

## **NOTICE**

**If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**

# **SECOND WALNUT CREEK MUTUAL**

# **POLICIES**

Adopted May 18, 2006  
Revised February 21, 2008; April 19, 2012;  
January 21, 2016; June 23, 2016,  
January 19, 2017, September 21, 2017,  
January 18, 2018, March 15, 2018,  
August 16, 2018, February 21, 2019,  
November 18, 2021

## PREAMBLE AND NOMENCLATURE

### Preamble

The policies of SECOND WALNUT CREEK MUTUAL have been adopted by the Board of Directors and are presented in this written form to assist newcomers to adapt more readily to life in Rossmoor and to remind long-time residents of their rights and obligations.

The guiding policy of the Board of Directors of SECOND WALNUT CREEK MUTUAL is to make governance as open, as accessible, and as helpful to the residents of the Mutual as possible. This requires that the residents be well informed about the Mutual and how the system operates.

Informed residents can more easily avoid problems but the Board of Directors stands ready to give effective help when needed.

Some of these policies are mainly for information. Others are to make it clear that there are rules that each of us must abide by to enhance the enjoyment of the majority.

The Board hopes that, taken altogether, these policies will add to the pleasure of living in this beautiful valley.

### Nomenclature

Second Walnut Creek Mutual is referred to herein as **Mutual**. It is a cooperative mutual corporation that owns the buildings and grounds within the boundaries of the residential areas. The individual Member occupies the manor under the terms of an **Occupancy Agreement** with the Mutual.

**Board** means Board of Directors. The Board, acting on behalf of the Members, is the governing body of the Mutual and has responsibility for its proper maintenance and operation.

A **Member** is anyone, including a living trust, who has a share in the Mutual. All Members are issued a membership certificate and have voting privileges.

A **Qualifying Occupant** is a person at least 55 years of age or older who has been approved by the Board and who has executed an Occupancy Agreement.

A **Co-occupant** is a person who is registered as a second occupant of a manor, excluding lessees.

**Common area** means all land and all portions of the Mutual not located within any manor or improvements to said manor.

## PREAMBLE AND NOMENCLATURE

**Exclusive Use Common Area** shall mean and refer to those portions of the Common Area and/or other areas that are used exclusively by the Members or residents of one manor and that are appurtenant to that manor. Such areas include, but are not necessarily limited to, patios, balconies, decks, and carports.

The term "**Resident Billable**" covers costs specifically for the benefit of one Member or to repair damage caused by a Member's negligence, e.g., backing into a carport or letting the bathtub overflow. Common examples are repairs or improvements inside a manor or landscaping for the benefit of one Member.

**Capital Funds** are monies set aside to pay future bills or potential bills. There are three kinds: (a) Operating Fund, which covers routine operations; (b) Replacement Fund, which has a specific purpose, e.g., roof replacement, insurance, appliance replacement, and (c) HUD Operating Reserve, which is maintained for emergencies.

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Adopted 5/18/06; Revised 2/21/08; 9/23/10; 4/19/12; 1/18/18

## 1.0 MEMBERSHIP

### 1.1 Membership in the Mutual

SWCM is a senior citizen housing development. Eligibility in SWCM is limited to; (a) "Qualifying Residents" (generally persons 55 years of age or older), as that term is defined in section 51.3 of the California Civil Code, and (b) a trust whose beneficiary is a Qualifying Resident. Applicants shall provide all information, financial and otherwise, required by the Mutual. The Applicant (or, in the case of a Trust, the Designated Occupant) must establish to the satisfaction of the Mutual that s/he intends to reside on a permanent basis in the manor appurtenant to the Membership. Applications for Membership in SWCM may be granted or denied in the first instance by the President or Vice-President of SWCM to whom authority has been delegated by the Board of Directors. Denials may be appealed by the Applicant to the full Board of Directors. As a condition of issuance of the Membership each successful Applicant must execute an Occupancy Agreement in the form required by the Mutual and obtain a membership in the Golden Rain Foundation.

Eligibility for membership in the Mutual is covered under Article III, Section 1, of the Bylaws. The requirements set forth in the application for membership must be met before an applicant can be granted membership in the Mutual.

Prior to the close of escrow, all buyers must arrange for a SWCM Alteration meeting at the Mutual Operations Division Office located at 800 Rockview Drive, Walnut Creek.

### 1.2 Occupancy of a Manor

No person, other than a senior citizen Member, may occupy a Manor without prior written approval of the Board. No more than two persons may permanently occupy a one-bedroom manor and no more than three persons may permanently occupy a two-bedroom manor without prior written approval of the Board. The Manor shall be used only for residential purposes.

Pursuant to Policy 18.3, households occupying a Manor must, at all times, include at least one resident senior citizen.

No person, other than those authorized pursuant to the Senior Housing Rules (Policy 18.0), may occupy a Manor temporarily or permanently. All occupants of a manor, other than a senior citizen Member, must apply to Member Records (located in the Gateway Administration Office) for approval, including live-in employees and Guests who are present in a Manor for more than 21 days.

This Policy 1.2 is subject to Policy 18.0, which shall control in case of any conflict with this Policy.

## 1.0 MEMBERSHIP

### 1.3 Withholding on a Transfer of Membership

When a manor is sold, the sum of \$5,000 more than the estimated cost of needed repairs shall be withheld in escrow from the selling Member as determined by an initial inspection performed by Mutual Operations. This sum is to protect the Mutual against the cost of correcting undetected deficiencies that might affect Mutual property. It will be withheld until 60 days after the close of escrow.

If Mutual property has been or may become damaged because of adverse conditions caused by the selling Member's alteration, the sum withheld may be used to correct the causative condition. This protection does not extend to an alteration that is the selling Member's personal responsibility and does not affect Mutual property.

### 1.4 Temporary Relocation of a Member

If a member must be temporarily relocated because of maintenance repairs to the manor for which the Mutual is responsible, the Mutual will arrange and pay for the following:

- Transportation for the member(s) to and from the temporary lodging selected if the members are unable to transport themselves.
- Lodging at a local hostelry that has been pre-approved by the Mutual. Members may choose lodging with kitchen facilities or opt for a room without kitchen facilities, in which case the Mutual will pay each member an appropriate per diem for food.
- Rental of a carport space if the repairs to the building in which it is located prevent use of the assigned carport.

All other living expenses, including the monthly carrying charges, are the responsibility of the relocated member.

If the repairs and the consequent relocation of members are caused by a "sudden and accidental" occurrence, temporary loss of use costs may be covered by homeowners' insurance. The Mutual's Risk Manager will, in conjunction with the Mutual's insurance carrier, make this determination on a case-by-case basis.

### 1.5 Delinquent Assessment Policy

Assessments are due on the first day of each month. The Mutual only mails statements to accounts that are delinquent. Statements are not mailed to accounts that are current or that have a credit balance.

All regular and special assessments become delinquent at 5:00 p.m. on the 15<sup>th</sup>

## 1.0 MEMBERSHIP

day of the month and will be subject to a late charge of \$25. Commencing 30 days after the assessment becomes due, interest on delinquent assessments shall accrue at an annual interest rate of 12%. If the Davis-Stirling Act is amended to permit a higher rate the Board may increase the rate. In no event shall the rate exceed the amount permitted by law or the Mutual's governing documents.

The \$25 delinquency fee will be imposed for the first month that an assessment is delinquent. Each month thereafter a charge of \$40 will be assessed. Beginning with the 7th month, and thereafter, the delinquency fee will be increased by \$30 per month for each month the account is delinquent. All payments received are credited to the oldest outstanding items first.

It is Mutual policy not to waive these fees. It is the Member's responsibility to allow ample time for drop off or mailing. Any assessment unpaid by a Member after 60 days will become a lien on the Member's share of stock until the amount is recovered from proceeds at the time of a resale or through the hearing process.

The Mutual accepts no responsibility for notices not received by the Member. Notices will be sent as required by law under termination proceedings. It is the Member's responsibility to be aware of and understand these procedures, and to pay all assessments on time.

Members and former Members are personally liable for the delinquent assessments that accrue during their membership. The Board may proceed against these individuals in any way available under the law to collect any and all delinquent amounts.

In the event a member has been delinquent for 90 days, the Foundation, as agent and upon instruction from the President or Secretary of the Mutual, will send a letter to the delinquent member stating that payment must be made within 10 days of the date of the letter or a hearing will be scheduled to consider termination of the membership because of a violation of the Occupancy Agreement.

## 2.0 SUBLETTING

1. Right to Sublease. A Member has a right to sublease their Unit, subject to the requirements and limitations of the Governing Documents and this Rental Policy.
2. Legacy Status. The date by which "legacy status" (formerly "grandfathering") is calculated shall be the date this Rental Policy was duly adopted by the Board (November 18, 2021). November 18, 2021 is the date when the rental cap (described in 3.A., below) is considered created. Preservation of the legacy status date means that any Member who entered into an Occupancy Agreement with the Mutual for exclusive use and occupancy of their Unit on or before the date of adoption of this Rental Policy shall be entitled to sublease without regard to the limitation on the number of authorized subleases ("rental cap").
3. Requirements to Sublease. The following requirements apply to all subleases at the Mutual:
  - A. Rental Restriction. The Mutual has a twenty-five percent (25%) rental cap (i.e., up to 347 Units of the total 1387 Units may be rented).
  - B. Written Sublease Required. Any sublease agreement for a Unit shall be in writing and shall also specifically provide that the sublease agreement is subject to the provisions of the Governing Documents and that failure of the tenant, members of tenant's household, invitees or guests to comply with the provisions of the Governing Documents shall constitute a breach of the terms of such sublease agreement.
  - C. Entire Unit. Except as permitted in Section 3.D., below, no less than the entire Unit may be subleased.
  - D. Roommates Permitted. Nothing in the Bylaws, Occupancy Agreement, or this Rental Policy shall be construed to prohibit roommates or other person(s) with whom Member maintains a common household.
  - E. No Sub-Subletting or Assignment of Subleases. There shall be no right of assignment or sub-subletting of any Unit.
  - F. Renter's Insurance. Members shall require their tenants to obtain a renter's policy (HO-4) in an amount of no less than \$100,000 per occurrence, and which insurance shall include the Mutual as an additional named insured, and which insurance shall include a waiver of subrogation provision as to the Mutual, its officers, directors, and agents. Upon request, Members shall provide to the Board a certificate of said policy.
4. Minimum Lease Term. No Unit shall be subleased for a period of less than thirty (30) days. This is because of the substantial administrative cost of maintaining sublease records

and the sublease waiting list; and excessive wear and tear and damage to the Common Area caused by frequent move-ins and move-outs. By way of example only, sublease for a weekend or a week is strictly prohibited.

5. Member Liable for Violations of Governing Documents by a Tenant. A Member shall be liable for any violation or infraction of the Governing Documents by their tenant, members of tenant's household, invitees or guests.
6. Repair Damage. Members shall promptly reimburse the Mutual for the costs to repair any damage to the Common Area or Mutual property which is caused by the Member's tenants or by the tenants' family members, guests, invitees, or pets.
7. Responding to Occupancy Inquiries. In order to keep accurate records of Member occupancy in the Mutual and enforce any sublease restrictions in the Governing Documents, Members must promptly respond to inquiries from the Mutual regarding occupancy of their Units, including provision of contact information. The Board may levy a fine of up to \$100 for failure to respond to such an inquiry by the deadline established by the Board.
8. Enforcement.
  - A. Fines. Fines may be levied for violations of this Rental Policy. The notice and hearing requirements set forth in the Governing Documents shall apply. Violations of this Rental Policy for which fines may be levied include, but are not limited to, the following: (i) failing to maintain a written sublease agreement; (ii) subletting a Unit for a period of less than thirty (30) days, which must be pre-approved by the Board); (iii) failure to respond to an inquiry regarding occupancy by the deadline set forth in Section 7, above; (iv) subletting a Unit for transient or hotel purposes through Airbnb, VRBO, or other similar websites or entities; (v) subletting a Unit in connection with a time-sharing agreement; or (vi) violating any other provision of the Governing Documents.
  - B. Other Remedies. In addition to the imposition of fines, the Mutual may seek other remedies against violators of this Rental Policy, including requesting mediation or other forms of ADR, and filing a lawsuit in superior court, seeking an injunction, money damages, or any other remedies allowed under law.
  - C. Attorneys' Fees and Costs. Members who violate this Rental Policy are liable to the Mutual for all costs and attorneys' fees incurred by the Mutual as a result of any such violations. Any such attorneys' fees and costs incurred can be made the subject of a Reimbursement Assessment which shall be enforceable and collectible pursuant to Section 14.5 of the Bylaws. Additionally, the prevailing party in any legal action to enforce this Rental Policy shall be entitled to their reasonable attorneys' fees and costs.

9. Schedule of Fines. In addition to any other schedule of fines set forth in the Policies, violations of this Rental Policy are subject to the following schedule of fines:

- Violations of Rental Policy:
  - An amount per day equal to the highest daily rental amount set forth in the sublease for each day a Member subleases their Unit if the term is less than thirty (30) days (or Board pre-approval is not obtained sublease).
  - An amount equal to the highest daily rental amount set forth in the sublease for failure to deliver a written sublease agreement with the Board as required by this Rental Policy.
  - An amount equal to the highest daily rental amount set forth in the sublease for each day a Member subleases their Unit if the sublease is in violation of the Mutual's rental cap of 25% of all Units.

## **3.0 REPAIR AND REPLACEMENT**

### **3.1 Building Movement**

All buildings are subject to a normal amount of expansion and retraction due to weather changes and the passage of time. This movement may cause cabinet doors to stick, closet doors to malfunction and walls to be less than plumb. This type of damage is considered normal wear and tear, and the Mutual is not responsible for its repair or maintenance.

Significant vertical or lateral building movement caused by foundation failure, ground movement or other similar extraordinary events, may cause damage that the Mutual would be responsible to repair. The Mutual will determine this on a case-by-case basis.

### **3.2 Air Conditioning**

Replacement of water-cooled air conditioning units is determined on an individual basis by Mutual Operations staff. If possible, the original unit shall be reconstructed rather than installing an air-cooled replacement. Roof placement is not approved.

The Mutual will bear the cost of maintaining, repairing or replacing all Mutual-owned air conditioner units.

### **3.3 Radiant Heat Ceilings or Panels**

Original radiant heat ceilings or panels are considered to be a furnace. Repairs and replacement not related to Member neglect shall be at the expense of the Mutual. When a radiant ceiling heating system fails, the Mutual may repair it or replace it with a suitable system.

### **3.4 Appliances**

The Mutual will participate in the cost of replacement of appliances installed in manors and for which it has responsibility as follows:

#### Standard Model

If the appliance becomes inoperative in normal use, regardless of its age, and cannot be repaired for less than one-third (1/3) of its replacement cost, it will be replaced with a currently standard model secured by the Mutual at no cost to the Member.

### **3.0 REPAIR AND REPLACEMENT**

#### Non-Standard Model

If a non-standard model becomes inoperative, it will be replaced with a currently standard model secured by the Mutual at no cost to the Member. Any modification of the cabinetry to accommodate the standard model is the responsibility of the Member.

If a non-standard model becomes inoperative, and the Member requests a non-standard replacement, the Mutual will allow a credit equal to the cost of a standard model. The balance of the cost of the appliance and any installation costs or modification of cabinetry are the responsibility of the Member.

A non-standard component on a standard appliance is not maintained or repaired by the Mutual. The Member is responsible for such maintenance.

Residents have the option of either a glass or wire shelf for refrigerators.

The Mutual assumes responsibility for cleaning freezer drainpipes in refrigerators.

The new appliance will be considered Mutual property. The old appliance becomes the property of the Member and may be disposed of as he/she chooses. If MOD is asked to dispose of the appliance, the Member will pay the cost of disposal.

#### **3.5 Smoke Detectors**

Manors will have operable smoke detectors in accordance with the building code requirements in effect when the unit was built, repaired, or altered. Smoke detectors will be inspected annually at the time of the manor lube program. The battery will be replaced at Mutual expense at that time. Between annual preventive maintenance inspections, if it is necessary to replace the battery, the Mutual will pay replacement costs.

Smoke detectors must be functional in the manor at the time of resale. If a smoke detector has been removed by the Member or the Member's contractor, or is not functional for reasons other than a worn out battery, the Member is responsible for its repair or replacement.

## 4.0 ALTERATIONS

Virtually every change in the common area and the exclusive use common area is subject to approval by the Design and Review Committee of the Mutual. The Member can obtain general information about alterations, fee schedules for permits, and a list of contractors from Mutual Operations (988-7600).

All rules for alterations apply to the Member. The Member may be a long-time member, a new buyer, an owner/speculator, or a contractor/speculator. All responsibility resides with the Member and such responsibility passes to the new Member at the time of sale. The alteration is recorded in perpetuity for the Mutual by MOD staff.

### 4.1 Procedure for Proposed Alterations in Common Areas

- (a) Call Mutual Operations at 988-7600 and tell the receptionist what you wish to do. She will provide the application permit forms, information, and discuss the approach to the project. Remember to ask for any supplemental information that is available.
- (b) Submit a preliminary drawing or sketch showing the proposed alteration for either structures or private gardens with the application you have filled out.
- (c) Show the proposal to all Members (neighbors) who may be affected and obtain their written consent. If any objection is received, the application will be denied pending an appeal to the Board.
- (d) If no objection is received, develop detailed construction drawings and specifications by a licensed contractor, architect, or engineer (and a City permit, if required). Contract must provide Contractor's name, address, and phone number. State both beginning and completion dates of the alteration. The permit will expire within six months of the date of issuance.
- (e) Submit your package of the above items to the Mutual Operations receptionist who will create the Alteration Application for review and approval (or rejection) by the Design and Review Committee. The Member may need to revise and resubmit plans as requested by the Committee.
- (f) If the Alteration Application is approved, an Alteration Permit and executed Alteration Application will be issued noting any conditions as set forth.
- (g) The Member may then proceed with the work according to the terms and conditions on the Application.

## 4.0 ALTERATIONS

### 4.2 Work Site Rules

The following rules apply to contractors, member contractors and other service providers employed by residents. Contractors must be made aware of these rules prior to submitting an estimate for work proposed.

