage from any portion of a Lot within Sierra Canyon. The view, scene or location advantage may be adversely affected currently or in the future by construction or changes to the following, including, without limitation, residential homes or other structures and facilities, utility facilities, trees and other landscaping, Sierra Canyon Common Areas, public facilities, streets, neighborhood amenities and other activities, development or occurrences whether on other land or on adjacent and nearby Lots. No representations, warranties, covenants or agreements are made by Declarant, Association, the Master Declarant, the Master Association, the owner of the Golf Club or their agents concerning the preservation or permanence of any view; scene or location advantage for the Lot. Association, the Declarant, the Master Association, the Master Declarant are not responsible or liable for any impairment of such view, scene or location advantage for any perceived or actual loss of value of the Lot resulting from such impairment. Lot Owners are solely responsible for analyzing and determining all risks concerning the current and future value of any view, scene or location advantage and the potential or existing impairment thereof and the risks of preserving the view, scene or location advantage.



**Section 5.04. No Drainage Into Sierra Canyon Common Area.** No alteration of the natural flows of surface water drainage shall be allowed to occur into Sierra Canyon Common Area, except in designated drainage channels, basins or other drainage facilities designed to accommodate said drainage, unless expressly approved in writing by the Association, in the sole discretion of its Board of Directors of the Master Association.

**Section 5.05. Installation of Front and Rear Yard Landscaping.** Front yard landscaping and irrigation equipment will be installed by the Declarant prior to issuance of the Certificate of Occupancy for Residences in Sierra Canyon and Owners other than the Declarant shall install rear yard landscaping and related irrigation equipment within ninety (90) days from the close of escrow, regardless of Owners's move-in date. Landscaping will be installed in accordance with any landscaping rules and restrictions adopted by the Somerset Aesthetic Guideline Committee and the Sierra Canyon Architectural Review Committee.

## **ARTICLE VI**

### **Architectural Review and Approval of Improvement Projects**

#### **Section 6.01. Architectural Review Committee Approval of Improvements.**

(a) **Approval Generally.** Prior to commencement of construction or installation of any Improvement (as defined in Section 1.02(v), above) within Sierra Canyon, other than the initial construction of Residences by the Declarant, the Owner planning such Improvement must submit to the Architectural Review Committee a written request for approval. The Owner's request shall include structural plans, specifications and plot plans satisfying the minimum requirements set forth in the Design Guidelines adopted pursuant to Section 6.10, below. Unless the Committee's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Committee shall base its decision on the criteria described in Section 6.06, below.

(b) **Approval of Declarant Construction Projects by the Somerset Aesthetic Guideline Committee.** The Declarant's plans and specifications for the construction of Residences in Sierra Canyon shall be subject to prior review and approval by the Somerset Aesthetic Guideline Committee. Declarant may submit its plans in the form of typical plans for model homes, and shall pay a single plan application fee, in accordance with the Aesthetic Guideline Committee's standard fee schedule, for each model plan application. The Somerset Aesthetic Guideline Committee shall be obligated to review Declarant's model plans within seven (7) calendar days following Declarant's submittal of an application that complies with the Master Declaration's provisions for plan submission (see Article VI of the Master Declaration). The Sierra Canyon Architectural Review Committee shall have any authority, power or jurisdiction over construction or improvement projects on Lots in Sierra Canyon that are owned and being improved by the Declarant, its agents and contractors, so long as the plans and specifications for those construction and improvement projects have been approved, in advance by the Somerset Aesthetic Guideline Committee. This exemption is not intended to apply to any design or improvement requirements or standards imposed on the Declarant's Lot improvement projects and/or Sierra Canyon Common Area improvements by the City of Reno.

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

In the event that it comes to the knowledge and attention of the Association, its Architectural Review Committee, or the agents or employees of either that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Association shall be entitled to exercise the enforcement remedies specified in Section 6.14, below, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement by "red tagging" the project until such time as proper Architectural Review Committee review and approval is obtained.

Section 6.02. Composition of the Architectural Review Committee.

(a) Composition of the Committee, Generally. The composition of the Committee will evolve during the development of Sierra Canyon, as follows:

(i) The Declarant may appoint all of the members of the Architectural Review Committee and all replacements during the Declarant Control Period.

(ii) Once the Declarant Control Period has ended, the members of the Architectural Review Committee shall be appointed by the Association Board of Directors and Committee members shall serve at the pleasure of the Board. The Architectural Review Committee shall consist of not less than three (3) and no more than five (5) members.

(b) Qualifications for Appointment to the Architectural Review Committee. The appointees of Declarant need not be Owners or Residents of Sierra Canyon and do not need to possess any special qualifications of any type except such as the Declarant may, in its discretion, require. All persons appointed to the Architectural Review Committee by the Board must be Members of the Association and Residents of Sierra Canyon.

Section 6.03. Duties of the Architectural Review Committee. It is intended that the improvements within Sierra Canyon be maintained in the same condition and appearance as originally developed. No building, fence, trellis, wall or structure of any type shall be commenced, installed or maintained upon Lots within Sierra Canyon or any rear yard or patio landscape or other improvement, nor shall any exterior addition to or change or alteration of the initial improvements completed by Declarant shall be made until the plans and specifications showing the nature, kind, shape, color, height, materials and location of the same shall have been submitted to and approved in writing as to the harmony of the external design and location in relation to the entire Properties by the Sierra Canyon Architectural Review Committee. In

exercise of its authority, the Committee may condition its approval for proposals and plans and specifications on such changes or conditions thereto as it deems appropriate; require submission of additional plans and specifications or other information prior to approval or disapproval of the proposed construction, alterations or additions; and require a nominal fee payable to the Association to accompany each application for approval. It shall be the duty of the Architectural Review Committee to consider and act upon the proposals and plans for Improvements (including landscaping) submitted to it pursuant to this Declaration, to adopt Design Guidelines pursuant to Section 6.09, below, to perform other duties delegated to it by the Board of Directors and to carry out all other duties imposed upon it by this Declaration.

Section 6.04. Initial Construction by An Owner. If the initial Residence constructed on a Lot by the Declarant is substantially damaged and is to be replaced or reconstructed, the Owner of such Lot shall not construct any improvements thereon except such residential improvements as are comparable and compatible, in size, design and materials, to the residences constructed on Lots in Sierra Canyon by the Declarant. Furthermore, no such Owner shall apply for a building permit, commence construction, or apply for the approval of the Somerset Aesthetic Guideline Committee until all the plans and specifications for the proposed improvements have been reviewed and approved by the Sierra Canyon Architectural Review Committee.

Section 6.05. Preliminary Approval. Any Owner proposing to construct any structures or other Improvements to a Lot requiring the prior approval of the Sierra Canyon Architectural Review Committee may apply to such Committee for preliminary approval by submission of preliminary drawings of the proposed structure or improvement in accordance with the Committee rules. The purpose of this paragraph is to allow an Owner who proposes to make substantial improvements to his Lot an opportunity to obtain guidance from the Sierra Canyon Committee concerning design considerations before expending substantial sums for plans and other exhibits required to apply for final architectural approval. Applications for preliminary approval shall be considered and disposed of by the Committee as follows:

Within thirty (30) days after proper application for preliminary approval, the Sierra Canyon Committee shall consider and act upon such request. The Committee shall grant the approval only if the proposed structure or improvement, to the extent its nature and characteristics are shown by the application, would be entitled to a final approval on the basis of a full and complete application. Failure of the Committee to act within the thirty (30) day period shall constitute approval. In granting or denying approval, the Committee may give the applicant such directions concerning the form and substance of the final application for approval as the Committee may deem proper or desirable for the guidance of the application.

Any preliminary approval granted by the Committee shall be effective for a period of one hundred and twenty (120) days from the date of the issuance thereof. During said period, such application for final approval which consists of proposed structures or improvements in accordance with the provisions of the preliminary approval, and is otherwise acceptable under the terms of these restrictions, shall be reviewed and approved by the Committee. In no event shall any preliminary approval be deemed to be an approval authorizing construction of the requested structures or improvements or any other improvements or structures not reviewed preliminarily.