- (a) Contractors or service providers must not park vehicles in guest parking spaces.
- (b) Normal work hours are 8:00 to 4:30 Monday through Friday. Material storage can only be on that area directly contiguous to working site. All waste must be hauled out of Rossmoor; none may be deposited in Mutual trash enclosure bins or MOD dumpsters on Rockview Drive. Walkways and stairways must be kept clear. Common areas shall be swept clean each evening.
- (c) Building utilities may not be interrupted without advising affected residents two hours in advance.
- (d) During construction, it is the Member's responsibility to take care not to impose on neighbors. Work must be completed on or prior to the stated date of completion. Violations will result in a fine levied on the Member. Fines are calculated on a sliding scale relative to job size in dollars whether in relation to the length of time or the degree of aggravation to neighbors. The Mutual Board will levy fines.

### 4.3 Satellite Dishes and Cables

Any installation of satellite dishes or moving or changing cable wires must be done according to the approved SWCM Satellite Dish and Cable wiring specifications contained in the SWCM SATELLITE DISH AND CABLE RULES.

### 4.4 Solar Energy Systems.

Solar energy systems may be installed on common areas of Second Walnut Creek Mutual in accordance with this policy. Any such systems which are installed in violation of this policy shall be removed, and the surrounding areas and electrical connections shall be restored to their previous condition, at the owner's expense. This policy is intended to conform to Civil Code Section 714 and 714.1, which shall control in the event of conflict with the law.

## 4.0 ALTERATIONS

### PROCEDURES

Alteration permit procedures set forth in Second Walnut Creek Mutual Policies Section 4.0 shall be followed, with the following modifications:

1. The applicant shall notify each co-owner in the building where the installation is to take place and certify to the Design and Review Committee that the notice has been given. Any written comments by the co-owners shall be attached to the application. No application may be denied solely because of objections by the co-owners.
2. Design and Review Committee of Second Walnut Creek Mutual shall review the application for approval and may offer recommendations for reasonable restrictions on the installation within limits prescribed in Civil Code Section 714. The Committee may also impose reasonable conditions on the approval of the application.
3. The applicant shall provide satisfactory evidence of compliance with requirements of the City of Walnut Creek.
4. A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agency. A solar energy system for producing electricity shall meet all application standards established by the National Electric Code and, if applicable, any requirements of the state or county Public Utilities Commission or entity.

### COMPLIANCE WITH MANUFACTURER'S INSTALLATION INSTRUCTIONS

The applicant shall provide satisfactory evidence that the system is installed in a workmanlike manner, by a licensed and insurance installer, in accordance with the manufacturer's instructions.

### INDEMNITY AGREEMENT

The applicant shall execute and deliver an indemnification agreement in a form satisfactory to Second Walnut Creek Mutual which will, among other things, require that the applicant:

1. Procure and maintain liability insurance with a minimum limit of Two Hundred Fifty Thousand Dollars (\$250,000).

## 4.0 ALTERATIONS

2. Indemnify Second Walnut Creek Mutual and its officers, members and agents in the event of loss or damage caused by the installation, maintenance, or use of the solar energy system including, without limitation, loss of use of the common area by other owners of the cooperative.

### INSTALLER OBLIGATIONS

1. Upon sale or transfer of the unit, the buyer or transferee shall assume all of the applicant's obligations in writing as set forth in this policy or in any conditional approval issued by the Committee unless before sale or transfer, the applicant removes the solar energy system at the applicant's sole cost and expense.
2. The installer or successor owner of the system shall remove at his own expense the solar system and all components when necessary to enable Second Walnut Creek Mutual to perform any maintenance, repair or replacement to the building on which the solar system has been installed. Should the owner fail to remove the system when requested in writing by the Mutual, the Mutual can cause the system to be removed and the owner of the system will be responsible to reimburse the Mutual for all costs incurred. Any failure to either remove the system upon notice or reimburse the Mutual for any costs incurred in removal of the system provided for herein will constitute a breach of owner's Occupancy Agreement.

The documents SWCM ALTERATION RULES, SWCM PRIVATE GARDEN RULES, and SWCM SATELLITE DISH AND CABLE RULES contain detailed descriptions of other aspects of the policies and are available at the Board Office in the Gateway Complex or at Mutual Operations.

## 5.0 FLOORS

### 5.1 Flooring

If floor tile, linoleum or other surface cover damage has been caused by structural failure (except where an unapproved alteration is concerned), the Mutual is responsible for costs incurred to correct the problem. If separation or other damage is caused by ordinary wear and tear or negligence on the Member's part, the Member shall be responsible for costs incurred to correct the problem. If the extent of damage and responsibility is questionable, and the Member wishes to proceed with the repair, the Member should submit a written request to Mutual Operations indicating his/her agreement to accept responsibility for the cost of the repair. The Board should be notified of the request, the estimated cost of the work to be done, and an evaluation of the possible extent of the Mutual's responsibility. Upon approval by the Board, the work shall proceed.

When the floor covering material is removed, if a substantial crack or disintegration of the concrete or other base is revealed, Mutual Operations shall determine whether the evidence is sufficient to place responsibility for all or a portion of the cost on the Mutual or if the Member must pay the full cost.

In general, if floor tile must be replaced, sheet vinyl will be used. If caving is not necessary, it should be omitted unless the Member requests caving and is willing to pay the additional cost.

### 5.2 Slab Leaks

Members who have suffered a financial loss due to an excessively high energy bill caused by a hot water pipe leak in the slab of their manor must notify P.G.&E. who will determine the extent of the excessive energy costs. After this determination has been made and P.G.&E. has provided a reimbursement according to its policy, the Mutual will reimburse the excess amount not refunded.

### 5.3 Hard Surface Flooring

Resilient sheet vinyl, LVT (luxury vinyl tile) and carpet are the only floor covering surfaces allowed in second floor manors. An alteration permit must be obtained to install sheet vinyl or LVT, which must be confined to the kitchen, bathroom and entry/hall. Sheet vinyl and LVT shall not be installed in the living room, dining room or bedrooms. If the manufacturer of the LVT offers additional noise control material or backing for use with the proposed flooring it must also be installed.

## 5.0 FLOORS

Except as provided in this paragraph, laminate, ceramic tile, hardwood, marble and other hard surface flooring are not allowed in second floor manors. An alteration permit may be granted, in the Mutual's discretion, allowing installation of other hard surface flooring in the kitchen, entry/hallway and bathroom of second floor manors, but only if the applicant establishes, to the satisfaction of the Mutual, that (a) the proposed flooring has a satisfactory IIC rating and (b) the impact resistance, slip resistance and general suitability of the proposed flooring is satisfactory.

Hard surface flooring may be installed in first floor manors and two story townhouse models provided the Member obtains an alteration permit and executes a Second Walnut Creek Mutual liability release form.

Manors that had hard surface coverings approved and installed prior to December 1, 2003, or for which a permit was approved prior to December 1, 2003, will be considered approved alterations. The member shall remove such covering prior to close of escrow of any transfer of ownership occurring after October 1, 2017. If an existing approved hard surface floor is damaged because of a Mutual component failure, Second Walnut Creek Mutual will reimburse the member the material cost and labor of a standard sheet vinyl (resilient sheet linoleum) or standard carpet installation, or shall install the same for an approved alteration. In no case shall hard surface flooring be reinstalled in a second story manor.

If flooring that does not conform to this Policy has been installed, the Mutual may require the Member to remove it at the time of discovery or at the time of resale, in either event at the Member's expense.

## 6.0 CARPORTS AND PARKING

### 6.1 Carports

Carport spaces are intended for passenger cars or golf carts. A truck that does not exceed the size of a passenger car and is used only for transportation may be parked in such a space. A gasoline-powered vehicle parked in a carport space that is under a manor must not extend beyond the ceiling portion that has been lined with fire-retardant material.

Any proposed exchange of carport spaces between residents must be requested in writing and approved by the Board. After Board approval, the exchange will become permanent and the official records will be changed.

If prior Board approval is obtained, Members may rent their carports, but only to other Rossmoor resident(s).

Open carports may not be used as storage areas or workshops. No storage of any kind is permitted. No posters, art, wall decorations or hanging items are permitted. An auxiliary storage cabinet, approved by the Board under an Alteration Agreement, may be placed in a carport stall as long as it does not prevent the vehicle from pulling all the way into the space. Auxiliary cabinets already in place may be removed at the Board's request.

No flammable material may be stored in a carport area. Storage cabinets and closets must not include any liquid flammable material.

No back-in parking is allowed. Residents are responsible for any and all damage to structures done by their vehicles.

No unreasonable noisy vehicles and no vehicles (including, without limitation, scooters, motorcycles, or other motorized devices) emitting foul smelling or offensive exhaust fumes shall be operated within the Mutual.

No dilapidated, inoperable or abandoned vehicles, nor vehicles not displaying current registration tags, shall be parked, kept, or permitted to remain upon any area within the Mutual.

No maintenance, or repairs of any kind, may be made to vehicles within the Mutual except such emergency repairs as are necessary to remove the vehicle from the Mutual.

Only metal drip pans may be used under vehicles. Any vehicle leaking fluids must be repaired and carport floor cleaned. It is the responsibility of each resident to keep his/her carport swept clean of debris. If the carport floor is not

## **6.0 CARPORTS AND PARKING**

cleaned of oil and other fluids, it will be cleaned and, if necessary, repaired at the expense of the owner.

No vehicle can be left unattended with the motor running.

If a battery charger is used to recharge a golf cart, it must be placed on a secure, non-flammable surface at least one foot from other facilities. A charger must be equipped with an overload fuse or circuit breaker.

Extension cords must be Underwriters Laboratories (UL) approved and meet the specifications of the manufacturer of the equipment on which it is used.

### **6.2 Parking**

Entry residents must not park in guest spaces. Residents may park only one vehicle per manor in the appropriate parking space (carport) in their entry. A resident with two or more vehicles may not use the guest parking spaces for the extra vehicle(s). Curbside parking not painted red, unless otherwise marked, may be used by guests or residents. No vehicle may be parked for more than 72 hours.

Trailers, campers, boats, trucks and similar vehicles may not be parked in residential areas. A recreational vehicle may be parked temporarily in a residential area while being prepared for travel. This is limited to 12 hours prior to leaving and 12 hours after returning to the community.

### **6.3 Guest parking**

Guest parking spaces are for guests only and may not be used by contractors, entry residents, or residents' employees. They may not be used for vehicle storage.

### **6.4 Violations**

Vehicles in violation will be cited. Public Safety issues a notice of parking violation when a patrolling officer identifies a violation during scheduled patrols, or as the result of a complaint from another resident and verified by a patrolling officer.

After 72 hours following the first citation, the patrolling officer will perform a follow up check. After two additional citations, Public Safety will notify the President or First Vice President of the violation. This notification shall be sent within three (3) working days from the time the third notice of violation has been issued.

## 6.0 CARPORTS AND PARKING

Within five (5) working days from receipt of notification from Public Safety of a violation, the President or 1<sup>st</sup> Vice President shall address a letter to the Member requesting immediate compliance and a written response within five (5) working days. Continued violations will result in the vehicle being towed at vehicle owner's expense.

### 6.5. ELECTRIC VEHICLE CHARGING STATIONS

- (a) This Electric Vehicle Charging Station Policy is intended to comply with Civil Code section 4745 which reflects the State of California's policy of encouraging the use of Electric Vehicle Charging Stations (EVCS).
- (b) It is the policy of Second Walnut Creek Mutual (the "Mutual") to comply with Civil Code section 4745 by approving, whenever reasonably possible, applications for the installation of EVCS and electric wiring and related components necessary to provide electricity sufficient to power approved EVCS installed in (i) assigned Exclusive Use Common Area parking spaces, or (ii) Common Area parking spaces (i.e., guest parking spaces). Such installation would provide "hard wire" connections to EVCS as opposed to providing for plug outlets to supply power to portable charging devices.

#### 6.5.1 REQUIREMENTS

- (a) Any member of the Mutual who proposes to install an EVCS ("Applicant") shall submit an Alteration Application, follow the procedures and comply with the requirements set forth in Section 4.0 of the Mutual's Policies (entitled "Alterations") for physical modifications to the property, comply with the requirements for architectural approval set forth in Article 2 of the Declaration (entitled "Architectural Control"), and procure an Alteration Permit and any required governmental approvals prior to installation of the EVCS.
- (b) The following are the submittals that must accompany the Alteration Application for installation of an EVCS:
  - i. Fully filled out and executed Alteration Application;
  - ii. Plans and specifications clearly indicating where the EVCS is to be located, the brand or manufacturer, technical specifications, and dimensions (i.e., height, width, weight, etc.) as well as structural requirements;

## 6.0 CARPORTS AND PARKING

- iii. An agreement satisfactory to Mutual that the Applicant will procure a homeowner liability insurance policy providing \$1 million in coverage and will provide satisfactory evidence to the Mutual, within fourteen (14) days of the Mutual's approval of the EVCS, that the Mutual has in fact been named as an additional insured under the Applicant's homeowner liability insurance policy providing \$1 million in coverage with a right of notice of cancellation; and
  - iv. A fully executed EVCS Installation and Maintenance Agreement in the form approved by the Board from time to time.
- (c) Alteration Applications which include all specified submittals shall be responded to within 60 days of a valid submission.
  - (d) Within fourteen (14) days of approval by Mutual of Applicant's request for permission to install the EVCS and before commencement of installation, the Applicant shall provide the Mutual with satisfactory evidence that the Mutual has been named as an additional insured under the Applicant's \$1 million homeowner insurance liability policy with a right of notice of cancellation.
  - (e) The installation shall be performed by a qualified, licensed and insured contractor meeting all the requirements set forth in the Alteration Permit and otherwise imposed by the Mutual.
  - (f) **No electric or hybrid automobile or truck may be plugged into any unmodified electrical outlet in Common Area, Exclusive Use Common Area or other Mutual outlet.**
  - (g) Applicant shall be responsible for the installation of separate subpanel or electrical circuit to accommodate the EVCS that meets the requirements established by the state and local laws and the electric automobile manufacturer. Upon acceptance by the Mutual after completion, the subpanel and electrical circuit shall become the property of the Mutual. The Mutual may require an Applicant to share a subpanel or electrical circuit that was installed by another owner to accommodate such owner's electric automobile.
  - (h) Applicant shall install a separate meter to accommodate the EVCS. The meter (if any) and its installation shall satisfy all applicable requirements, including but not limited to those of PG&E, the City of Walnut Creek and other governmental authorities. The account established for this meter shall be listed in the Applicant's name and all charges related to it shall be directly billed to the Applicant by PG&E.

## 6.0 CARPORTS AND PARKING

- (i) Extension cords from the Carport, Manor, Exclusive Use Common Area or Common Area electrical outlet to the EVCS are strictly prohibited.
- (j) Applicant shall comply with all applicable governmental laws and regulations and procure all required City of Walnut Creek and governmental permits and authorizations before installing the EVCS. The EVCS shall satisfy all applicable governmental and industry safety standards, and local permitting requirements.
- (k) The EVCS shall be installed in a location acceptable to the Mutual. If visible from the Common Area or other Exclusive Use Common Area, the EVCS must conform to the surrounding structures and environment in design, size, and appearance. Visually the installation shall appear neat and attractive, without exposed wiring or visible damage to surrounding improvements.
- (l) The Applicant and each successive owner of the EVCS shall pay for all electricity usage and other charges associated with the EVCS and the electric meter installed to provide power to it.
- (m) The Applicant and each successive owner of the EVCS shall be responsible for:
  - a. all costs for damage to the EVCS, Common Area, Exclusive Use Common Area or Manor resulting from the installation, maintenance, repair, removal, replacement or existence of the EVCS;
  - b. all costs for the installation, operation, maintenance, repair and replacement of the EVCS and all additions or modifications to existing Mutual electrical components until the EVCS has been removed and for the restoration of the Common Area, Exclusive Use Common Area or Manor after the removal;
  - c. disclosing to prospective buyers the existence of the EVCS and the related responsibilities that said buyer will assume, including:
    - i. maintenance at all times of a homeowner liability insurance policy providing \$1 million in coverage which also names the Mutual as an additional insured under the policy with a right to notice of cancellation;

## **6.0 CARPORTS AND PARKING**

- ii. the obligation to pay for the electricity usage associated with the EVCS;
  - iii. the obligation to pay all costs for damage to the EVCS, Common Area, Exclusive Use Common Area or Manor resulting from the installation, maintenance, repair, removal, replacement or existence of the EVCS;
  - iv. the obligation to pay the cost of the maintenance, repair and replacement of the EVCS until it has been removed and for the restoration of the Common Area, Exclusive Use Common Area and/or Manors after the removal; and
  - v. the obligation to disclose to prospective buyers the existence of the EVCS and the related responsibilities of the Applicant pursuant to Civil Code section 4745.
- (n) Nothing in this Policy shall modify, release or otherwise discharge any rights of the Mutual or obligations of its members, including Applicant, imposed pursuant to the Mutual's Governing Documents and applicable law.
  - (o) The prevailing party in any dispute arising out of the interpretation, violation or enforcement of the provisions of this EVCS Policy or documents created as called for herein shall be awarded their reasonable attorneys' fees and costs.

### **6.6 USE OF MUTUAL'S ELECTRICITY**

#### **6.6.1 GENERALLY PROHIBITED**

Except as permitted in this Policy 6.6, or by the Board of Directors, Members and others may not use electric outlets in the carports, golf-ports or common area or otherwise use electricity purchased by the Mutual for any purpose, including but not limited to charging of electric vehicles of any sort.

#### **6.6.2 CHARGING VEHICLES (golf carts or electric cars)**

A Designated Occupant (hereafter "Member") may apply for permission to use Mutual electricity for Type 1 electric car charging (120 VAC) at a maximum of 8 Amps at 120 VAC or for golf cart charging, which the Mutual Board may grant if the Member complies with subsections (a) - (g) below and if safety and other concerns are satisfied.

## **6.0 CARPORTS AND PARKING**

- (a) the Member must arrange with MOD to review the wall plug to be used and to replace it as necessary to comply with Mutual standards.
- (b) any car using electricity for Type 1 electric car charging shall have a maximum current draw of 8 AMPS at 120 VAC. This is the maximum current draw for a car on a single 15 Amp circuit in any SWCM Carport.
- (c) The owners of vehicles wishing to charge in any one carport must (i) coordinate with each other to only charge one vehicle at a time and (ii) avoid tripping the circuit.
- (d) External "trickle charging" of starter batteries for internal combustion vehicles is not allowed.
- (e) Member must sign the standard form agreement
- (f) As consideration for the electricity used, Member must timely pay the amounts determined from time to time by the Board.

### **6.6.3 OCCASIONAL USE FOR SMALL TOOLS, VACUUMS ETC. PERMITTED**

Members occasionally may use electric outlets in their carports and golf-ports to power small tools and vacuums.