Section 6.06. Application to the Somerset Aesthetic Guideline Committee. Once the Sierra Canyon Architectural Review Committee has given its preliminary approval, the Owner may apply to the Somerset Aesthetic Guideline Committee for its approval. If the Somerset Aesthetic Guideline Committee requires changes not contemplated by the Sierra Canyon Architectural Review Committee, the Owner shall notify the Sierra Canyon Architectural Review Committee of such changes and obtain its approval thereof before proceeding.

Section 6.07. Procedure. No application for final approval required by this Article VI shall be deemed appropriately submitted unless the improvement, addition or alteration is fully described and shown by appropriate drawings, plans, specifications and color samples. The request for approval and relevant materials shall be deemed submitted as of the date when they are personally delivered or mailed to the Sierra Canyon Committee with postage fully prepaid. The mailing address of the initial Committee is: Sierra Canyon Architectural Review Committee, P.O. Box 34240, Reno NV 89533 Attention: Chairperson. Decisions of the Sierra Canyon Architectural Review Committee and the reasons therefor other than applications for preliminary approval, pursuant to Section 6.05, above, shall be transmitted by the Committee to the applicant within thirty (30) days after receipt by the Committee of all materials required by the Committee. Any application submitted pursuant to this Declaration shall be deemed approved, unless written disapproval or a request for additional information or materials by the Committee shall have been transmitted to the applicant within thirty (30) days after the date of receipt by the Committee of all required materials. Once final approval has been given by the Sierra Canyon Committee, the Owner may apply to the Somerset Aesthetic Guideline Committee for its final approval.

Section 6.08. Meetings. The Architectural Review Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Committee members shall constitute an act by the Committee and the Committee shall keep and maintain a written record of all actions taken. The Architectural Review Committee can also appoint a subcommittee, which must include at least one member of the Architectural Review Committee, to perform an initial review of project submittals, site inspections and other Committee responsibilities as the Committee, in its reasonable discretion, may delegate.

The Owner-Applicant shall be entitled to appear at any meeting of the Architectural Review Committee at which the Owner's proposal is scheduled for review and consideration. The Owner shall be entitled to be heard on the matter and may be accompanied by his or her architect, engineer and/or contractor. Reasonable notice of the time, place and proposed agenda for Architectural Review Committee meetings shall be communicated before the date of the meeting to any Owner-Applicant whose application is scheduled to be heard

Section 6.09. Design Guidelines. In addition to the minimum construction standards and Architectural Review and approval procedures contained herein, Design Guidelines can be adopted to interpret and implement the provisions of this Article VI and Article V ("Architectural Standards"). Until such time as the Architectural Review Committee is a committee whose members are appointed solely by the Board of Directors of the Association, the adoption, amendment and repeal of Sierra Canyon Design Guidelines shall be in discretion of the Declarant, subject only to approval of the initial Sierra Canyon Design Guidelines and any

amendments or modifications thereof by the Somerset Aesthetic Guideline Committee. Once the Architectural Review Committee is appointed solely by the Board, the Board, upon recommendation from the Architectural Review Committee may, from time to time, adopt, amend and repeal the Design Guidelines, with approval of the Somerset Aesthetic Guideline Committee. The Sierra Canyon Design Guidelines may include and address such matters as the following:

(a) Review Procedures. The procedures for Architectural Review Committee review and approval of Owner submittals of proposed Improvement projects (including, without limitation, minimum requirements for plans, specifications and other requirements for submitting a complete application for project approval).

(b) Guidelines for Particular Projects or Approved Colors. Guidelines for the construction of Improvements, including, without limitation, architectural design, placement on Lots, color schemes, exterior finishes and materials, pre-approved plans and specifications for commonly recurring minor projects such as trash enclosures, yard landscaping and fencing improvements. Guidelines can also address other features of typical improvement projects which are recommended or required for use. Without limitation, such Guidelines may include charts of approved colors.

(c) Identification of Projects Eligible for Expedited Review. The Guidelines can identify categories of Improvement projects or components of the plan review and approval process which can be administered by the Association staff or other designee of the Committee without the need for direct involvement by the Committee in order to expedite the processing of applications for approval. In the event that the Committee determines that certain project approvals or plan processing requirements can appropriately be administered by the Association staff or other Committee designee, such delegation and the scope thereof shall be specified in the Guidelines.

(d) Variations Procedures. The criteria and procedures for requesting variances from any property use restrictions or minimum construction standards that would otherwise apply to the proposed Improvement under the Governing Documents (see Section 6.15, below).

(e) Construction Site Maintenance. Minimum requirements for the maintenance, supervision and restoration of construction sites by Owners and their contractors. Without limiting the foregoing, the Guidelines may specifically regulate the activities of contractors and subcontractors (including, without limitation, hours of permitted construction activity), who shall be deemed to be the Owner's agents for purposes of rules enforcement and compliance matters. Design Guidelines pertaining to construction activities can also address the obligation of Owners and their contractors to repair any damage to adjacent streets, sidewalks and/or curbs resulting from construction activities related to an Owner's Improvement Project.

(f) Landscape Requirements; Site Restoration. Minimum requirements for the landscaping of areas of the Lot that are disturbed by construction activity, which require particular landscape Improvements or which encourage minimal use of landscape irrigation in order to control drainage, limit runoff, avoid erosion and/or risk to native oaks, to otherwise enhance the appearance of the Lot.

(g) Fees for Plan Review; Deposits. The Design Guidelines may include a reasonable processing fee to defray the costs of the Association in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted. Requirements for reasonable deposits to assure the completion of Improvements in accordance with approved plans may also be required. Upon proper completion of Improvements in accordance with approved plans, any deposits shall be refunded to the Owner or other person who tendered the deposit without interest. Any requirements for the payment of inspection/plan processing fees and deposits to the Committee to assure the Owner's/contractor's proper and timely performance in accordance with the approved plans and specifications and the application, use and/or refund of such fees and deposits.

(h) Time for Completion of Projects. Uniform and reasonable time limitations for completion of approved Improvement projects or other duly noted compliance matters. Said rules may also include procedures to request an extension of the usual completion time in order to avoid hardship or to accommodate other factors beyond the Owner's reasonable control which have interrupted the progress of the Improvement project.

Section 6.10. Basis for Approval of Improvements. When a proposed Improvement is submitted to the Architectural Review Committee for review, the Committee shall grant the requested approval only if the Committee, in its sole discretion, makes the following findings regarding the proposed project:

(a) The Owner's plans and specifications conform to this Declaration and to the Design Guidelines in effect at the time such plans are submitted to the Committee;

(b) The Improvement will be in harmony with the external design of other structures and/or landscaping within Sierra Canyon;

(c) The Improvement, as a result of its appearance, location or anticipated use, will not interfere with the reasonable enjoyment of any other Owner of his or her property;

(d) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within Sierra Canyon and with the overall plan and scheme of development within Sierra Canyon; and

(e) Without limiting the foregoing, the exterior elevations of any structures (including fencing) and rear yard landscaping undertaken by any Owner or Resident (other than the Declarant) on any Lot located adjacent to any Golf Course fairway must be approved by the Architectural Review Committee, said approval not to be unreasonably withheld.

While it is recognized that the Architectural Review Committee's determination will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith and shall consider such factors as the quality of workmanship and materials proposed for the Improvement project, the harmony of its exterior design, finished materials and color with that of other existing structures, and the proposed location of the Improvement in

relation to the existing topography, finished grade elevations, roads, Sierra Canyon Common Areas and other existing structures.

The approval by the Architectural Review Committee of any plans, drawings or specifications for any work of Improvement done or proposed, or for any other matter requiring the approval of the Architectural Review Committee under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Different locations for Improvements, the size of the structure, proximity to other Residences or Common Facilities and other factors may be taken into consideration by the Committee in reviewing a particular submittal. Accordingly, the Committee shall be entitled to determine that a proposed Improvement or component thereof is unacceptable when proposed on a particular Lot, even if the same or a similar Improvement/component has previously been approved for use at another location if factors such as drainage, topography, noise or visibility from roads, Sierra Canyon Common Areas or other Lots or prior adverse experience with the product, the design or with similar Improvements mitigate against erection of the Improvement or use of a particular component thereof on the Lot involved in the Owner's submittal.