## **7.0 GOLF-CARTS**

### **7.1 Golf-Ports**

Golf-ports are the vacant common areas under cover at the ends of some Mutual buildings that are large enough to provide parking for golf carts. To provide for golf cart parking, these golf-port spaces may have to be altered by the Mutual by installing an electric outlet, fire-retardant materials, or by making some other improvements. No vehicles other than golf carts or other small vehicles may be parked in golf-port storage areas.

The Mutual charges for the use of the golf-port area and the tenant pays the Mutual.

The document entitled SWCM AGREEMENT TO USE GOLF-PORT PARKING SPACE describes the rules, regulations, and charges regarding obtaining and keeping a golf-port. The document is available at the Mutual Operations Division (MOD) office.

A Member, Designated Occupant, Co-Occupant who has entered into an Agreement to Use Golf Port Parking Space shall comply with the terms of the Agreement and a failure to do so shall be a violation of these Policies and a breach of the related Occupancy Agreement. The restrictions set forth in Policy 6.1 also shall apply to Golf Ports.

### **7.2 Use of Golf Carts in the Mutual**

No person shall operate, drive, park, permit, authorize or store a golf cart within the boundaries of the Mutual that is not registered with Securitas or that does not display the decal evidencing such registration. Carts shall not be parked on sidewalks or other pedestrian walkways.

## **8.0 LANDSCAPE, GARDENS, TREES, AND PESTS**

### **8.1 Landscaping Common Areas**

Residents are not permitted to prune shrubs, remove plants or trees, or perform any other landscape maintenance activity in common areas. Only SWCM's designated landscaping contractor shall do such work. Residents are not permitted to water these common areas, but should call the office of MOD if there is a problem with the sprinkler system for common area lawns and/or shrubs.

### **8.2 Patio Gardens**

A patio garden is an area within closed garden/terrace/court/atrium areas directly associated with the following manor models: Carmel, Golden Gate, Mendocino, San Franciscan and Yosemite. No action by the resident is permitted that would adversely affect waterlines, drainage, erosion or the manor structure. Plants that the Landscape Department determines to have undesirable or invasive growth habits will not be approved for use in patio gardens. All trees or large shrubs must be planted in containers 24 inches or less in diameter/size and may not exceed 12 feet in height at maturity. Ivy and all other climbing plants must be controlled/pruned so that it/they do not climb fences and/or buildings. Overgrown shrubs or trees that have become invasive will be pruned or removed by SWCM at the resident's expense.

### **8.3 Private Gardens**

The document entitled PRIVATE GARDEN RULES describes the procedure for obtaining permission to install a private garden and contains a Private Garden Permit Application. The document is available at the Board Office in the Gateway Complex or at MOD.

### **8.4 Watering and Containers**

No plant containers are allowed to rest on or hang from balcony railings. Care must be taken that water is used wisely in all its aspects. Containers/pots for any and all private plantings shall be restricted to 24 inches in maximum diameter/size. This is to include containers/pots placed by residents on verandas, balconies, porches, terraces, courts, atria or any other areas approved for resident use around manors and must be in basins, which will catch any water overflow. Leakage from plants in containers may result in the homeowner being held financially responsible for cleaning or repairing damaged surfaces. Resident is responsible for any damage occurring to property caused by plantings and/or watering of any type. All hoses related to Patio Gardens or Private Gardens must be equipped with a trigger type nozzle and turned off at the hose bib when not in use.

## 8.0 LANDSCAPE, GARDENS, TREES, AND PESTS

### 8.5 Special Landscape Requests

A resident or group of residents may improve the landscaped area around their building without a private garden permit by working with the Landscape Maintenance Department to develop plans consistent with other landscaping in the area. The residents may pay for improving or enhancing the landscape with additional plantings or by changing planting to a more desirable selection. In such cases, the residents working through the Landscape Maintenance Department would develop acceptable plans. The residents would sign a work order as being responsible for the costs. After the plantings are completed, SWCM's landscape contractor would handle maintenance.

### 8.6 Trees

It is recognized by the Board that trees and their removal can evoke strong emotions in Members and that their concerns should be given careful consideration. If a tree presents a hazard or is diseased, an effort should be made by landscape maintenance staff to advise the Members in the immediate area of the need for its removal. If staff determines that a tree is a hazard to persons or property or is diseased, and the tree does not exceed 9 inches in diameter or 28 inches in circumference measured 4.5 feet off the ground, it may be removed at the discretion of the Board. If the tree presents an immediate hazard and/or exceeds the limits set forth above, upon recommendation of staff, its removal may be approved by the President or the Board Director responsible for landscape matters at Mutual expense, unless the tree was planted by a Member, in which case the removal will be charged to the Member. If a permit is required, staff will pursue it.

A tree of a size under the above measurements may be removed if it prevents sufficient light reaching the interior of a manor as determined by staff, if the Member desires its removal, and the other Members in the immediate area have no objection. If there is not agreement among the involved Members, removal will be a matter for Board decision. The cost of such removal is a Mutual expense, unless the tree was planted by a Member, in which case removal will be charged to the Member.

A tree of a size under the above measurement may be removed if a Member requests it for view enhancement or other reasons acceptable to staff, and other Members in the area have no objection. If there is not agreement among the involved Members, removal will be a matter for Board decision. The cost of such removal is a Member(s) expense.

When a tree is removed, the stump and roots are to be removed also, unless such stump and roots contribute to the stability of a slope. The cost of removal of

## **8.0 LANDSCAPE, GARDENS, TREES, AND PESTS**

the stump and roots will be at Mutual expense, unless the tree removal is a Member(s) expense, in which case the Member(s) must bear the total cost.

### **8.7 Pest and Insect Control**

Mutual Operations endeavors to control pests on the exterior and the interior of a manor at no cost to the Member. Cost for control of infestations that affect the interior of more than a single manor is the responsibility of the Mutual, unless it can be determined that said infestation was caused by the negligence of a Member of that building, in which case that Member is responsible for the entire cost.

It will be the Mutual's responsibility to do what is necessary to enclose or remove the trim around the top of concrete columns where birds can perch and/or nest. After the work has been completed, all dirt and debris around the columns should be removed and cleaned.

In carports and other places around buildings where birds are a problem, it will be the responsibility of the Mutual to take corrective action.

### **8.8 Water Conservation**

No one, other than Mutual employees and contractors, is allowed to water common area landscaping, including lawns, trees and shrubs. Residents may water permitted private gardens using a hose equipped with a trigger nozzle.

No one may use hoses in exclusive use common areas other than patios.

("Exclusive use common area" is defined in the "Preamble and Nomenclature" section of these Policies and includes balconies, decks, carports and patios.) Container plants in those areas, other than patios, must be watered using watering cans or other means not involving hoses or tubes connected to the Mutual's water supply and must be placed in drip trays (saucers) to catch overflow.

No one shall hose down: (a) common area walkways, driveways or other hard surfaces; or (b) exclusive use common areas. However, occasional use of a hose with a trigger nozzle to remove feces or other objectionable matter from hard surfaces is permitted. Also, Residents may wash vehicles in common areas but are encouraged to use a commercial car wash facility whenever feasible.

Residents must use all feasible means to limit the amount of water used in such activities. Hoses must be equipped with trigger nozzles.

## **9.0 LAUNDRY, LIGHTING, WHEELCHAIR RAMPS**

### **9.1 Laundry Rooms**

Washers and dryers in a laundry room are for the exclusive use of residents within the original Project where the laundry is located. Employees of the Foundation or contractors of a Member may not use these facilities to wash or dry their personal articles.

Smoking is not permitted in the laundry rooms.

Rubber, plastic materials, garments with metal fasteners or buckles shall not be placed in the dryers.

### **9.2 Outside Lighting**

Mushroom (pole), pagoda (ground, rectangular), globe (wall), or other forms of light fixtures should be visible one from another without obstruction. Main street lights may or may not complement Mutual lighting. The Mutual's lamps shall be regarded as visual guides between sources, with Mutual common walkways clear of obstruction. If overgrowth of the landscaping obstructs a light, its visibility should be restored by pruning or removal of plant growth at Mutual expense. Added flood lighting should be minimal, if any; such an installed alteration should not adversely illuminate living quarters, and may be billable to the requesting Member(s).

### **9.3 Wheelchair Ramps**

One wheelchair ramp at each entry shall be provided at Mutual expense as need can be proven. A second wheelchair ramp can be provided at the Member's expense if approved by the Board.

## **10.0 USE RESTRICTIONS**

### **10.1 Personal Property**

A resident's personal property may not be stored in manor entryways (except for decorative purposes), nor within "crawl spaces," attics or basements.

### **10.2 Noise**

Living in apartment buildings presents special noise problems, since we share walls, floors, ceilings, and plumbing. It is necessary that we remain considerate of our neighbors.

At all times, noise should be kept at a level that will not unreasonably interfere with or discomfort our neighbors. This noise may come from many sources, such as stereos, television, musical instruments, or animals.

In particular, between 10:00 p.m. and 7:00a.m., extra care should be taken to be quiet. This means that washers, dryers, vacuum cleaners, and especially televisions and stereos, should either not be used at all or used only at such a low noise level as not to unreasonably inconvenience any neighbor.

Should noise be a problem, the first step should be to contact your neighbor and try to reach an accommodation with each other.

Use of air conditioners outside residents' units in the summer, at night, can be an annoyance to your neighbors. Please be considerate. It is understood that there may be a few instances during summer months when residents in the general population will be running air conditioners after 10:00 p.m.

### **10.3 Barbecues**

Only electric and propane-fired barbecues are permitted. Barbecues must be used and maintained safely and must not be a nuisance to other residents.

## **11.0 PETS AND WILDLIFE**

### **11.1 Pets**

No animals shall be kept, bred, or raised in the Mutual for any commercial purposes. Except for domestic dogs, cats, birds, fish, and common domestic caged pets in numbers not to exceed those permitted by local ordinance, no animals shall be kept in any unit or elsewhere in the Mutual.

The owner of each pet shall be responsible for immediately removing and disposing of any waste introduced to any portion of the Mutual by such pet. Each Member, resident, and any person bringing or keeping an animal within the Mutual shall be absolutely liable to the Mutual and all other persons for any injury or damage to persons or property caused by the animal brought upon or kept upon the Mutual by such person or by members of his/her family, tenants, guests, or invitees. The owner shall indemnify the Mutual and its officers, directors, and agents against any and all claims, damages, losses, demands, liabilities, and expenses, including but not limited to attorney's fees, arising out of or resulting from the presence or conduct of any animal brought upon or kept within the Mutual by the Member, members of his/her family, guests, tenants, or invitees.

The Mutual shall have the right to prohibit the keeping of any animal that constitutes, in the sole and exclusive opinion of the Board, a nuisance or danger to any other person.

No pets may be kept in the Mutual that become a nuisance. Pets that are determined by the Board to be noisy or obnoxious are subject to removal from the Mutual.

When the pets are outside the manor, they must be on a leash at all times.

### **11.2 Feeding Wildlife**

Bird seed feeders and/or scattering of bird seed, or feeding all other wild, feral or domesticated animals outside is not permitted because it attracts rodents. If bird feeders are discovered, the owner will be required to remove the feed and feeder immediately upon notification, or the Mutual will remove them if the Member is not available.

### **11.3 Bird Baths**

Birdbaths are not allowed because standing water provides a place for mosquitoes to breed, and West Nile disease, spread by mosquitoes, is a present danger.

## 12.0 RULES AND REGULATIONS

### 12.1 Noncompliance with Policies or Regulations

Failure of a Member to comply with policies or regulations established by the Board shall subject the Member to the penalty procedures set forth in the Bylaws, unless otherwise provided for in the "*California Corporations Code*."

Members shall notify any contractors under their supervision that any violation of Mutual rules regarding contractors could result in the offending contractor being barred from working in Second Walnut Creek Mutual. The Second Walnut Creek Mutual Board will decide each instance, and the contractor will be notified. If the contractor should be found in violation, no permit involving that contractor shall be approved for Second Walnut Creek Mutual.

### 12.2 Enforcing Rules and Regulations

Within five (5) working days from receipt of notification of a violation, the President or 1st Vice President shall address a letter to the Member advising him/her of the nature and extent of the infraction, requesting immediate compliance and a written response within five (5) working days so that he/she will not be found in default of the Occupancy Agreement. If a satisfactory written response is not received within the specified period, or the Member refuses to comply, action shall be taken by the Board in accordance with the provisions set forth in the *Bylaws*. The Board, in its discretion, shall determine what constitutes a satisfactory response.

## **13.0 COMPLAINTS BETWEEN MEMBERS**

### **13.1 Complaints**

Complaints about Member or resident conduct of a **critical** nature made to a staff member of the Foundation or to a Director of the Mutual Board, should be referred immediately to the Manager of Public Safety or a Member of his/her staff who will respond and, if necessary, contact other personnel of the Foundation, the Walnut Creek Police Department, or other public agencies for assistance.

If the complaint is not of a critical nature, the complainant should be asked to make a verbal report to Public Safety. If the complaint has substance, Public Safety will investigate and, if necessary, contact other personnel of the Foundation, the Mutual, the Walnut Creek Police Department, or other public agencies for assistance.

Before action on a complaint is taken, the Board shall conduct a hearing in closed session at which the complainant(s) and the accused shall be asked to testify in person or in writing. The accused shall be informed of the complaint in advance, with enough time to prepare a response that may be delivered in person or in writing. All parties shall be notified that counsel may represent them, and that the accused has the right to confront witnesses. If the complainant refuses to testify in person or in writing, action shall be taken only if the safety of residents or the Mutual's property is threatened. If the accused or his/her counsel does not appear at the hearing or respond in writing, the hearing shall proceed.

### **13.2 Options for Action**

Options for action shall include:

A declaration may be made that a Member is found to be in violation of the Occupancy Agreement, with subsequent appropriate action as provided.

A fine of up to \$100 may be levied against the accused if evidence establishes willful misconduct. If after a fine is levied, there is clear and positive evidence of a repetition of the willful misconduct, the Board shall proceed as provided above, giving to the Member the notice and hearing required by the Bylaws of the Mutual.

## **14.0 MANAGEMENT AGREEMENT AND COMMUNICATION**

### **14.1 Management Agreement**

The management and physical operation of the Mutual's affairs is provided for under the Management Agreement with the Golden Rain Foundation (Foundation). Responsibility for such activities has been delegated by the Mutual to the Director of Mutual Operations who in turn may delegate his/her authority to designated department managers.

The Board recognizes that the Management Agreement with the Foundation directly affects all Members in the Mutual. If a situation should develop that could lead to abrogation or non-renewal of the Agreement, an opportunity prior to action will be provided for the Members to express their feelings in this regard.

### **14.2 Submission of Items for Board Action**

Items to be considered by the Board at a regular meeting should be submitted in writing on the Residents' Forum form available at the meeting and handed to the President prior to commencement of the meeting. For an emergency situation that occurs between meetings and that requires action by the Board, a telephone poll may be taken. Agreement by at least three (3) Board members is required. Such action shall be ratified at the next regular meeting of the Board.

### **14.3 Availability of Minutes**

In accordance with California Civil Code Section 1363, the minutes, a draft of the minutes, or a summary of the minutes of any meeting of the Mutual's Board of Directors, other than meetings held in executive session, are available to members after they have been approved by the Board. Members may view a copy of the minutes at the Administration Office located at 1001 Golden Rain Road, Walnut Creek, California. A copy of the minutes will be sent to members upon reimbursement of the Mutual's cost to make the copies. All requests for copies of meeting minutes are to be addressed to the Mutual's Board of Directors at 1001 Golden Rain Road, Walnut Creek, California 94595.

### **14.4 Communications from a Member of the Mutual**

Members should address inquiries or complaints to the MOD Work Order Desk, either in writing or by telephone. If necessary, the division head will inform the appropriate Director of the Board in writing, or by telephone in case of an emergency, of the matter presented by the Member. If the matter is not concluded by the MOD staff to the satisfaction of the Member, the Member may refer the matter in writing to the Board, or may address the Board during the Residents' Forum at a regular meeting.

## 15.0 FINES AND ENFORCEMENT

The following fines may be imposed on any Member (or responsible party) found in violation of the Mutual's Policies, Rules, Bylaws or Occupancy Agreement ("Governing Documents").

When any violation is observed or reported and then confirmed, the following procedure will be followed:

1. The Member will be notified by letter or violation notice, which shall cite the applicable governing document(s) for the case at hand.
2. The Member will be notified of the time permitted, if appropriate, to correct the violation, the intended fine that may be imposed if not corrected by that date, and the date of a hearing with the Board of Directors on the matter at which the Member may attend and be heard regarding the intended fine. Instead of appearing, the Member may submit a written response to the Board of Directors.
3. Failure of the Member to appear before the Board or respond by mail with a reasonable excuse shall not prevent the Board from being able to act on the violation. If the responsible Member does not appeal the proposed fine, either in person or in writing, then the Board may decide the imposition of the fine.
4. The Member will be notified of the Board's decision by certified mail within 15 days of the Board taking action.
5. Any fines imposed by the Board will be due and payable 30 days after assessment. Payment for a fine which is 30 days overdue will be assessed a late fee of \$20 per month. This amount will be separate and in addition to any late charges for unpaid assessments which may be on record. When any fine is three (3) months past due, the Mutual may seek legal action. This may include an action in Superior or Small Claims Court. All costs of collection including court fees, attorney fees, and other costs will be charged to the Member.
6. If judgment is awarded in court action, the Mutual may refer the matter to a collection agency. Any collection fees or any fees discounted by any collection agency from the full amount of the judgment will be charged to the Member.

### FINE SCHEDULE

A detailed schedule of fines shall be established by the Board of Directors from time to time within the maximum incremental fines set forth below.

1st Violation- Maximum \$100 fine

## **15.0 FINES AND ENFORCEMENT**

2nd Violation of the same nature within 6 months – Maximum \$200 fine

3<sup>rd</sup> or Later Violation of the same nature within 12 months of the previous violation – Maximum \$500 fine per occurrence

In the event of a continuing violation (e.g., without limitation a continuing prohibited use of property, architectural violation, etc.), the Board will have the option of imposing periodic, repetitive fines of up to \$200 at periodic increments (daily, weekly, monthly, etc.) without holding additional hearings.

Members are responsible for their family members', tenants' and guests' actions. Members will be given notice of violation(s) by their family members, tenants or guests, and any resulting fine will be imposed against the Member.

## **16.0 INSURANCE**

This Policy has been deleted. The information may be found in the Bylaws,  
Article 15.0.