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

Section 6.11. Proceeding With Work. Upon receipt of approval from the Architectural Review Committee, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction and erection of the Improvement pursuant to said approval, said commencement to be, in all cases, within six (6) months from the date of such approval, and the project shall be diligently pursued to completion. If the Owner shall fail to comply with this section, any approval given pursuant to this Article, shall be deemed revoked unless the Architectural Review Committee, upon written request of the Owner made prior to the expiration of the initial six (6) month period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Architectural Review Committee that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the project within the time specified in the extension request.

Section 6.12. Failure to Complete Work. Unless the Owner has been granted an extension of time to complete the project by the Architectural Review Committee, construction, reconstruction, refinishing or alteration of any such Improvement must be complete within six (6) months after construction has commenced, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner because of strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his or her agents. In the case of building Improvements the requirements of this section shall be deemed to have been met if, within the six (6) month construction period, the Owner has completed construction of the building's foundation and all exterior surfaces (including the roof, exterior walls, windows and doors).

If the Owner fails to comply with this section, the Architectural Review Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Sections 6.14 (c) and (d), below, as though the failure to complete the Improvement was a noncompliance with approved plans.

Section 6.13. Inspection of Work by Architectural Review Committee. Inspection of the work relating to any approved Improvement and correction of defects therein shall proceed as follows:

(a) During the course of construction, representatives of the Architectural Review Committee, or its duly authorized subcommittee, shall have the right to inspect the job site to confirm that the work of Improvement is proceeding in accordance with the approved plans and specifications.

(b) Upon the completion of any work of Improvement for which Architectural Review Committee approval is required under this Article, the Owner shall give the Architectural Review Committee a written notice of completion.

(c) Within thirty (30) days thereafter, the Architectural Review Committee, or its duly authorized representative or subcommittee, may inspect the Improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approval plans. If the Architectural Review Committee finds that the Improvement was not erected, constructed or installed in substantial compliance with the Owner's approved plans, then within the thirty (30) day inspection period the Committee shall give the Owner a written notice of noncompliance detailing those aspects of the project that must be modified, completed or corrected. If the violation or nonconforming work is not corrected, the Association and the Architectural Review Committee shall have the rights and remedies set forth in Section 6.14, below.

(d) If for any reason the Architectural Review Committee fails to notify the Owner of any noncompliance within thirty (30) days after receipt of the Owner's notice of completion, the Improvement shall be deemed to have been constructed in accordance with the approved plans for the project, unless the Owner knows of the noncompliance and intentionally misleads the Committee with respect thereto.

Section 6.14. Enforcement of Architectural Approval Requirements.

(a) In addition to other enforcement remedies set forth in this Declaration or in the Master Declaration, the Architectural Review Committee shall have the authority to order an abatement ("red tag") of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Committee or if it does not conform to the plans and specifications submitted to and approved by the Committee. If an Improvement project is red tagged, the Owner and his or her contractor shall cease all construction activity until such time as the issue giving rise to the red tag order is resolved. The red tag notice shall clearly state the reasons why the abatement has been ordered.



(b) No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.

(c) If the Owner fails to remedy any noticed noncompliance within thirty (30) days from the date of such notification, or if the Owner feels that the project has been red tagged without justification, the Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing shall be conducted in accordance with Section 13.02, below.

(d) If the violation is a failure by the Owner to adhere to a schedule imposed by the Architectural Review Committee for the completion of an Improvement project, the association may impose and enforce a construction penalty against the Owner so long as the maximum amount of the penalty and the schedule for completion of the project have been stated in the project approval issued by the Committee and the Owner has received notice of the alleged violation which informs the Owner that he has a right to a hearing before the Board of Directors on the matter.

Section 6.15. Variances. The Architectural Review Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this Article VI, or in the Architectural Standards set forth in Article V, above, to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided all of the following conditions are met:

(a) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise be applicable under this Declaration, the Architectural Review Committee must conduct a hearing on the proposed variance after giving prior written notice to the Committee and to all Owners residing within sixty (60) feet of the subject Lot. Said notice shall also be posted in the Association's principal office within Sierra Canyon. The notice shall be posted and mailed to the interested Owners at least fifteen (15) days prior to the date when the Architectural Review Committee is scheduled to act on the requested variance. No decision shall be made with respect to the proposed variance until the fifteen (15) day comment period has elapsed.

(b) The Architectural Review Committee must make a good faith written determination that the variance is consistent with one or more of the following criteria: (i) the requested variance will not constitute a material deviation from any restriction contained herein or that the variance proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (ii) that the variance relates to a requirement land use restriction or minimum construction standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances; or (iii) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance with respect, to any other Lot or Sierra Canyon Common Area within Sierra Canyon.

(c) If the variance pertains to an improvement or component thereof that is also subject to review and approval by the Somerset Aesthetic Guideline Committee, any request for a variance with respect to that improvement or component must also be tendered to and approved by that Committee.

Section 6.16. Compliance Certificate. Within thirty (30) days after written demand is delivered to the Architectural Review Committee by any Owner, the Architectural Review Committee shall provide the requesting Owner with a certificate, executed by any two of its members, certifying (with respect to any Lot owned by the applicant Owner) that as of the date thereof, either: (a) all Improvements made and other work completed by said Owner comply with this Declaration; or (b) such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in said Lot through the Owner, shall be entitled to rely on the Committee's compliance certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, the Committee, the Declarant, all Owners and any persons deriving any interest through them.

Section 6.17. Limitation on Liability. Neither the Declarant, the Association, the Architectural Review Committee nor any member thereof shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any mistakes in judgment, negligence or nonfeasance arising out of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any Improvement project, whether or not pursuant to approved plans, drawings specifications; (c) the development of any Lot within Sierra Canyon; or (d) the execution and delivery to an Owner of a compliance certificate pursuant to Section 6.16, above, whether or not the facts therein are correct; provided, however, that such member has acted in good faith on the basis of such information as he or she possessed at the time the act or omission occurred.

Section 6.18. Compliance With Governmental Regulations. Review and approval by the Architectural Review Committee of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Lot Owner who desires to construct, install, or modify the Improvement.

Section 6.19. Association Funding for Architectural Review Costs. It is anticipated that the Committee will require secretarial and administrative assistance, and that the Committee will incur out-of-pocket expenses in the performance of its responsibilities. The initial budget of the Association contains projections of such costs. The Association shall provide the Committee with reasonably required secretarial and administrative assistance, or, at the option of the Board, shall reimburse the Committee therefor, and shall reimburse the Committee for out-of-pocket expenses incurred by the Committee in the performance of its responsibilities. The Committee shall remit to the Association all review fees, if any, collected by the Committee.

## **ARTICLE VII**

### **Provisions for the Benefit of the Owner of the Golf Course and the Master Association (as to the short course)**

Section 7.01. Ownership and Operation of Golf Club. The Master Declarant, the Master Association, the owner of the Golf Club, the Association and the Declarant make no representations or warranties with regard to the continuing existence, ownership or operation of the Golf Club, if any (including whether the Golf Club will be public or private), and no purported representation or warranty in such regard by any person, either written or oral, shall be effective. Further, the ownership and operation of the Golf Club may change at any time and from time to time by virtue of (but without limitation) the creation or conversion of the ownership or operating structure of the Golf Club to an "equity" club or similar arrangement whereby the Golf Club or the right to operate it is transferred to an entity or entities which are owned or controlled by members. No consent of the either the Master Association or the Association or any Owner shall be required to effectuate such transfer or conversion.

Section 7.02. No Right to Use. Neither membership in the Association nor ownership or occupancy of a Residence shall confer any ownership interest in or right to use the Golf Club. The Golf Club owner shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Golf Club (e.g., Golf Club membership rights) including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the provisions of any outstanding membership documents. Membership privileges and use of the Par-3 Course, on the other hand, shall be determined by the Board of Directors of the Master Association.