Deleted 2/21/19

Adopted 1/19/17

**SECOND WALNUT CREEK MUTUAL  
VOTING AND ELECTION RULES**

**1. General.**

- 1.1 These Rules are intended to comply with Civil Code sections 5100 through 5130 and shall apply to Member voting: (1) to elect or remove Members of the Board of Directors; (2) regarding assessments; (3) regarding amendments to the governing documents; (4) regarding the granting of exclusive use of common area property; and (5) at the discretion of the Board of Directors, regarding any other matter that may be the subject of a vote of Mutual Members.
- 1.2 As used in these Rules, "general notice" means providing notice by one or more of the following methods: any method provided for delivery of an individual notice pursuant to Civil Code section 4040; inclusion in a billing statement, newsletter, or other document; posting the printed document in a prominent location that is accessible to all Members, if the location has been designated for the posting of general notices by the Mutual in the annual policy statement (e.g., on the bulletin board in the Gateway Administration Center); if the Mutual broadcasts television programming on GRF-owned Rossmoor Channel 28 for the purpose of distributing information on Mutual business to its Members, by inclusion in the programming.

**2. Access to Mutual Media and Facilities.**

- 2.1 No candidate or Mutual Member advocating a point of view for purposes related to an election covered by these Rules shall be allowed access to any form of Mutual media including, but not limited to, newsletters, common area bulletin board, internet website, social media pages or television programming after written ballots are distributed as specified in Section 7.1 until the conclusion of the election. "Mutual media" shall not include correspondence to the Members via first-class mail, personal delivery, or email. For purposes of this section, "advocacy" shall not include the following: (1) "get out the vote" efforts or publication of communications in any format which are solely for the purpose of encouraging Members to timely return ballots to the Inspector(s) of Elections for tabulation; (2) descriptions of the purpose and effect of a proposed rule change pursuant to Civil Code section 4360; or (3) a factual summary of significant changes to the governing documents accompanying the text of a proposed amendment pursuant to Civil Code section 5115(e).
- 2.2 "Equal access" shall mean, for written statements on any platform, publication of written statements not to exceed a predetermined number of words and, for broadcast statements on any platform, including GRF-owned Rossmoor Channel 28, broadcast statements not to exceed a predetermined length of time. The Board may require that broadcast statements be pre-recorded in order to comply with the predetermined time limit. The Board shall not edit or redact any statement, and shall not be required to publish any statement, written or broadcast, which exceeds the predetermined word or time limit.

- 2.3 The Mutual shall not be responsible or liable for the content of any statement published pursuant to the "equal access" rules. The author or proponent of any statement or point of view shall be solely responsible and liable for the content of their statements. All statements published in Mutual media pursuant to the "equal access" rules must identify the author or proponent, which author or proponent must be a Mutual Member to be eligible to publish in Mutual media. Anonymous statements will not be accepted or published.
- 2.4 If the Mutual uses Mutual media to advocate for a particular position (excepting "get out the vote" activities as described above) regarding an election of Directors to the Board, then it shall make the same media in a comparable format (but not necessarily contemporaneously) available to all candidates to allow advocacy by the candidate(s) regarding the Mutual position. Additionally, the Board may, but is not required to, generally make Mutual media (i.e., posting on the Mutual's official bulletin board, official website, broadcasting via GRF-owned Rossmoor Channel 28 or other television or internet video channel, newsletter, or other notices mailed or delivered by the Mutual to the owners of the Units) available to 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 such general access to Mutual media, then all candidates shall be allowed equal access to the same media.
- 2.5 If the Mutual uses Mutual media to advocate for a particular position (excepting "get out the vote" activities as described above) regarding any other matter, then it shall make the same media in a comparable format (but not necessarily contemporaneously) available to Members advocating a point of view. Additionally, the Board may, but is not required to, generally make Mutual media (i.e., posting on the Mutual's official bulletin board, official website, broadcasting via GRF-owned Rossmoor Channel 28 or other television or internet video channel, newsletter, or other notices mailed or delivered by the Mutual to the owners of the Units) available to Members for purposes that are reasonably related to the election in which the Mutual advocated a position.
- 2.6 For each election of Directors, the Mutual may, but is not required to, schedule one "Meet the Candidates" town hall meeting at GRF common area meeting space where each nominated candidate may attend and speak to any Mutual Members choosing to attend according to guidelines which may be established by the Board of Directors.
- 2.7 For each other election subject to these Rules, the Mutual may schedule one informational meeting at GRF common area meeting space at which any Member advocating a point of view which is the subject of a pending election may attend and address the attendees according to guidelines which may be established by the Board of Directors.
- 2.8 With the exception of refreshments which may be provided at the above assemblies, no Mutual funds shall be used for campaign purposes in connection with any election which is subject to these Rules.

- 2.9 The Board shall ensure that all candidates for election to the Board are given access to common area meeting space, at no cost, for purposes related to their campaigns.
- 2.10 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, 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.

### **3. Qualifications of Candidates.**

- 3.1 Consistent with Civil Code section 5105(b), candidates for the Board of Directors must meet qualifications as set forth hereafter.
- 3.1.1 Be a Member of the Mutual prior to the close of nominations;
- 3.1.2 Be current in all regular and special assessment payments, to the extent that the Bylaws hold current directors to the same standard;
- 3.1.3 Not have a past criminal conviction that would either (a) prevent the Mutual from purchasing the fidelity bond coverage required by Civil Code section 5806 should the person be elected, or (b) terminate the Mutual's existing fidelity bond coverage as to that person should that person be elected; and
- 3.1.4 No more than one (1) Owner of any particular Unit may serve on the Board at the same time.

### **4. Nomination of Candidates.**

- 4.1 To the extent not in conflict with Civil Code sections 5100 and 5105, candidates for the Board of Directors shall be nominated as set forth hereafter.
- 4.1.1 At least 30 days before any deadline for submitting a nomination, the Mutual shall provide general notice of the procedure and deadline for submitting a nomination and shall give all Members an opportunity to nominate themselves as candidates for the Board of Directors.
- 4.1.2 Interested persons must inform the Mutual's managing agent or Board of Directors in writing of their request to be a candidate for the Board of Directors (self-nomination). Any self-nominated candidate must disclose a past criminal conviction that would either prevent the Mutual from purchasing the fidelity bond coverage required by Civil Code section 5806 should the person be elected or terminate the Mutual's existing fidelity bond coverage as to that person should that candidate be elected to the Board.
- 4.1.3 Nominations for candidates wishing to be included on the mailed ballots shall close on the date established by the Mutual. All nominations to be included in

the written ballot must be in writing and delivered to the Mutual by the deadline established by the Mutual, which deadline shall be in advance of the date on which the ballots are mailed.

- 4.1.4 The Mutual shall review all persons so responding for compliance with the qualifications identified in Section 3 of these Rules.
- 4.1.5 All qualified persons who timely respond to the Mutual's solicitation shall be candidates for the Board of Directors at the next election.
- 4.1.6 The Mutual shall provide general notice of the following at least 30 days before the ballots are distributed:
  - a. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the Inspector(s) of Elections;
  - b. The date, time and location of the meeting at which ballots will be counted; and
  - c. In an election of Directors, the list of all candidates' names that will appear on the ballot (i.e., the candidate registration list).
- 4.1.7 The Mutual shall permit Members to verify or correct, by providing documentary evidence (including, but not limited to, a grant deed or general power of attorney) satisfactory to the Inspector(s) of Elections, the accuracy of their individual information on the candidate registration list (as applicable) and the voter list. The voter list shall include the voter/Member's name, voting power, and either the physical address of the voter's (a) Unit, or (b) parcel number, or (c) both, and the mailing address for the ballot if it differs from the physical address of the separate interest or if only the parcel number is used.

## **5. Inspector(s) of Elections.**

- 5.1 The Board shall appoint one or three Inspector(s) of Elections who shall perform all functions required by Civil Code sections 5105 and 5110, including:
  - 5.1.1 Determine the number of Members entitled to vote and the voting power of each;
  - 5.1.2 Determine the authenticity, validity and effect of proxies, if any;
  - 5.1.3 Receive and be the custodian of ballots, and direct the location to which ballots shall be sent until tabulated by the Inspector(s) of Elections;
  - 5.1.4 Correct errors or omissions on the candidate registration list (if any) and/or voting list within two business days of the errors or omissions being reported, with receipt of satisfactory documentary evidence;
  - 5.1.5 Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;

- 5.1.6 Count and tabulate all votes;
  - 5.1.7 Determine when the polls shall close, with the discretion to extend the deadline for voting as necessary;
  - 5.1.8 Determine the results of the election; and
  - 5.1.9 Report the results of the election to the Board of Directors.
- 5.2 Eligible Inspectors of Elections may include:
- 5.2.1 Any Mutual Members who are not Members of or candidates for the Board of Directors nor relatives of Members or candidates for the Board of Directors; and
  - 5.2.2 An independent third party who is not currently employed or under contract to the Mutual for any compensable services other than serving as an Inspector of Elections.
- 5.3 The Mutual may, at the discretion of the Board of Directors, provide reasonable compensation to the Inspector(s) of Elections.
- 5.4 The Inspector(s) of Elections may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the Inspector(s) deem appropriate, provided that the appointed persons would themselves be eligible to serve as Inspector(s) of Elections pursuant to Section 5.2, above.

## **6. Voting Rights.**

- 6.1 Each Mutual Member shall be entitled to a single vote with regard to each matter that is the subject of a pending election. For purposes of these Rules, therefore, all record owners of a single Unit shall collectively constitute one "Mutual Member." In an election of Directors, each Mutual Member shall be entitled to cast the number of votes equal to the number of Directors to be elected. However, cumulative voting is not permitted. Write-in candidates are not permitted in an election of Directors.
- 6.2 A Member shall not be denied a ballot for any reason other than not being a Member at the time when ballots are distributed.
- 6.3 A ballot may not be denied to a person with general power of attorney for a Member and a ballot of a person with general power of attorney for a Member must be counted if returned in a timely manner (i.e., by the ballot return deadline).
- 6.4 The voting period will run from the date on which ballots are distributed (as specified in Section 7.1, below) until the polls are closed.

## **7. Voting Procedures.**

- 7.1 Mailing of voting packets. At least 30 days before the election, one voting packet shall be delivered to each Mutual Member. Each packet shall contain the following:
- 7.1.1 The ballot or ballots;
  - 7.1.2 Two sealable envelopes. The smaller (inner) envelope shall have no markings identifying the voter. The larger (outer) envelope shall be pre-addressed to the Inspector(s) of Elections, Second Walnut Creek Mutual. The upper left corner of the larger envelope shall contain the Member's name, address, and Unit number that entitles the Member to vote (or provide spaces to fill in such information) and provide a place for the Member's signature;
  - 7.1.3 Instructions on how to use the two-envelope system; and
  - 7.1.4 Notice of the date, time and location of the meeting of the Board or Members at which the ballots will be opened and tabulated.
  - 7.1.5 A copy of these Voting and Election Rules (via individual delivery or posting to an internet website and including the corresponding website address on the ballot together with the phrase, in at least 12-point font: "The rules governing this election may be found here: [rossmoor.com](http://rossmoor.com) website.").
- 7.2 Ballot content. Each ballot shall contain the following:
- 7.2.1 In an election of Directors, each candidate's name listed alphabetically;
  - 7.2.2 The identification of any other matter that is the subject of a pending Member vote;
  - 7.2.3 A statement of when ballots must be returned by mail or hand delivery.
- 7.3 Receipt of ballots.
- 7.3.1 All ballots shall be received by the Inspector(s) of Elections at locations as specified by the Inspector(s) of Elections.
  - 7.3.2 If so directed by the Inspector(s) of Elections, the Mutual's management staff shall maintain a log of all ballot envelopes received, noting whether the outer envelopes were signed or unsigned. The Inspector(s) of Elections may contact Members who return unsigned envelopes and make arrangements for Members to sign the envelopes prior to the date that the ballots are opened and tabulated.
  - 7.3.3 Once a ballot has been received by the Inspector(s) of Elections, it may not be revoked. A ballot shall be considered received when the voting packet envelope (the outer envelope containing the inner envelope containing the ballot) has been received by the Inspector(s) of Elections.

- 7.3.4 Each ballot received by the Inspector(s) of Elections shall be treated as a Member present at a meeting for purposes of establishing a quorum if a quorum is required by the governing documents or California law to conclude the election.
- 7.3.5 The sealed ballots, signed outer voter envelopes, voter list, proxies, and (if applicable) candidate registration list (collectively, the "Mutual election materials") shall at all times be in the custody of the Inspector(s) of Elections or at a location designated by the Inspector(s) until after the tabulation of the vote at a properly noticed, open meeting of the Members or the Board of Directors, and until the time allowed by Civil Code section 5145 for challenging the election has expired (i.e., one (1) year after the election), at which time custody shall be transferred to the Mutual.
- 7.4 Proxies. The use of proxies in connection with votes of the Members or meetings of the Members is expressly prohibited.
- 7.5 Election by acclamation. Unless prohibited by the Bylaws, if, as of the published deadline for nominations, the number of qualified candidates nominated does not exceed the number of Directors to be elected, then the individuals nominated and qualified to be elected may be declared elected on a date determined by the Board and/or the Inspector(s) of Elections, in which case written notice of the election results shall be given to the Members.

## **8. Tabulation of Ballots.**

- 8.1 The voting packet envelopes shall be opened by the Inspector(s) of Elections after the close of the of the polls which shall be determined by the Inspector(s). The Inspector(s) of Elections, or their designees, may verify the Member's information and signature on the outer envelope prior to the opening and tabulation of ballots.
- 8.2 The voting packet envelopes shall be opened and the ballots tabulated by the Inspector(s) of Elections in public at a properly noticed, open meeting of the Members or of the Board of Directors.
- 8.3 Any candidate or other Member of the Mutual may witness the counting and tabulation of the ballot. However, no Mutual Member or candidate shall communicate with the Inspector(s) during the tabulation process, and all Members and candidates must remain at least five feet away from the counting area. The Inspector(s) of Elections may cause the removal of any observer who interferes with or disrupts the counting or tabulation process.
- 8.4 At the meeting at which ballots are to be opened and tabulated, the Inspector(s) of Elections may announce to the Members present those Members who neglected to sign the outer envelope and provide an opportunity for those Members to sign the outer envelope prior to tabulation of the ballots.

- 8.5 In the event there is a tie between candidates for the last open position on the Board, a runoff election shall be conducted via secret written ballot in accordance with these Rules. Under these circumstances, the procedures set forth above regarding the nomination of candidates shall not apply.
- 8.6 The results of the election shall be promptly reported to the Board of Directors and shall be recorded in the minutes of the next meeting of the Board of Directors.

**9. Additional Procedures.**

- 9.1 The Board of Directors shall give general notice of the tabulated results of the election within 15 days by a communication directed to all Members.
- 9.2 One year after the conclusion of the election, the Inspector(s) of Elections shall transfer custody of all ballots, signed outer voter envelopes, voter list, proxies and (if applicable) candidate registration list ("Mutual election materials") to the Mutual; the Mutual shall maintain the Mutual election materials for an additional two (2) years.
- 9.3 In the event of a re-count or challenge, the Inspector(s) of Elections shall, upon written request, make the Mutual election materials available for inspection by the challenging Mutual Member or its authorized representative. Outer voter envelopes may be inspected but may not be copied. The Mutual shall be entitled to redact the address of any Member on the voter list who has opted out of the membership list and the voter list. Any re-count shall be conducted in a manner designed to preserve the confidentiality of the vote.

Adopted on April 16, 2020 by the Board of  
Directors

## 18.0 SENIOR HOUSING RULES

18.1. Senior Citizen Housing Development. The Development is a senior housing development that is intended to (i) qualify for the "housing for older persons" exemption from the prohibitions on discrimination based on familial status contained in the federal Fair Housing Act, including those provisions adopted pursuant to the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995 (collectively, the "Federal Act"), (ii) qualify as a "senior citizen housing development" as that term is defined in California Civil Code section 51.3 (the "State Act"), and (iii) otherwise comply with the requirements of the Federal Act and the State Act.

18.2. Definitions. The terms used in these Senior Housing Rules shall have the meanings set forth in this Section 18.2. All other capitalized terms that are not defined in these Senior Housing Rules shall have the meanings ascribed to them in the Bylaws unless the context requires otherwise.

A. Qualifying Resident. "Qualifying Resident" or "senior citizen" shall mean a person fifty-five (55) years of age or older.

B. Qualified Permanent Resident. "Qualified Permanent Resident" shall mean a person who meets either of the following requirements:

(i) The person was residing with the Qualifying Resident prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage **and**, at the time of that residency, the person was forty-five (45) years or older, or was a spouse or Cohabitant of, or was a person providing primary physical or economic support to, the Qualifying Resident, but not a Permitted Health Care Resident as defined in Section 18.2.H. below; or

(ii) The person is a disabled person (defined as a person who has a disability as defined in Civil Code section 54(b)) or person with a disabling illness or injury (defined as an illness or injury which results in a condition meeting the definition of a disability set forth in Civil Code section 54(b)) who is a child or grandchild of the Qualifying Resident or a Qualified Permanent Resident who needs to live with the Qualifying Resident or Qualified Permanent Resident because of the disabling condition, illness or injury.

C. Designated Occupant. "Designated Occupant" shall mean the person designated by the Member and approved by the Board as the principal occupant of the Manor. The Designated Occupant shall be a Qualifying Resident who resides in the Manor as a primary residence on a permanent basis unless the circumstances specified in Section 18.2.B(i) exist in which case the Board may approve a Qualified Permanent Resident as the Designated Occupant. If the Member has not designated a Designated Occupant and the Member is a Qualifying Resident who resides in the Manor as a primary residence on a permanent basis, the Member shall be deemed to be the Designated Occupant.

D. Cohabitants. "Co-habitants" shall mean persons who live in the Manor together as husband and wife or persons who are domestic partners within the meaning of California Family Code section 297.

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E. Co-occupant. "Co-occupant" shall mean a person, registered with and approved by the Mutual, residing with the Designated Occupant, who (a) is fifty-five (55) years or older; or (b) is a spouse or Cohabitant of the Designated Occupant; or (c) is a person providing primary physical or economic support to the Qualifying Resident as described in section 18.2.B.(i) above; or (d) is a Permitted Health Care Resident as defined in Section 18.2.H. below; or (e) is a disabled child or grandchild as described in Section 18.2.B.(ii) above; or (f) is a person under fifty-five (55) years of age whose occupancy is permitted under California Civil Code sections 51.3(h) or section 51.4(b).