Section 7.03. Golf Club View Impairment. In addition to Section 5.03, above, neither the Master Declarant, the Master Association (as to the Par-3 Course) nor the Golf Club owner (as to the Golf Club), nor the Declarant or the Association warrant, guarantee, or represent that any view over and across the Golf Club or the Par-3 Course from Residences or Sierra Canyon Common Areas within Sierra Canyon will be preserved without impairment. Neither the Golf Club owner nor the Master Association shall have any obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to the Golf Club or Par-3 Course, as well as to construct safety or security-related improvements such as fences and screens, from time to time. In addition, the Golf Club owner or the Master Association may, in their sole and absolute discretion, change the location, configuration, size and elevation of the trees, bunkers, tees, fairways and greens, holes or other improvements on the Golf Club or Par-3 Course from time to time and may also emit, light during nighttime hours for events (e.g., clubhouse functions) and activities (e.g., maintenance). Damages arising from any such additions, improvements or changes to the Golf Club or Par-3 Course which may diminish or obstruct any view from the Residences or any expressed or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed by the Master Declarant, the Master Association, the Golf Club owner, the Declarant and the Association..

## ARTICLE VIII Easements

Section 8.01. Easements Set Forth in the Master Declaration. To the extent provided in the Master Declaration, all Lots and Sierra Canyon Common Areas shall be subject to the easements granted or reserved in the Master Declaration (see particularly, Article VII, Section 3, and Article VIII of the Master Declaration).

Section 8.02. Easements Reserved. The following easements (also constituting irrevocable licenses) over each Lot and all Sierra Canyon Common Areas, and the right of ingress and egress to the extent reasonably necessary to exercise such easements, are reserved to the Declarant and are granted for the benefit of the utility purveyors, the Association and the Declarant:

(a) Utility Easements. Easements are hereby reserved for the installation, maintenance and operation of all utilities as shown on recorded final maps of Sierra Canyon or otherwise specified in this Section, together with the right to extend all utility services within such easements to other areas being developed within Sierra Canyon (including street lights) and the right to cut, trim or remove structures, trees and plantings wherever necessary in connection with such installation, maintenance and operation. Utilities for purpose of this Section shall include without limitation water, sewer, gas, electric power, cable TV, telephone and communications. Utilities shall also include telecommunications and electronic communication lines and facilities of the Master Declarant and Somersett Technology, LLC.

(b) Sierra Canyon Common Areas. An easement on, over and under all Sierra Canyon Common Areas in Sierra Canyon for the purpose of installing, maintaining and operating utilities to serve any portion of Sierra Canyon; for purposes of drainage control; for access to any Lot; for the purpose of construction or maintenance of Sierra Canyon Common Area improvements or subdivision improvements; and for providing access to undeveloped portions of Sierra Canyon for any and all purposes at any and all times, -including, but not by way of limitation, the right to use said Sierra Canyon Common Areas during construction of improvements on undeveloped portions of Sierra Canyon. Utility easements granted by this subparagraph (b) are assignable to any utility purveyor requiring use of the easement.

(c) Signs. An easement within ten (10) feet of a street or other Sierra Canyon Common Area for the installation of street signs, regulatory signs, wildlife signs and traffic signs (or other signs reasonably related to the regulation or enforcement of provisions of this Declaration) on all Lots, together with the right to cut, trim or remove trees and plantings wherever necessary in connection with such installation, maintenance, repair and reconstruction.

(d) Snow Plowing and Snow Placement. An easement within ten (10) feet of any street or other Sierra Canyon Common Area upon all Lots in any portion of the Somersett development for the placement of snow plowed from that adjacent street or Sierra Canyon Common Area, provided that this easement is not intended to create a snow storage or dumping area on any Lot, but only to allow the berming and placement of snow plowed from a street or other Sierra Canyon Common Area immediately adjacent to a Lot in order to clear the street of

snow for the safe passage of vehicles and pedestrians on the street or other Sierra Canyon Common Area.

(e) Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency; security, and safety reasons or to perform maintenance allowed or required of Association pursuant to provisions of this Declaration or pursuant to City requirements, as well as for the purpose of insuring or enforcing compliance with this Declaration, which right may be, exercised by any member of the Board or the Committee, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties (see Section 2.08(c), above).