F. Guest/Visitor. A "Visitor" is an invitee of a Qualified Resident of a Manor and a "Guest" is an overnight Visitor, both as more particularly described and limited in Section 18.6 below.

G. Member. "Member" shall mean the owner (or owners, if more than one) of a Membership in the Mutual pursuant to the Bylaws.

H. Permitted Health Care Resident. "Permitted Health Care Resident" shall mean a person hired to provide live-in, long-term, or terminal health care to a Qualifying Resident, or a family member of the Qualifying Resident who is providing that care to the Qualifying Resident but is not a Qualified Permanent Resident as defined in Section 18.2.B. above. The care provided by a Permitted Health Care Resident must be substantial in nature and must provide either assistance with necessary daily activities or medical treatment, or both.

18.3. Generally, at Least One Qualifying Resident Must Permanently Occupy the Manor. Subject to Section 18.4 below and except as specifically otherwise provided in Section 18.6, each Manor, if occupied, must be occupied at all times by at least one Qualifying Resident and all other persons occupying the Manor must be permitted by these Rules. Persons commencing any residency of a Manor must include a Designated Occupant who is a Qualifying Resident and who intends to reside in the Manor as a primary residence on a permanent basis. A residency is commenced (a) when persons first occupy a Manor after close of escrow of a purchase of a Membership or (b) upon any change in occupants resulting from the death, hospitalization, or other prolonged absence of, or dissolution of marriage of the previous Designated Occupant. If, at any time, the Designated Occupant ceases to reside in the Manor, the Member shall immediately notify the Mutual and promptly take all necessary action to designate a new Designated Occupant.

18.4. Occupancy by Permitted Health Care Residents. A Permitted Health Care Resident may occupy a Manor during any period that the Permitted Health Care Resident is actually providing live-in, long-term, or hospice health care to a Qualifying Resident for compensation. For the purposes of this Section 18.4, the term "compensation" shall include the provision of lodging and food in exchange for care. A Permitted Health Care Resident shall be entitled to continue his or her occupancy, residence or use of the Manor in the absence of the Qualifying Resident from the Manor only if **both** of the following apply:

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A. The Qualifying Resident became absent from the Manor due to hospitalization or other necessary medical treatment and expects to return to the Manor within ninety (90) days from the date the absence began. If it appears that the Qualifying Resident will return within a period of time not to exceed an additional ninety (90) days, and upon written request of the Qualifying Resident or an authorized person acting for the Qualifying Resident, the Board may, in its discretion, allow a Permitted Health Care Resident to remain for a time period longer than ninety (90) days from the date the absence began; **and**

B. The absent Qualifying Resident, or an authorized person acting for the Qualifying Resident, submits a written request to the Board stating that the Qualifying Resident desires that the Permitted Health Care Resident be allowed to remain in order to be present when the Qualifying Resident returns to reside in the Development.

18.5. Burden of Proof. All persons claiming status as a Qualifying Resident, Qualified Permanent Resident, or Permitted Health Care Resident or persons claiming that another meets that status have the burden of proving that they meet the qualifications for the applicable status to the satisfaction of the Board.

A. All persons who claim that they provide “primary physical support” or “primary economic support” to the Qualifying Resident, and are thus Qualified Permanent Residents under Section 18.2.B. (i) above, have the burden of proving that to the satisfaction of the Board.

B. Where it is asserted that a particular person provides primary physical support, the Qualifying Resident or the Qualifying Resident’s agent may be required to provide one or both of the following to the Mutual: (1) a statement from the Qualifying Resident’s physician, other medical provider, case worker or social worker about the Qualifying Resident’s need for physical support, and (2) an explanation of the type and amount of physical support provided to the Qualifying Resident and a comparison to the support provided by others and the activities that the Qualifying Resident may undertake without assistance.

C. Where it is claimed that a particular person provides “primary economic support,” the Qualifying Resident or his or her agent may be required to show that (1) the person claiming Qualified Permanent Resident status has independent means and is able to support himself or herself without financial assistance from the Qualifying Resident, and/or (2) the financial support provided to the Qualifying Resident by such person exceeds the income and other financial support independently received by the Qualifying Resident.

D. Absent satisfactory proof as outlined above, persons claiming Qualified Permanent Resident status based on the provision of “primary physical support” or “primary economic support” to the Qualifying Resident may be deemed to be Permitted Health Care Residents if they otherwise satisfy the requirements of Section 18.2.H above below.

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### 18.6. Temporary Occupancy.

A. Visitors may include social guests, family members, or business invitees. Visitors are generally permitted subject to the provisions and limitations of these Rules and other Governing Documents of the Mutual. An overnight Visitor is a Guest. Guests are permitted to temporarily occupy a Manor subject to, and in accord with the following limitations.

B. A Guest may temporarily occupy a Manor only if he or she is a Guest of the Designated Occupant of the Manor or his or her spouse or Co-habitant who also resides in the Manor (the "host"). Members who are not a Designated Occupant of the Manor (e.g., absentee owners, Trustees, etc.) are not allowed Guests. Guests may temporarily occupy the Manor only when the host is present and residing in the Manor. If for any reason, the host ceases to reside in the Manor, the temporary occupancy terminates and the Guest must immediately vacate the Manor. Guests must be transient occupants and may not establish residency in the Manor; generally this means that the Guest must have a residence elsewhere, must not bring or store (a) furniture or (b) personal property exceeding that which is reasonably necessary for a short-term transient occupancy. Guests must comply with all Mutual Rules and other requirements and the host is responsible for their actions.

C. A Guest may temporarily occupy the Manor for more than 21 days only as provided in this subparagraph C. The Guest must register with the Mutual at the Member Records Department located in the Gateway Administration Building, 1001 Golden Rain Road, Walnut Creek CA 94595, prior to the expiration of the initial 21 day period. If the Guest timely registers and is approved by the Mutual, he or she may continue to temporarily occupy the Manor for a maximum of seventy-five (75) days, including the initial 21 days, during any twelve month period. The cumulative total of days in which senior citizen Guests are occupying the Manor may not exceed 75 days. To continue the occupancy of a senior citizen beyond 75 days, an application for Co-occupancy must be presented by the Designated Occupant and approved by the Mutual.

18.7. Notice of Absence of Qualifying Resident; Continued Occupancy by Qualified Permanent Resident. Written notice shall be provided to the Mutual by the Member or Designated Occupant (Qualifying Resident) within fifteen (15) days of the death or dissolution of marriage, or hospitalization or other prolonged absence of the Qualifying Resident. Notwithstanding the provisions of Section 18.3 above, upon the death or dissolution of marriage, or upon hospitalization, or other prolonged absence of the Qualifying Resident, any Qualified Permanent Resident shall be entitled to continue his or her occupancy of the Manor provided that the Board of Directors determines that such continued occupancy shall not result in less than eighty percent (80%) of the Manors then occupied contain at least one Qualifying Resident as required by the Federal Act. The continued occupancy is subject to compliance by the Qualified Permanent Resident with the terms of the Occupancy Agreement between the Mutual and the Designated Occupant and, if the absence of the Designated Occupant is permanent, to the

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execution of new Occupancy Agreement by the Qualified Permanent Resident. The provisions of this Section 18.7 shall not apply to a Permitted Health Care Resident.

18.8. Cessation of Disability of Certain Qualified Permanent Residents. For any Resident who is a Qualified Permanent Resident pursuant to Section 18.2.B. (ii) above, whose disabling condition ends, the Board may require the formerly disabled resident to cease residing in the Mutual upon such Resident's receipt of six months' written notice.

18.9. Termination of Occupancy of Qualified Permanent Residents. Subject to the hearing requirements set forth in this Section 18.9, the Board may prohibit or terminate the occupancy of any person who is a Qualified Permanent Resident pursuant to Section 18.2.B. (ii) above (i.e., due to a disability or disabling illness or condition) if the Board finds, based on credible and objective evidence, that the person is likely to pose a significant threat to the health or safety of others that cannot be ameliorated by means of a reasonable accommodation.

A. The Board must provide reasonable notice to and opportunity to be heard, which conforms to the requirements of the Bylaws and applicable law, for the disabled person whose occupancy is being challenged and reasonable notice to (a) the co-resident parent or grandparent of that person and (b) to any trustee, guardian or legal representative of that person of whom the Mutual has been made aware in writing.

B. To preserve privacy, the hearing must be conducted and evidence admitted in a confidential manner pursuant to a closed executive session of the Board. The Board shall give due consideration to the relevant, credible and objective information provided in the hearing.

C. Each affected person shall be entitled to have present at the hearing an attorney or any other person authorized by the affected person to speak on their behalf or assist them in the matter.

18.10. Publication and Adherence to Policy. In compliance with the Federal Act, the Mutual shall publish and adhere to these Senior Housing Rules which demonstrate that the Mutual is intended, and operated for, occupancy by Qualifying Residents. The Mutual shall also comply with the federal rules and regulations for verification of occupancy adopted pursuant to the Federal Act.

18.11. Age Verification. Each Member or such Member's authorized agent shall certify in writing to the Mutual that the Member's Manor is or will be occupied in the manner set forth in these Rules. Such certification shall be submitted (i) when or before the Member becomes the record owner of a Membership in the Mutual, (ii) when or before there is any change in the occupants of the Manor and (iii) at such other times as may be requested by the Mutual. Such certification shall be supported by reliable documentation of the age of each of the occupants of such Manor. The following documents are acceptable as proof of age:

A. Valid state-issued driver's license or identification card;

B. Medicare card;

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- C. Birth certificate;
- D. Passport;
- E. Immigration card;
- F. Military identification; or
- G. State, local, national or international official documents of comparable reliability containing a birth date.

18.12. Verification of Status as Qualified Permanent Resident. Where a Manor is occupied by a Qualified Permanent Resident, the Member or authorized agent of the Member shall, upon the Mutual's request, certify to the Mutual, in writing, that such Qualified Permanent Resident does in fact meet the definition of "Qualified Permanent Resident" set forth in Section 18.2.B, above. Such certification shall be supported by reliable documentation acceptable to the Mutual in its sole discretion, and shall be provided to the Mutual at such times as may be requested by the Mutual.

18.13. Verification of Status as Permitted Health Care Resident. Where a Manor is occupied by a Permitted Health Care Resident, the Member or authorized agent of the Member shall, upon the Mutual's request, certify to the Mutual, in writing, that such Permitted Health Care Resident does in fact meet the definition of "Permitted Health Care Resident" set forth in Section 18.2.H. above. Such certification shall be supported by reliable documentation acceptable to the Mutual in its sole discretion, and shall be provided to the Mutual at such times as may be requested by the Mutual.

18.14. Verification of Status as Co-occupant. Where a Manor is occupied by a Co-occupant, the Member or authorized agent of the Member shall, upon the Mutual's request, certify to the Mutual, in writing, that such Co-occupant does in fact meet the definition of "Co-occupant" set forth in Section 18.2.E. above. Such certification shall be supported by reliable documentation acceptable to the Mutual in its sole discretion, and shall be provided to the Mutual at such times as may be requested by the Mutual.

18.15. Implementation of Further Rules; Amendment. The Board shall have the power and discretion to take any action the Board deems necessary to adopt and implement further rules and regulations and amend and modify these Senior Housing Rules to assure compliance with the Federal Act or the State Act and any rules and regulations adopted thereunder, as such statutes, governmental rules and regulations may be amended from time to time.

18.16. Conflicting Policies. To the extent there is or may be a conflict between these Senior Housing Rules (Policy 18.0) and other Policies or Rules of the Mutual, these Senior Housing Rules shall prevail.

**18.0 SENIOR HOUSING RULES**

**SECOND WALNUT CREEK MUTUAL**

Date: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

[Insert name & title of officer]

**MAINTENANCE AND REPAIR GUIDELINE  
FOR RESIDENTS OF  
SECOND WALNUT CREEK MUTUAL**

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**PREFACE**

According to the Occupancy Agreement, certain repair and maintenance activities are the responsibility of the Mutual, and others are the responsibility of the resident. A portion of the monthly fees collected pays for maintenance of the Common Area (landscaping and the exterior of buildings), which, generally, is the responsibility of the Mutual.

Residents are responsible, generally, for the interior maintenance of their manors and any alterations, which must be approved by the Board.

To clarify whether the manor owner or the Mutual is responsible for the maintenance and repair of an item, Appendix A lists some maintenance repair items that frequently occur and indicates whether the Mutual or the resident is responsible for their repair or maintenance.

An item will be considered for replacement because it is broken as determined by Mutual Operations (MOD), the Mutual's property manager. It does not mean that an item will be replaced at the resident's discretion.

**If you have a maintenance problem:**

Any requests for maintenance and repair should be directed to Second Walnut Creek Mutual's property manager, the Golden Rain Foundation's Mutual Operations Division (MOD).

During regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, call the following numbers if you need assistance:

Landscaping and irrigation problems	988-7640
Building and pavement problems	988-7650
Alterations and resale inspections	988-7660

Emergencies occurring after business hours and on Saturdays and Sundays should be reported to Public Safety at 988-7899. They will arrange assistance.

Mutual Responsibility	Resident Responsibility
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**CARPENTRY**

<ul style="list-style-type: none"> <li>• Repair/adjust front entrance doors</li> <li>• Repair/adjust interior doors jammed due only to building movement</li> <li>• Repair/replace mailbox at time of building rehab only</li> <li>• Repair/replace original doorbell</li> <li>• Repair/replace weather stripping on exterior doors and windows</li> <li>• Repair cracks in wall resulting from drying, shrinkage, etc.</li> <li>• Repair cabinets/components</li> <li>• Repair/replace loose/broken interior base molding, casing, trim, etc., if caused by building movement</li> <li>• Repair/replace exterior sliding doors, windows, window screens due to normal wear</li> <li>• Repair/replace worn or inoperable door lock</li> <li>• Repair/replace loose/damaged floor covering due to building movement</li> <li>• Remove bird nesUobstruction in fan vent and install vent screening</li> <li>• Repair/replace broken windows due to building movement</li> <li>• Exterior preventive maintenance of windows</li> <li>• Renailing squeaky floors except for carpet removal/reinstallation</li> </ul>	<ul style="list-style-type: none"> <li>• Repair/replace shower door glass</li> <li>• Repair/replace/adjust storm doors or screen door</li> <li>• Repair/replace floor covering</li> <li>• Repair cracks in ceiling resulting from drying, shrinkage, etc.</li> <li>• If Mutual is renailing squeaky floors, resident pays for removal/reinstallation of carpet</li> </ul>
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**Mutual Responsibility**

**Resident Responsibility**

**CARPORT FLOORS**

At the time of carport rehabilitation by the Mutual, the Mutual will power wash and clean carport floors.

Upon resale, the resident is responsible for cleaning his/her assigned carport space floor.

**Mutual Responsibility**

**Resident Responsibility**

**ELECTRICAL (Wiring and Components)**

- Repair/replace interior/exterior/carport outlets
- Repair/replace interior wall switches
- Repair electrical wiring in walls
- Repair short circuit in Mutual's standard appliance
- Repair/replace thermostat (except with optional heat pump)
- Repair/replace bathroom fan/motor/cleaning element or clean fan
- Repair/replace electric cord plug on Mutual's standard appliance
- Repair, reset, tighten, or replace exterior and interior circuit breakers and circuit breaker panels (except with optional heat pump)
- Repair/replace walkway lighting fixtures and bulbs, including post-mounted lights at street edge
- Replace fluorescent ballast

- Replace interior light bulbs and fluorescent tubes
- Repair/replace cable TV wiring

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**Mutual Responsibility**

**Resident Responsibility**

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**GARBAGE DISPOSALS**

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>• Instruction on proper operation</li><li>• Replace inoperable disposal unit</li><li>• Repair hose leak</li><li>• Reset motor overload switch</li></ul> | <ul style="list-style-type: none"><li>• Repair jammed disposal unit</li><li>• Repair plugged drain</li><li>• Repair/replace stopper or deflector</li></ul> |
|---|--|

Mutual Responsibility	Resident Responsibility
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<b>HEATING, VENTILATING, AND AIR CONDITIONING SYSTEMS</b>	
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<ul style="list-style-type: none"> <li>• Air conditioners, furnaces and heat pumps are the Mutual's property; all cleaning, maintenance, adjustments, lubrication, repair and replacement is the Mutual's responsibility</li> <li>• Give instructions on proper operation</li> <li>• Check for power</li> <li>• Repair/replace one through-the-wall, standard air conditioner unit per manor</li> <li>• Repair/replace/adjust standard thermostat</li> </ul>	<ul style="list-style-type: none"> <li>• Repair/replace heat pumps installed by resident (alteration)</li> </ul>
--	--

**Mutual Responsibility**

**Resident Responsibility**

**LANDSCAPING IN COMMON AREA**

- Maintenance of turf areas, ground cover, shrubs, trees, irrigation system and surface and sub-surface drainage in the common area

- Tree pruning, trimming or removal at request of and for sole benefit of a resident. Requires approval of the SWCM Board, affected neighbors and, if required, City of Walnut Creek
- Landscaping and irrigation systems specific to patios
- Individual landscaping, approved by Mutual, on or adjacent to common area

**Mutual Responsibility**

**Resident Responsibility**

**PAINTING**

- Exterior surfaces of buildings, including enclosed decks or patios
- Outside surface of exterior doors, except inside an enclosed deck or patio
- Exterior shells of air conditioning and heat pump units
- Interior surfaces of manor damaged by plumbing leaks, water penetration of roof or walls, building movement or other hazards, not the result of resident's negligence
- Interior surfaces of manor damaged by building movement

- Inside surface of exterior doors
- Interior surfaces of manor
- Interior surfaces of alterations
- Original exterior building wall enclosed by an alteration
  
- Note:
- Mutual dictates color palette for exterior surfaces of buildings, including trim and doors

**Mutual Responsibility**

**Resident Responsibility**

**PEST CONTROL (Including Termites)**

- Exterior and interior of buildings, in walls and attics, including control of weeds, plant diseases, rodents, ants and other insects
- Inspection for wood-eating insects
- Remove bird nest/obstruction in fan vent and install vent screening

**Mutual Responsibility**

**Resident Responsibility**

**PLUMBING**

- Repair leaks/clear stoppages in walls, ceilings or floors
- Repair leaks in sink, tub and shower faucets and their components excluding flex lines
- Repair faucets in manor
- Repair/replace sink waste lines, traps and angle stops
- Repair/replace outside faucets (except alterations)
- Adjust building water pressure regulator
- Remove debris from water supply lines, valves and aerators
- Install relief valves ("beehives") in waste line
- Repair leaks at drain fittings at tub and shower

- Clear stoppages in manor except in walls, ceilings or floors
- Replace faucets in manor
- Repair/replace cracked, chipped, rusted or damaged sinks, basins, tubs or shower pans
- Repair/replace/clean bathtub and sink stoppers or components
- Repair/replace faucet aerators
- Repair/replace flexible shower or components
- Repair/replace/adjust toilet seats, tank, bowl, valves, etc.
- Replace plumber's putty seal (wax ring)
- Repair/replace kitchen sink soap dispenser or components
- Clear/repair/replace dishwasher discharge hose and air gap vent
- Re-caulk/regROUT bathtub/sink/shower wall tiles or shower door frames or tracks
- Repair/replace water filters
- Replace flex lines to sinks and toilets.

Mutual Responsibility	Resident Responsibility
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<b>ROOFS</b>	
<ul style="list-style-type: none"><li>• Replacement and repair of roofs, gutters and downspouts, except those on alterations</li></ul>	<ul style="list-style-type: none"><li>• Replacement and repair of roofs, gutters and downspouts on alterations</li></ul>

**Mutual Responsibility**

**Resident Responsibility**

**SMOKE DETECTORS**

- Annual inspection of smoke detectors and external warning horns
- Replace inoperable first smoke detector/batteries/external horns
- Install/replace additional smoke detectors if required by building code

- Install additional smoke detectors if required by building code due to resident's alteration
- Install additional smoke detectors at resident's option
- Replace additional smoke detectors if optional or installed because of alteration

Note:

All additional smoke detectors must be battery-operated and wall-mounted

**Mutual Responsibility**

**Resident Responsibility**

**Standard Kitchen Appliances: Refrigerators, Ranges, Ovens, Vents, Hoods, Garbage Disposals, Cooktops, etc.**

- Instructions on proper operation
- Repair/replace Mutual's standard kitchen appliances and their components
- Check oven for reasonable accuracy of temperature
- Repair/replace/clean damper valve (kitchen exhaust fan)
- Check refrigerator temperature
- Clean refrigerator condenser {during annual manor lube only}
- Repair/replace dishwashers (only in some Piedmonts in Projects 10, 11 and 12--see list).

- Repair/replace upgraded or non-standard components of kitchen appliances
- Repair/replace ice maker and components

**Mutual Responsibility**

**Resident Responsibility**

**TELEPHONE AND CABLE TV WIRING**

- Repair/replace telephone wiring from the user interface device (UID) into the telephone jack in the manor

- Repair/replace/relocate telephone jack
- New installations
- To add or relocate a cable TV outlet an alteration permit is required.

**Note:**

**If there is a telephone problem, resident must call MOD maintenance; staff will determine need to contact telephone company.**

**Mutual Responsibility**

**Resident Responsibility**

**WATER HEATERS**

- Instructions on proper operation
- Replace inoperable water heater or electric heater element
- Strapping at time of resale
- Replace flexible pipe or gaskets
- Adjust/replace drain pan

- Adjust water temperature thermostat
- Strapping at convenience of resident

**MUTUAL OPERATIONS DIVISION CHARGES FOR  
MAINTENANCE AND REPAIR WORK**

**Labor Charge:**

The hourly rate for each serviceperson (worker) on a job is calculated from the time they arrive at the manor or place of work until they depart. The labor charge, which is based on current costs and a mark-up for indirect expenses, is reviewed regularly and adjusted when necessary to recover the costs of providing services. A premium is assessed for work done at overtime rates (after hours and on weekends). Current charges can be obtained by telephoning the Work Order Desk at 988-7650.

**Material Charges:**

Any materials needed to complete the job are charged in addition to labor.

**Responsibility for Payment:**

Items designated as "Mutual Responsibility" in Appendix A will be paid by Second Walnut Creek Mutual. Items designated as "Resident Responsibility" will be paid by the resident. If the Mutual Operations Division (MOD) renders resident-billable maintenance or repair service, payment is required at the time that service is rendered.

**Differences of Opinion:**

Order Desk personnel advise residents, at the time orders are called in, that some work items "may be billable" to them. Workers also advise residents before commencing work when the work is billable to them. After the worker arrives, if a resident chooses not to have the work performed, the resident will be billed a minimum service charge. If there is a difference of opinion between the worker and resident regarding cost or whether the item is the resident's responsibility, the worker will not commence work, will note "resident refused work" on the work order, and will indicate the work is complete. The work order will be processed as usual and the worker's time will be billed as described.

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## MEMBERSHIP REQUIREMENTS

1. Every member of the Mutual must comply with these MEMBERSHIP REQUIREMENTS. Applicants for membership must submit the fully filled out Ownership Application and Questionnaire (Attachment 1) in order to be considered for membership.

Approval of a Membership Application is subject to the sole discretion of the Board of Directors which is empowered to consider such factors as stability of income, other financial obligations, previous housing experience and expenses, credit history and future assured income when ruling upon an application. This discretion of the Board shall be exercised impartially and for the benefit of the Mutual and its existing members as a whole.

Documentation supporting compliance with all of the above Requirements and compliance with requirements of the Application and Questionnaire shall be submitted to the satisfaction of the Mutual Board of Directors.

2. Current Annual Income. Applicants' annual income shall not be less than three times the annual total of monthly carrying charges (coupon) for the subject manor.
    - a. The gross amount of your salary, wages, social security, and pension shall be stated.
    - b. Income from rental of real estate shall be computed on a net basis with taxes, insurance, maintenance, operating expenses, mortgage payments, and a reasonable allowance for probable losses due to vacancies and uncollected rents deducted from the gross rental.
    - c. Amounts received in repayment of the principal of a capital investment shall not be considered as income unless it is in the form of a continuing source of income such as annuities or trusts.
  3. Liquid Assets. A minimum of \$50,000 excluding funds to be used for this purchase must be verified at the time of the application.
  4. If the applicant has been recently divorced, copies of the Decree of Dissolution and Property Settlement shall be attached to the Application and Questionnaire.
  5. If the applicant has been bankrupt or had a foreclosure within the last seven years, a signed statement explaining the circumstances of the bankruptcy or foreclosure in detail shall be attached to the Application and Questionnaire.
-

6. Responsible Parties. Applicant shall designate on the Application and Questionnaire a RESPONSIBLE PARTY whom the Mutual may contact in the event of an emergency, disability or other reasonable purpose related the membership in the Mutual.
7. As of February 20, 2003, a letter from the Applicants' accountant, lawyer, or other testifier will no longer suffice unless accompanied by complete financial documentation referred to in Paragraphs 1 through 6 above.
8. Share Loans. Applicants for membership purchasing with funds from a share loan from an approved lender are exempt from Paragraphs 2 through 5 above.

## 2.0 SUBLETTING

1. Right to Sublease. A Member has a right to sublease their Unit, subject to the requirements and limitations of the Governing Documents and this Rental Policy.
2. Legacy Status. The date by which "legacy status" (formerly "grandfathering") is calculated shall be the date this Rental Policy was duly adopted by the Board (November 18, 2021). November 18, 2021 is the date when the rental cap (described in 3.A., below) is considered created. Preservation of the legacy status date means that any Member who entered into an Occupancy Agreement with the Mutual for exclusive use and occupancy of their Unit on or before the date of adoption of this Rental Policy shall be entitled to sublease without regard to the limitation on the number of authorized subleases ("rental cap").
3. Requirements to Sublease. The following requirements apply to all subleases at the Mutual:
  - A. Rental Restriction. The Mutual has a twenty-five percent (25%) rental cap (i.e., up to 347 Units of the total 1387 Units may be rented).
  - B. Written Sublease Required. Any sublease agreement for a Unit shall be in writing and shall also specifically provide that the sublease agreement is subject to the provisions of the Governing Documents and that failure of the tenant, members of tenant's household, invitees or guests to comply with the provisions of the Governing Documents shall constitute a breach of the terms of such sublease agreement.
  - C. Entire Unit. Except as permitted in Section 3.D., below, no less than the entire Unit may be subleased.
  - D. Roommates Permitted. Nothing in the Bylaws, Occupancy Agreement, or this Rental Policy shall be construed to prohibit roommates or other person(s) with whom Member maintains a common household.
  - E. No Sub-Subletting or Assignment of Subleases. There shall be no right of assignment or sub-subletting of any Unit.
  - F. Renter's Insurance. Members shall require their tenants to obtain a renter's policy (HO-4) in an amount of no less than \$100,000 per occurrence, and which insurance shall include the Mutual as an additional named insured, and which insurance shall include a waiver of subrogation provision as to the Mutual, its officers, directors, and agents. Upon request, Members shall provide to the Board a certificate of said policy.
4. Minimum Lease Term. No Unit shall be subleased for a period of less than thirty (30) days. This is because of the substantial administrative cost of maintaining sublease records

and the sublease waiting list; and excessive wear and tear and damage to the Common Area caused by frequent move-ins and move-outs. By way of example only, sublease for a weekend or a week is strictly prohibited.

5. Member Liable for Violations of Governing Documents by a Tenant. A Member shall be liable for any violation or infraction of the Governing Documents by their tenant, members of tenant's household, invitees or guests.
6. Repair Damage. Members shall promptly reimburse the Mutual for the costs to repair any damage to the Common Area or Mutual property which is caused by the Member's tenants or by the tenants' family members, guests, invitees, or pets.
7. Responding to Occupancy Inquiries. In order to keep accurate records of Member occupancy in the Mutual and enforce any sublease restrictions in the Governing Documents, Members must promptly respond to inquiries from the Mutual regarding occupancy of their Units, including provision of contact information. The Board may levy a fine of up to \$100 for failure to respond to such an inquiry by the deadline established by the Board.
8. Enforcement.
  - A. Fines. Fines may be levied for violations of this Rental Policy. The notice and hearing requirements set forth in the Governing Documents shall apply. Violations of this Rental Policy for which fines may be levied include, but are not limited to, the following: (i) failing to maintain a written sublease agreement; (ii) subletting a Unit for a period of less than thirty (30) days, which must be pre-approved by the Board); (iii) failure to respond to an inquiry regarding occupancy by the deadline set forth in Section 7, above; (iv) subletting a Unit for transient or hotel purposes through Airbnb, VRBO, or other similar websites or entities; (v) subletting a Unit in connection with a time-sharing agreement; or (vi) violating any other provision of the Governing Documents.
  - B. Other Remedies. In addition to the imposition of fines, the Mutual may seek other remedies against violators of this Rental Policy, including requesting mediation or other forms of ADR, and filing a lawsuit in superior court, seeking an injunction, money damages, or any other remedies allowed under law.
  - C. Attorneys' Fees and Costs. Members who violate this Rental Policy are liable to the Mutual for all costs and attorneys' fees incurred by the Mutual as a result of any such violations. Any such attorneys' fees and costs incurred can be made the subject of a Reimbursement Assessment which shall be enforceable and collectible pursuant to Section 14.5 of the Bylaws. Additionally, the prevailing party in any legal action to enforce this Rental Policy shall be entitled to their reasonable attorneys' fees and costs.

9. Schedule of Fines. In addition to any other schedule of fines set forth in the Policies, violations of this Rental Policy are subject to the following schedule of fines:

- Violations of Rental Policy:
  - An amount per day equal to the highest daily rental amount set forth in the sublease for each day a Member subleases their Unit if the term is less than thirty (30) days (or Board pre-approval is not obtained sublease).
  - An amount equal to the highest daily rental amount set forth in the sublease for failure to deliver a written sublease agreement with the Board as required by this Rental Policy.
  - An amount equal to the highest daily rental amount set forth in the sublease for each day a Member subleases their Unit if the sublease is in violation of the Mutual's rental cap of 25% of all Units.

**OCCUPANCY AGREEMENT**

Unit Address: \_\_\_\_\_

File No. \_\_\_\_\_

THIS AGREEMENT (“Agreement”) is made and effective \_\_\_\_\_ (“Effective Date,”) by and between Second Walnut Creek Mutual (“Corporation”), a California nonprofit mutual benefit corporation having its principal office c/o Board Services Office, 1001 Golden Rain Road, Walnut Creek, California 94595 and \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and

\_\_\_\_\_  
 (“Designated Occupant”):

WHEREAS, the Corporation has been formed for the purpose of acquiring, owning and operating the Second Walnut Creek Mutual (“SWCM”) cooperative housing project located in the Rossmoor community in the City of Walnut Creek, Contra Costa County, California (hereinafter the “Project”), with the intent that its members and designated occupants shall, as applicable, have the right to occupy the dwelling units and enjoy the common areas thereof under the terms and conditions set forth in this Occupancy Agreement;

WHEREAS, the Project is a common interest development of the type known as a stock cooperative, as those terms are defined in California Civil Code sections 1351(c) and (m), respectively;

WHEREAS, the Project is also a “senior citizen housing development” as defined in California Civil Code section 51.3(b)(3) and is operated as “Housing for Older Persons” as defined in the United States Fair Housing Amendments Act of 1988, 42 U.S.C.S. section 3607(b)(2);

WHEREAS, the Corporation leases the dwelling units at the Project to members of the Corporation pursuant to "Occupancy Agreements"; and

WHEREAS, the Member is the owner and holder of one membership in the Corporation.

NOW, THEREFORE, for good and valuable consideration as hereinafter set forth, the parties hereto agree as follows:

**ARTICLE 1. "MEMBER" AND "DESIGNATED OCCUPANT"; NO TRANSFER OF RIGHT TO OCCUPY SEPARATE FROM MEMBERSHIP.**

- 1.1 "Member" shall mean the record owner of a membership in the Corporation.
- 1.2 Member, if a natural person at least fifty-five (55) years of age or older, will automatically be deemed to also be the "Designated Occupant" unless the Member will not be residing in the Unit (as defined herein). If the Member is not a natural person or will not be residing in the Unit (as defined herein), the Member shall designate a Designated Occupant who shall be either at least fifty-five (55) years of age or a "Qualified Permanent Resident" as that term is defined in the "Senior Housing Residency Restrictions" which the Corporation's Board of Directors may from time to time adopt and publish and as may be described in the Corporation's Bylaws ("Bylaws").
- 1.3 Member's right to occupy the Unit is appurtenant to the Member's membership in the Corporation. Accordingly, Member may not transfer the membership in the Corporation separate and apart from the Member's right to occupy the Unit.
- 1.4 Both the Member and the Designated Occupant shall execute this Occupancy Agreement. Upon any change in the Designated Occupant, the Member and the new Designated Occupant shall sign a new Occupancy Agreement in the form then utilized by the Corporation.

**ARTICLE 2. LEASED PREMISES AND TERM.**

- 2.1 The Corporation hereby leases to the Member, and the Member hereby hires and takes from the Corporation, subject to the terms and conditions contained herein, the dwelling unit commonly known as \_\_\_\_\_ (referred to herein as the "Manor" or "Unit"), together with the patio, deck, veranda, balcony, storage space, carport, parking space and/or garage (as applicable) assigned and/or appurtenant to such Unit (collectively described in California Civil Code section 1351(i) as "exclusive use common area").
- 2.2 Member agrees that the Unit and any appurtenant exclusive use common area shall be used for private residential dwelling purposes only, on the terms and conditions set forth herein and, from the Effective Date of this Agreement, for a term terminating on \_\_\_\_\_ or until such earlier termination date as provided herein, and renewable thereafter for successive three-year periods under the conditions provided for in Article 8 herein.

- 2.3 The Corporation shall have the right to require the Member and the Designated Occupant to execute a new Occupancy Agreement upon expiration of the original term or any renewal term, in the form then utilized by the Corporation.

**ARTICLE 3. CARRYING CHARGES AND CASH REQUIREMENTS.**

- 3.1 Commencing on the Effective Date, the Member agrees to pay to the Corporation during each calendar year as rental an aggregate amount, referred to herein as "Carrying Charges," consisting of the following components:
- (a) a sum equal to 1/1387th of the Corporation's Cash Requirements (as defined in Section 3.5 below) for each calendar year as determined by the Corporation's Board of Directors, *i.e.*, an equal share for each of the One Thousand Three Hundred and Eighty Seven (1,387) units in the Project;
  - (b) the Unit's proportionate share of real property taxes and assessments based on the Unit's assessed value as determined by the Contra Costa County Tax Assessor and the then current property tax rate;
  - (c) the Unit's proportionate share of any principal, interest, mortgage insurance premiums, and expenses in connection therewith, associated with any mortgage or loan obtained by the Corporation where the real property on which some or all of the units are located has been pledged as security;
  - (d) a sum equal to 1/1387<sup>th</sup> of any Special Assessment (as described in Article 5 below) levied by the Board of Directors during the calendar year as provided in this Agreement, *i.e.*, an equal share for each of the One Thousand Three Hundred and Eighty Seven (1,387) units in the Project; and
  - (e) the amount of any Reimbursement Assessment levied against the Member as provided in Article 6 of this Agreement.
- 3.2 That portion of the annual Carrying Charges which is 1/1387<sup>th</sup> of the Cash Requirements (as defined in Section 3.5 below) for the year shall be payable in twelve (12) equal monthly installments, and the amount of any other component of the Carrying Charges allocated to the Member and levied during any year shall be payable at the time, and in accordance with, the terms established by the Board at the time of the levy.
- 3.3 Payment of the monthly Carrying Charges shall commence on the Effective Date of this Agreement and shall be prorated for any portion of a month based on a thirty (30) day month. Thereafter the Member shall pay the monthly Carrying Charges in advance on the first day of each month.