Section 8.03. Construction Impacts Easement. During development of Sierra Canyon the construction of streets, utilities, homes, structures and other improvements (generally, the "Construction") will produce substantial dust, noise, light (during nighttime hours) and other adverse impacts ("Impacts") within Sierra Canyon to Owners and their guests, invitees and licensees which may be alleged in the future to constitute a nuisance or otherwise impair the use and enjoyment of the Residences within Sierra Canyon. The term "Impacts" is intended to be, construed liberally to include all adverse consequences of Construction activity which might be an annoyance or nuisance, particularly without limitation dust and noise. An easement is hereby granted to all homebuilders, developers, contractors and others (including the Owners for whom they are agents, and their employees, representatives, officers, directors, subcontractors; consultants and agents) creating Impacts during Construction in Sierra Canyon to cause Impacts to occur. The easement granted in this Section is also a negative covenant running with the land and burdening all Units. The easement rights granted herein do not allow or provide a defense against violations of state, federal or local laws, the Sierra Canyon Design Guidelines, any rules, regulations or policies of the Architectural Review Committee or the Association regarding the conduct and activities of construction contractors or their agents.

Section 8.04. Transfer of Easements. A conveyance of Sierra Canyon Common Area to the Association shall also transfer to the Association all easements herein reserved to Declarant which are necessary or convenient to the obligation of the Association to carry out its duties prescribed herein, which transfer shall not diminish the rights in and to said easements herein reserved to Declarant. Nothing set forth herein shall be construed to impose on Declarant any duty or obligation of maintenance of Sierra Canyon Common Areas or improvements thereon after conveyance of the Sierra Canyon Common Areas to the Association.

Section 8.05. Use or Maintenance by Owners. The areas of any Lot affected by the easements reserved in this Article VIII shall not be improved with structures placed or permitted to remain (or other activities undertaken) thereon which may damage or interfere with the use of said easements for the purposes herein set forth.

Section 8.06. Liability for Use of Easement. No Owner shall have any claim or cause of action against the Declarant, the Association, or the Nonresidential Areas Owners arising out of the use or nonuse by any person of any easement reserved or created by this Declaration.

Section 8.07. Modification. None of the easements and rights granted under this Article VIII may be modified, terminated or abridged without the written consent of the persons in whose favor such easements run.

## ARTICLE IX Protection of Lenders

Section 9.01. Encumbrance of Lots Permitted. Any Lot may be encumbered with a deed of trust.

Section 9.02. Breach of Covenants. A breach by an Owner of any of the provisions of this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value; provided, however, the provisions of this Declaration shall be binding upon the Owners whose title thereto is acquired under foreclosure, trustee's sale, or otherwise.

Section 9.03. Notice of Default. Upon written request to the Association, the beneficiary of a first deed of trust encumbering real estate subject to this Declaration shall be entitled to written notification from the Association of any default by the Owner of that real estate in the performance of such Owner's obligations under this Declaration that is not cured within ninety (90) days.

Section 9.04. Insurance Proceeds and Condemnation Awards. No provision of this Declaration or the Governing Documents of the Association shall give an Owner, or any other party, priority over any rights of a first deed of trust beneficiary in the case of a distribution to the Owner of insurance proceeds or condemnation awards.

Section 9.05. Appearance at Meetings. Because of its financial interest in the Sierra Canyon development, any beneficiary of a first deed of trust may appear (but cannot vote) at meetings of the members and the Association's Board of Directors.

Section 9.06. Examination of Records. Beneficiaries of first deeds of trust shall have the right to examine the books and records of the Association and can require the submission of financial data concerning the Association, including annual reports, audits and operating statements as and when furnished to the Owners.

## ARTICLE X Limitation of Restrictions

Section 10.01. Interest of the Declarant; Material Actions Requiring Declarant Approval. Each Owner of a Lot which is part of Sierra Canyon acknowledges by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other instrument, that Declarant has a substantial interest to be protected with regard to assuring compliance with and enforcement of, the covenants, conditions, restrictions and reservations contained in this Declaration and any amendments thereto and any Supplemental Declarations