- 3.4 As of \_\_\_\_\_, the monthly Carrying Charges are \$\_\_\_\_\_. This amount may be adjusted from time to time based upon revisions in assessed value as determined by the Contra Costa County Tax Assessor and related real property taxes and assessments associated with the Unit. The monthly Carrying Charges may also be increased or decreased from time to time by the Board of Directors depending on the amount of Cash Requirements determined by the Board, from time to time, to be needed for operation of the Project and the Corporation in accordance with Section 3.5 below.
- 3.5 "Cash Requirements" as used herein shall mean the amount that the Board of Directors of the Corporation (hereinafter referred to as the "Board of Directors" or the "Board") determines to be needed for the operation of the Project and of the Corporation for the calendar year, including but not limited to the following items:
- (a) The cost of all operating expenses of the Project and services furnished, including charges by the Golden Rain Foundation of Walnut Creek (hereinafter referred to as the "Foundation") for facilities and services furnished by the Foundation;
  - (b) The cost of all operating expenses of the Project and of the management and administration services furnished for the benefit of the Project and the Corporation;
  - (c) The amount of all taxes and assessments, exclusive of real property taxes and assessments associated with the units, levied against the Project and against the Corporation or which it is required to pay, if any;
  - (d) The cost of fire and extended coverage insurance on the Project and such other insurance as the Corporation may maintain or as may be required by any mortgage on all or a portion of the Project;
  - (e) The cost of furnishing water, gas, electricity, garbage and trash collection, cable television and broadband service, if any, and other utilities to the extent furnished by the Corporation (and as more fully described in Article 16 below entitled "Utilities");
  - (f) All reserves and contingency funds set up by the Board of Directors, including the general operating reserve and the reserve for replacements;
  - (g) The estimated cost of maintenance, repairs, alterations and replacements of the Project made, or to be made, by the Corporation;
  - (h) Legal and accounting fees;
  - (i) Any liens or charges on the Project;

- (j) Expenses and liabilities incurred by the Corporation by reason of this or other occupancy agreements on any portion of the Project; and
  - (k) Any other expenses of the Corporation approved by the Board of Directors, including, but not limited to, operating deficiencies, if any, for prior periods, but excluding Reimbursement Assessments (as defined in Article 6 below), which are individual obligations and not a part of Cash Requirements.
- 3.6 The Board of Directors shall determine the Cash Requirements for each year on or before November 30 of the preceding year. However, the failure of the Board of directors to determine the Cash Requirements for any given year shall not be deemed a waiver or modification of the covenants and provisions hereof, or a release of the Member from the obligation to pay Carrying Charges; instead, the Carrying Charges computed for the previous year shall continue until a new determination of Cash Requirements has been made and written notification of same has been provided to the Member.

#### **ARTICLE 4. FAILURE TO FIX CARRYING CHARGES.**

The omission of the Board of Directors to fix Carrying Charges on a timely basis hereunder shall not be deemed a waiver or modification of this Agreement or a release of the obligation to pay Carrying Charges, provided that such Carrying Charges shall ultimately be fixed.

#### **ARTICLE 5. SPECIAL ASSESSMENTS.**

If at any time during any calendar year, the Cash Requirements for that year prove to be inadequate for any reason, including nonpayment of any member's share thereof or the unexpected repair, replacement or reconstruction of improvements located on the Project, or if funds are otherwise required for any authorized activity of the Corporation, the Board may levy a Special Assessment. Such Special Assessment shall be allocated equally among all of the units in the Project. Except in the case of an emergency situation as defined in Civil Code section 1366, in any year the Board may not levy Special Assessments which, in the aggregate, exceed five percent (5%) of the budgeted gross expenses of the Corporation for that year, except upon the affirmative vote of a majority of the members voting on any such Special Assessment, provided that a quorum is established. For purposes of the preceding sentence, a "quorum" shall mean more than fifty percent (50%) of the members of the Corporation, notwithstanding any different quorum requirements that may be set forth in the Bylaws.

**ARTICLE 6. REIMBURSEMENT ASSESSMENTS.**

6.1 In addition to the Special Assessments levied in accordance with Article 5 of this Agreement, the Board of Directors may impose a Reimbursement Assessment against the Member in any of the circumstances described in subsections (a), (b), and (c) below, provided that no such Reimbursement Assessments may be imposed against the Member until the Member has been afforded prior notice and an opportunity for a hearing before the Board of Directors. Subject to the foregoing, the acts and circumstances giving rise to liability for Reimbursement Assessments include (but are not necessarily limited to) the following:

- (a) Damage to Common Area or Common Facilities. In the event that any damage to or destruction of any portion of the common area is caused by the willful misconduct or negligent act or omission of the Member or the Designated Occupant, any family or household member, or any sublessees, guests, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not compensated by insurance proceeds) may be assessed and charged solely to and against the Member (including, without limitation, the Member's estate) and to the fullest extent possible, all other persons subject to this Agreement in accordance with Article 25 of this Agreement, as a Reimbursement Assessment.
- (b) Expenses Incurred in Gaining Member Compliance. In the event the Corporation incurs any costs or expenses to accomplish: (i) the payment of delinquent Carrying Charges; (ii) any repair, maintenance or replacements to any portion of the Project which the Member is responsible to maintain under this Agreement or the Corporation's governing documents (including but not limited to the Corporation's rules, regulations, and policies) but has failed to undertake or complete in a timely fashion; or (iii) to otherwise bring the Member and/or the Unit (and any exclusive use common area) into compliance with any provision of the Corporation's governing documents or this agreement, all amounts so incurred, including but not limited to title company fees, accounting fees, court costs and attorneys' fees incurred (regardless of whether suit has been filed), may be assessed and charged solely to and against the Member (including, without limitation, the Member's estate) and to the fullest extent possible, all other persons subject to this Agreement in accordance with Section 25 of this Agreement, as a Reimbursement Assessment.
- (c) Monetary Penalties for Violation of Governing Documents. Governing Documents shall include this Agreement, Bylaws, CC&Rs, Rules, Regulations and Policies of the Corporation. In the event that the Corporation levies a monetary penalty (*i.e.*, fine) against the Member, for a violation of any provision of the Governing Documents, then the amount

of such penalty may be assessed and charged to and against such Member as a Reimbursement Assessment.

- 6.2 Once a Reimbursement Assessment has been levied against the Member for any reason described herein, and subject to the conditions imposed in this Article 6, such Reimbursement Assessment shall be recorded on the Corporation's assessment roll, notice thereof shall be mailed to the Member, and the Reimbursement Assessment shall thereafter be due as a separate debt of the Member payable in full to the Corporation within thirty (30) days after the mailing of notice of the Reimbursement Assessment. Such Reimbursement Assessment shall be considered on a parity with, and as a component part of, the Member's Carrying Charges, and shall be subject to the same terms and conditions as are applicable to Carrying Charges throughout this Agreement, including collection in the same manner as Carrying Charges as provided in this Agreement, except that the lien securing payment of a monetary penalty (*i.e.*, fine) shall not be subject to collection through non-judicial foreclosure of the Corporation's leasehold interest in the Unit, unless otherwise specifically permitted by law.

#### **ARTICLE 7. DELINQUENT PAYMENTS.**

- 7.1 Member shall pay to the Corporation the Carrying Charges payable by the Member under this Agreement upon the terms, at the times and in the manner herein provided, without any deduction on account of any set-off or claim which the Member may have against the Corporation. Any installment of Carrying Charges not received within fifteen (15) days after the due date shall be deemed delinquent and shall be subject to interest, late charges and costs of collection as provided in Civil Code section 1366, or any successor statute, and as set forth below. All monies received on delinquent accounts shall first be applied to Carrying Charges due and then to applicable interest, late charges and collection costs. Corporation may refuse to accept delinquent payments of less than the total amount due, including interest, late charges and collection costs.
- 7.2 In addition to other sums that have become, or will become, due pursuant to the terms of this Agreement, the Member shall pay to the Corporation all of the following with respect to any Carrying Charges which have become delinquent as hereinabove described:
- (a) Reasonable costs incurred in collecting the delinquent amount, including reasonable attorneys' fees whether or not suit has been filed;
  - (b) A late charge not to exceed ten percent (10%) of the delinquent amount; and

- (c) Interest on all such sums, including the delinquent amount, collection costs and late charges, at an annual percentage rate not to exceed twelve percent (12%) commencing thirty (30) days after the due date of any installment of Carrying Charges and continuing on all delinquent amounts until paid in full.

**ARTICLE 8. MEMBER'S OPTION TO RENEW.**

- 8.1 It is covenanted and agreed that the term herein granted shall be automatically extended and renewed from time to time by and between the parties hereto for further periods of three (3) years, each from the expiration of the term herein granted, upon the same covenants and agreements as herein contained unless:
- (a) Notice of the Member's election not to renew shall have been given to the Corporation in writing at least four (4) months prior to the expiration of the then current term; and
  - (b) The Member shall have on or before the expiration of said term (1) endorsed the Member's membership certificate (if any) for transfer in blank and deposited same with the Corporation, (2) is not in compliance with all provisions of and paid all amounts due under this Agreement, or (3) vacated the Unit (and any exclusive use common area), leaving same in good state of repair. Should the Unit (or any exclusive use common area) not be left in a good state of repair, the Corporation may expend reasonable sums to bring the premises to a good state of repair and may charge said reasonable amounts to the Member, deducting such charges from the proceeds of sale due the Member who has sold the subject membership. Upon compliance with the requirements of this Article 8, the Member shall have no further liability under this Agreement and shall be entitled to no payment from the Corporation hereunder.
- 8.2 As provided in Section 2.3 above, the Corporation shall have the right to require the Member and the Designated Occupant to execute a new Occupancy Agreement upon expiration of the original term or any renewal term, in the form then utilized by the Corporation.

**ARTICLE 9. DESIGNATION OF RESPONSIBLE PARTY.**

- 9.1 Member or Designated Occupant shall, during the initial execution of this Agreement and at the time of all renewals hereof, designate as set forth below, the name, address, and means to contact a responsible party which the Association may contact in the event of an emergency, disability of Member or Designated Occupant or other reasonable purpose related to this Agreement. Member shall keep the responsible party designation updated so that the Corporation will

always be able to contact the responsible party if necessary. Failure to keep the responsible party designation up to date shall be a breach of this Agreement.

Responsible Party	Relationship to Member or Designated Occupant		
Address	City	State	Zip Code
Home Phone	Work Phone	Cell Phone	
Home email address		Work email address	

**ARTICLE 10. USE OF PREMISES.**

- 10.1 The Member and the Designated Occupant shall not occupy or use the Unit or any exclusive use common area appurtenant thereto, or permit the same or any part thereof to be occupied or used, for any purpose other than as a private dwelling unit.
- 10.2 Neither the Member nor the Designated Occupant nor any other person subject to this Agreement as provided in Article 25 below shall permit anything to be done or kept in the Unit or appurtenant exclusive use common area which will increase the rate of fire or other insurance on the Project or the improvements thereon or the contents thereof, or which will obstruct the common areas of the Project. If such rates of insurance are increased by such actions, the Member shall be personally liable for the additional insurance premiums upon such policies, and the Board may charge the cost thereof to Member as a Reimbursement Assessment.
- 10.3 The Member and the Designated Occupant will comply with all laws, statutes and ordinances applicable to the occupancy or use of the Unit. And if, by reason of the occupancy or use of the Unit or appurtenant exclusive use common area by the Member or Designated Occupant or members of the Member's or Designated Occupant's household or their sublessees, guests or invitees, the rate of fire or other insurance on the Project or the improvements thereon or the contents thereof shall be increased (if such rates of insurance are increased by such actions, the Member be personally liable...).
- 10.4 The Corporation is not responsible for and shall not have any liability to the Member or Designated Occupant or any other occupant or resident by reason of

any damage arising from the act or neglect of other members, occupants or of any owners or occupants of adjacent or contiguous property, or others.

**ARTICLE 11. COMPLIANCE WITH CORPORATION'S GOVERNING DOCUMENTS.**

The Member and Designated Occupant shall preserve and promote the cooperative ownership principles on which the Corporation was founded. The Member, the Designated Occupant and all other persons subject to this Agreement as provided in Article 25 below shall comply with the Governing Documents, including Senior Housing Residency Restrictions, as adopted or enacted from time to time. The Governing Documents shall automatically become part of this Agreement when furnished to the Member.

**ARTICLE 12. OFFENSIVE CONDUCT; NUISANCE; NOISE.**

- 12.1 No noxious, harmful, unsafe or offensive activities shall be conducted upon or within any part of the Project, nor shall anything be done thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to any other members or residents of the Project, or which shall in any way interfere with their use of the common areas or the use and enjoyment of their dwelling units. Without limiting any of the foregoing, the Member, Designated Occupant, other resident(s), and guest(s) shall not permit noise (including but not limited to the barking of dogs, sound from machines, appliances, radios, stereos and televisions) to emanate from their Unit or exclusive use common area, which would unreasonably disturb another member's or resident's enjoyment of their dwelling unit or of the Project's common area.
- 12.2 The Corporation has the sole and absolute authority, but not the obligation to pursue, on behalf of the Corporation, claims against the Member, Designated Occupant, residents and others based on the allegation, existence, or maintenance of a nuisance.

**ARTICLE 13. SUBLETTING.**

- 13.1 The Member shall not sublet the whole or any part of the Unit or the appurtenant exclusive use common area for any term to any person or persons except as authorized under the provisions of this Agreement, or the Governing Documents, including, without limitation, the Senior Housing Residency Restrictions, and then only upon the prior written consent of the Board of Directors. Violation of the foregoing shall, at the option of the Corporation, result in termination and forfeiture of the Member's rights under this Agreement.

- 13.2 Rules, policies and regulations adopted by the Board concerning subleasing may concern, but need not be limited to, (i) the form of sublease agreement that must be used, (ii) the number of units that may be subleased at any given time, (iii) the minimum or maximum terms of subleases, and (iv) the number of subleases within a specific time period.
- 13.3 Any sublease shall expressly provide that it is subject and subordinate to the terms of this Occupancy Agreement. Any sublease shall further require the sub-tenant, during the subtenancy, to abide by the terms of this Occupancy Agreement, and the Governing Documents of the Corporation, including the Senior Housing Residency Restrictions. Sublessees shall further give to the Corporation an irrevocable power to dispossess, evict sublessees, or otherwise act for the sublessor in case of default under the sublease.
- 13.4 The liability of the Member under this Agreement shall continue notwithstanding the fact that the Member may have sublet the Unit with the approval of the Corporation. The Member shall continue to be liable for all obligations hereunder and shall be responsible to the Corporation for the conduct of all sublessees.

#### **ARTICLE 14. TRANSFERS; ASSIGNMENT.**

The Member shall not transfer or assign this Agreement or any interest therein, except in accordance with the requirements set forth in this Agreement and the Governing Documents. No such assignment shall take effect as against the Corporation for any purpose unless and until all of the requirements relating thereto set forth in the Governing Documents have been complied with, satisfied, or waived by the Corporation.

#### **ARTICLE 15. MANAGEMENT, TAXES AND INSURANCE.**

- 15.1 As provided in this Agreement, the Corporation shall: (a) provide necessary management, operation and administration of the Project; (b) pay or provide for the payment of all taxes and assessments levied against the Project and not directly billed to the Unit or the Member by the governmental authority; (c) procure and pay or provide for the payment of fire insurance and extended coverage, and other insurance as required by any mortgage on the Project, and (d) procure and pay for such other insurance as the Corporation may deem advisable on the Project. The Corporation will not, however, provide insurance on the Member's interest in the Unit or on the Member's personal property or that of the Designated Occupant or any other occupant.
- 15.2 Each Member irrevocably appoints the Mutual as that Member's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with any

insurance policy maintained by the Mutual and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Member had personally taken the action.

- 15.3 Member's Insurance: In addition to the insurance requirements contained in the Bylaws, which are incorporated herein, each Member shall procure and maintain property insurance against losses to personal property located within the Member's unit and personal liability coverage. In addition, owners may obtain insurance covering loss of use and damage to additions and/or alterations approved by the Mutual to cover instances when insurance proceeds from policies maintained by the Mutual are not available to cover any such losses or damage. The Mutual's insurance policies may not provide coverage for (i) losses to the Member's personal property; (ii) losses to any alterations to the unit; (iii) liability for accidents or occurrences within the Member's unit; or (iv) liability from accidents or occurrences within Rossmoor for which the Member may be held responsible and which may not be covered under the Association's General Liability Policy. Each Member should seek the advice of a qualified insurance consultant regarding the Member's property and liability insurance obligations under this section and should provide that consultant with a copy of the Association's Bylaws.

Except as provided above, no Member shall separately insure any property covered by the Mutual's property insurance policy. If any Member violates this provision, and as a result there is a diminution in insurance proceeds otherwise payable to the Mutual, the Member will be liable to the Mutual to the extent of the diminution. The Mutual may levy a reimbursement assessment against the Member's unit to collect the amount of the diminution.

Each Member shall at least annually, provide written evidence of the insurance required by this section.

## **ARTICLE 16. UTILITIES.**

- 16.1 The Corporation shall provide gas and electricity for exterior use, sewage disposal, water for both exterior and interior use, and garbage and trash collection. The cost of these services shall be included in the Carrying Charges provided in Article 3 above.
- 16.2 Gas, electricity, internet and telephone service for the Unit shall be billed by the service provider directly to the Member and paid by the Member directly to such provider.
- 16.3 Cable television and broadband service may be provided from time to time by Golden Rain Foundation of Walnut Creek in its discretion.

**ARTICLE 17. REPAIRS.**

17.1 By Corporation: The Corporation shall provide and pay for all necessary repairs, maintenance and replacement as provided in the Governing Documents and as follows:

- (a) Exterior maintenance of buildings, including walls and roofs, and, except in case of Member or resident alterations, exterior doors, and windows.
- (b) Appliances – major components (motors, refrigeration units, heat exchanges, furnaces and hot water tanks) of appliances and equipment hereafter listed, but only such appliances and equipment specified as being standard equipment in the offering of the original sale. Any of the following equipment installed as optional equipment by the Member or Designated Occupant, or any prior member or occupant, or any other person is not covered by this provision and shall not be maintained, repaired or replaced by the Corporation:
  - (i) Refrigerators;
  - (ii) Ranges, cook tops, hoods and ovens;
  - (iii) Garbage disposals;
  - (iv) Air conditioners;
  - (v) Furnaces;
  - (vi) Dishwashers provided as original equipment; and
  - (vii) Hot water heaters.
- (c) Except as otherwise provided in the Governing Documents, and maintenance guidelines as adopted by the Board from time to time, the Corporation shall provide for and pay for the maintenance (except cleaning), repair and replacement of the exclusive use common area (*i.e.*, balcony, deck, veranda, patio, garage, parking space, carport, and storage space, as applicable) appurtenant to the Unit.

17.2 By Member: The Member agrees to maintain and repair the Unit (including the exclusive use common area) at the Member's own expense as follows:

- (a) Any repairs, replacement or maintenance necessitated by the Member's or Designated Occupant's own negligence or misuse, or that of other occupants of the Unit and/or guests, invitees and/or visitors of either;
- (b) Any redecoration of Unit interiors;

- (c) Maintenance, repair and replacement of all sinks, toilets, faucets and all plumbing, inside the Unit;
- (d) Repairs or maintenance of all fixtures and other interior items in the Unit (except for those identified in Section 17.1(b) above);
- (e) Alterations, additions and equipment installed or constructed by or on behalf of the Member, the Designated Occupant, any resident or any of their predecessors, as more particularly provided in Article 18 below;
- (f) All repairs or maintenance to equipment installed as optional equipment; and
- (g) Except to the extent maintenance, repair or replacement is expressly assigned to the Corporation, the Member shall maintain the Unit and appurtenant exclusive use common area in good condition and repair.

17.3 Right of Corporation to Make Repairs at Member's Expense. In case the Member shall fail to effect the repairs, maintenance or replacements which are the Member's responsibility pursuant to Section 17.2 above in a manner satisfactory to the Corporation and pay for same within thirty (30) days after notification by the Corporation to the Member, the Corporation may, after written notice to the Member and the right of a hearing before the Board, as provided in the Bylaws, cause such work to be done and charge the cost thereof to the Member as a Reimbursement Assessment and add such cost to the Member's Carrying Charges for the next succeeding month.

## **ARTICLE 18. ALTERATIONS AND ADDITIONS.**

18.1 The Member shall not, without the written consent of the Corporation, make any additions or structural alterations in or to the Unit or to any exclusive use common area appurtenant to the Unit (*i.e.*, balcony, deck, veranda, patio, garage, parking space, carport, and storage space, as applicable) or in the water, gas pipes, electrical conduits, plumbing or other fixtures connected therewith or remove any additions, improvements or fixtures from the Unit or any exclusive use common area appurtenant thereto. Upon receipt of such written consent and completion of such work, the Member will be responsible for maintenance, repair and replacement of all such additions or alterations, for any claims or liens arising from such work, and for all damages and liability resulting therefrom. Member agrees to record documentation confirming the obligation of Member and his/or successors to perform said maintenance repair and replacement of all such additions or alterations.

18.2 If the Member for any reason shall cease to own the membership appurtenant to the Unit, the Member shall surrender to the Corporation possession of the Unit

and any appurtenant exclusive use common area, including any alterations, additions, fixtures and improvements, unless the Corporation requires restoration of the premises to its original condition. Such restoration shall be at the expense of the Member.

- 18.3 In Units where dishwashers were not part of the original equipment provided, dishwashers may be installed at the expense of the Member and where so installed, the Member shall be responsible for the maintenance, repair and replacement of such dishwasher. When installed, the dishwasher shall become a part of the real property and shall not be removed without the written consent of the Corporation.
- 18.4 The Member shall not, without the prior written consent of the Corporation, install or use in the Unit any air conditioning equipment, washing machine, clothes dryer, electric heater or power tools. The Member agrees that the Corporation may require the prompt removal of any such appliance or equipment at any time and that the Member's failure to remove such appliance or equipment upon request shall constitute a default within the meaning of Article 24 of this Agreement. IF EITHER THE UNIT OR ANY APPURTENANT EXCLUSIVE USE COMMON AREA HAS BEEN THE SUBJECT OF WRITTEN PERMISSION OF THE CORPORATION FOR ANY SUCH ALTERATIONS OR ADDITIONS, THE PURCHASER OF THE MEMBER'S MEMBERSHIP SHALL BE REQUIRED TO ACKNOWLEDGE, TO THE CORPORATION IN WRITING, THE FOLLOWING AT OR PRIOR TO CLOSING: (1) THAT PURCHASER HAS RECEIVED FROM THE SELLER THEREOF A COPY OF THE CORPORATION'S WRITTEN CONSENT; (2) THAT PURCHASER KNOWS THAT SUCH ALTERATIONS AND ADDITIONS HAVE BEEN MADE BY THE SELLER OR OTHER PREVIOUS OWNER; AND (3) THAT PURCHASER RECOGNIZES THAT PURCHASER IS RESPONSIBLE FOR THE MAINTENANCE OF ALL SUCH ADDITIONS AND ALTERATIONS, FOR ALL CLAIMS ARISING FROM SUCH WORK, FOR ALL INCREASED COSTS TO CORPORATION TO PERFORM ITS MAINTENANCE OBLIGATIONS AS A RESULT OF THE ALTERATIONS AND ADDITIONS, FOR ALL CLAIMS ARISING FROM SUCH WORK AND FOR ALL DAMAGES AND LIABILITY RESULTING THEREFROM.

#### **ARTICLE 19. MAINTENANCE; CONDITIONS OF PREMISES.**

- 19.1 The Corporation shall maintain and manage the Project in good condition as required under this Agreement; provided, however, that the Corporation shall not be responsible for any maintenance, repair or replacement which is assigned to the Member pursuant to this Agreement or the Corporation's Governing Documents and maintenance guidelines as adopted by the Board from time to time.

- 19.2 Member acknowledges that Member has examined the Unit, the appurtenant exclusive use common area, and all of the areas, equipment and personal property being demised hereunder, and has accepted the same in good, safe and clean condition and repair. The Member agrees to notify the Corporation immediately of any damage, defect, dilapidation or dangerous condition.
- 19.3 Each Member shall maintain property insurance for the contents of their Unit. Said policy shall also provide third-party liability coverage. Damage to or destruction of the contents of the Unit from a property or casualty loss shall be the complete and total responsibility of the Member.

The covenants by the Corporation herein contained are subject, however, to the discretionary power of the Board of Directors to prescribe the manner of maintaining and operating the Project and to determine the Cash Requirements of the Corporation as hereinabove stated. There shall be no diminution or abatement of Carrying Charges or other compensation accruing to the Member or Designated Occupant for the failure by the Corporation to perform its covenants herein, or for interruption or curtailment of service, when such failure, interruption or curtailment shall be due to accident or to alterations or repairs desirable or necessary to be made, or to inability or difficulty in securing supplies or labor, or due to some other cause not constituting gross negligence on the part of the Corporation.

#### **ARTICLE 20. ROOF.**

To the greatest extent provided by law, no outside mast, tower, pole, antenna, satellite dish or solar energy system shall be erected, constructed, or maintained on the roof or exterior of any building or other common area except upon express prior written authorization by the Board of Directors.

#### **ARTICLE 21. RIGHT OF ENTRY.**

On not less than twenty-four (24) hours advance notice, the Member and Designated Occupant must make the Unit and appurtenant exclusive use common area available during normal business hours, except where the Member or Designated Occupant agrees to other hours, for entry by the Corporation or its agents for the purpose of: (a) making authorized, necessary or agreed-on repairs, decorations, alterations, or improvements; (b) supplying authorized, necessary or agreed-on services; (c) showing the Unit to prospective or actual purchasers, mortgagees, repair personnel, lessees, workers or contractors, or representatives of governmental entities; (d) entry after the Member has abandoned or surrendered the Unit; (e) pursuant to court order or request of a governmental entity; or (f) for any other lawful purpose to enable the Corporation to meet its duties and obligations pursuant to the Governing Documents. In case of emergency, or of Member's abandonment or surrender of the Unit, or where notice is impractical, the

Corporation or its agent may enter the Unit at any time without securing the Member's prior consent.

**ARTICLE 22. MECHANIC'S LIENS.**

22.1 In case there shall be filed a notice of mechanic's lien against the Project, for, or purporting to be for, labor or material alleged to have been furnished or delivered at the Project, or the Unit or to or for the Member, or to or for anyone claiming under the Member, the Member shall forthwith cause such lien to be discharged by payment, bonding or otherwise; and if the Member shall fail to cause such lien to be discharged within sixty (60) days after the filing of such notice, the Corporation may cause such lien to be discharged by payment, bonding or otherwise, without investigation as to the validity thereof or of any offsets or defenses thereto, and shall have the right to collect all amounts so expended from Member as a Reimbursement Assessment, including but not limited to, all costs and expenses paid or incurred in connection therewith, including reasonable attorneys' fees and disbursements, together with legal interest thereon from the time or times of payment.

22.2 In connection with any work, material or services performed on or at Member's Unit or exclusive use common area on behalf of a Member, the Corporation may require submission of a release, in form satisfactory to Corporation, from the contractor or supplier certifying that full payment has been received for such work, material or services. If Member performed work and/or procured materials without the use of a contractor, the Member shall certify, on a form acceptable to or provided by the Corporation, that Member did all of the work without a contractor and that all associated bills have been paid in full, and further provide such additional information and certifications as Corporation may require.

**ARTICLE 23. MEMBERSHIP IN THE FOUNDATION.**

Membership in the Foundation and the voting rights and privileges of Foundation members shall be as prescribed in the governing documents and agreements of the Foundation, as amended from time to time. No Member shall transfer any membership and/or interest in the Foundation except in compliance with the provisions of the Foundation's governing documents and agreements.

**ARTICLE 24. DEFINITION OF DEFAULT BY MEMBER AND EFFECT THEREOF.**

24.1 The Member shall be deemed to have committed a material breach of this Agreement, and shall be subject to all the remedies available to the Corporation in the event of a default as provided in this Agreement and the Governing Documents, including, without limitation, fines, forfeiture of the Member's membership in the Corporation and termination of Member's leasehold interest in the Unit, all in accordance with the Governing Documents and the laws of the State of California, upon the occurrence of any of the following events:

- (a) Except as otherwise authorized by the Bylaws, the Member shall cease to be the owner and legal holder of the membership in the Corporation to which this Agreement is appurtenant or pledges such membership without consent of the Corporation;
- (b) In the event the Member attempts to sublet or assign this Agreement without full compliance with all applicable provisions of this Agreement and of the Governing Documents;
- (c) In the event the Member shall be declared a bankrupt under the laws of the United States and that bankruptcy results in financial loss or damage to the Mutual;
- (d) In the event a receiver of the Member's property shall be appointed under any of the laws of the United States or any state;
- (e) In the event the Member shall make a general assignment for the benefit of creditors;
- (f) In the event the membership in the Corporation owned by the Member to which this Agreement is appurtenant shall be duly levied upon and sold non-judicially or under the process of any court;
- (g) In the event the Member fails to effect and/or pay for repairs, replacement and maintenance as provided for in Article 17 of this Agreement;
- (h) In the event the Member shall fail to pay any sum due pursuant to any of the provisions of this Agreement;
- (i) In the event the Member fails to maintain individual insurance as required at Article 15 of this Agreement;
- (j) In the event the Member shall default in the performance of any of the Member's obligations under this Agreement;
- (k) In the event the Member, without the prior written approval of the Corporation, permits unauthorized persons to temporarily or permanently

occupy the Unit contrary to the Corporation's Governing Documents, including the Senior Housing Residency Restrictions; or

- (l) In the event Member becomes physically or mentally impaired or incapacitated as determined by the Board of Directors, after consultation with physical and/or mental health professionals, to the extent that continuing to occupy the Unit presents a danger or risk to the Member or others or constitutes a nuisance which significantly denies other residents their quiet enjoyment.

- 24.2 After a breach of this agreement, the Corporation may give to the Member a notice that this Agreement will expire at a date not less than thirty (30) days thereafter (except that in the case of the default specified in Section 24.1(h), such date in the notice shall be fifteen (15) days instead of thirty (30) days), this Agreement and all of the Member's rights under this Agreement will expire on the date so fixed in such notice, unless in the meantime the breach has been cured in a manner deemed satisfactory by the Corporation, and it shall thereupon be lawful for the Corporation to institute actions at law or in equity to repossess the Unit, recover unpaid Carrying Charges, damages, attorneys' fees and costs. In the event of a default, this Agreement may not be terminated unless the Member has been provided an opportunity to be heard, orally or in writing, before the Board of Directors. At least fifteen (15) days before the hearing date, the Corporation shall notify the Member of the nature of the default, the effective date of termination and the hearing date, and such hearing date shall be held not less than five (5) days prior to the effective date of termination. Upon termination, the Member shall forthwith turn over possession of the Unit to the Corporation.
- 24.3 The Member hereby expressly waives any and all right of redemption in the event the Member shall be dispossessed by judgment or order of any court or judge. The words "enter," "re-enter," and "re-entry," as used in this Agreement are not restricted to their technical legal meaning, and in the event of a breach or threatened breach by the Member or Designated Occupant of any of the covenants or provisions hereof, the Corporation shall have the right of injunction and the right to invoke any remedy allowed at law or in equity.
- 24.4 The Member expressly agrees that there exists under this Occupancy Agreement a landlord-tenant relationship and that in the event of a breach or threatened breach by the Member or Designated Occupant of any covenant or provision of this Agreement there shall be available to the Corporation such legal remedy or remedies as are available to a landlord for the breach or threatened breach under the laws of the State of California by a tenant of any provision of a lease or rental agreement.
- 24.5 Notwithstanding any other provisions of this Agreement, the Member, in case of default hereunder, hereby expressly waives any and all notices and demands for possession as provided by the laws of the State of California.

- 24.6 Waiver by the Corporation of any breach of any term or condition of this Agreement shall not constitute a waiver of subsequent breaches. The acceptance of any payment after any default or breach hereof shall not be construed to waive any right of the Corporation or affect any notice or legal action heretofore given or commenced, or which, by reason of said default or breach, the Corporation may give or commence. Moreover, the acceptance of the Corporation of some but not all of any payment specified in a notice shall not bar the Corporation from commencing appropriate legal proceedings predicated on the notice given for the amount specified therein, less the partial payment.

**ARTICLE 25. PERSONS SUBJECT TO THIS AGREEMENT.**

Without in any way limiting any other provisions of this Agreement, the references in this Agreement to the Corporation shall be deemed to include its successors and assigns, and the references herein to the Member shall be deemed to include the Designated Occupant, any joint or co-owner of the membership to which this Agreement is appurtenant, and to the executors, administrators, legal representatives, legatees, distributes, successors, and assigns of all such persons; and the covenants and agreements herein contained shall apply to, bind and inure to the benefit of the Corporation and its successors and assigns, and to such Member and the executors, administrators, legal representatives, legatees, distributes, successors and assigns of the Member, except as hereinbefore otherwise stated.

**ARTICLE 26. DAMAGE OR DESTRUCTION OF THE UNIT OR THE PROJECT.**

- 26.1 If the Project or a portion thereof shall be partly damaged by fire or other cause, it shall be repaired or restored as speedily as is reasonably possible, at the expense of the Corporation, so as to conform substantially to the plans and specifications under which the Project was constructed. To the extent that proceeds are provided from insurance maintained by the Mutual, the Mutual shall also repair or restore modifications or alterations to the Unit, so long as those alterations were approved in writing by the Mutual. In case the damage shall be so extensive as to render the Unit untenable, the Board of Directors shall have the discretion to determine if an adjustment to the Carrying Charges is appropriate until the Unit shall again be rendered tenable.
- 26.2 In case of the total destruction of the Project by fire or otherwise, the Corporation shall decide whether to restore the Project. If the Corporation elects to restore the Project, Carrying Charges shall abate wholly or partially as determined by the Board until the Project has been restored. If the Corporation elects not to restore the Project or portion thereof, the Carrying Charges shall cease as of the date of such destruction, and this Agreement and all rights and obligations of the parties

hereunder and the tenancy hereby created shall wholly cease and expire. In addition, the Corporation shall determine the amount which shall be paid to the Member to redeem the membership interest and to reimburse him/her for such loss as he/she may have sustained using the calculation method provided in the Liquidation Rights as specified in the Bylaws.

**ARTICLE 27. CONDEMNATION.**

Should all or any portion of the Unit or appurtenant exclusive use common area or the building in which the premises are located be taken by any governmental or quasi-governmental agency or entity under the power of eminent domain, this Agreement shall terminate as of 12:01 A.M. on the date title to the portion taken by eminent domain vests, or the date actual physical possession of the portion taken by eminent domain is taken by the agency or entity exercising the eminent domain power. Any and all compensation or damages awarded for the taking by eminent domain, except that awarded the Member for the moving of or damage to personal property owned by the Member, shall belong to the Corporation and neither the Member nor anyone claiming under the Member shall have any claim against the Corporation or the agency, or entity exercising eminent domain, for the value of the unexpired term of the Agreement. Notwithstanding the foregoing, the Corporation shall calculate and make payment to Member an amount to compensate Member for the loss of his membership interest in accordance with the Liquidation Rights as specified in the Bylaws.

**ARTICLE 28. NOTICES.**

Any notice by the Corporation to the Member shall be deemed to be duly given, and any demand by the Corporation upon the Member shall be deemed to have been duly made, when personally delivered or enclosed in an envelope, postage prepaid, addressed to the Member at the Member's address as the same appears on the books of the Corporation, or at such other address as may be designated by the Member, and mailed by first class mail. Any notice by the Member to the Corporation shall be deemed to be duly given, and any demand by the Member upon the Corporation shall be deemed to have been duly made, when personally delivered or enclosed in an envelope, postage prepaid, addressed to the Corporation at the address set forth on the first page of this Agreement, or at such other address as may be designated by the Corporation by written notice in compliance with the provisions of this Article 28.

**ARTICLE 29. ORAL REPRESENTATIONS NOT BINDING; ENTIRE AGREEMENT.**

29.1 No representations either oral or written other than those contained in this Agreement shall be binding upon the Corporation.

29.2 This document represents the entire agreement between the parties and there are no understandings or agreements save and except as are herein expressly set forth or to the extent applicable, contained in the Corporation's Governing Documents. This Agreement may only be altered by a written instrument executed by all of the parties hereto.

**ARTICLE 30. REMEDIES.**

30.1 The exercise of any of the rights or remedies as herein provided with respect to any default shall not preclude or affect the subsequent exercise of such rights or remedies at different times and for different defaults.

30.2 The respective rights or remedies, whether provided by this Agreement or by law, or available in equity, shall be cumulative and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such right or remedies for the same or different defaults, or for the same or different failures of the Member to perform or observe any provision of this Agreement.

**ARTICLE 31. ATTORNEYS' FEES AND COSTS.**

If the Corporation incurs attorneys' fees and costs, regardless of whether suit is filed, due to a breach or default by the Member hereunder, the Member shall be responsible to pay attorneys' fees and costs to Corporation which shall be recoverable as a Reimbursement Assessment. Should any litigation be commenced between the parties to this Agreement arising from or relating to its terms or the Governing Documents, the party prevailing in that litigation shall recover attorneys' fees and costs in an amount determined by the court.

**ARTICLE 32. DISPUTE RESOLUTION.**

Resolution of disputes arising out of this Agreement which are subject to California Civil Code sections 1369.510-.580, or successor statutes, shall be attempted in accordance with the provisions thereof.

**ARTICLE 33. MISCELLANEOUS PROVISIONS.**

33.1 Headings. The headings used in this Agreement are for convenience only and are not to be used in interpreting the meaning of any of the provisions of this Agreement, or otherwise.

