

# Arnold Lilac Park

## Covenants Conditions & Restrictions



Photo by: G Neurath

Approved and Recorded with  
Calaveras County Recorder  
September 4, 1994

DECLARATION OF  
CONVENANTS, CONDITIONS AND RESTRICTIONS  
FOR ARNOLD LILAC PARK

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**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
ARNOLD LILAC PARK**

Those Declarations of Protective Restriction recorded in the official records of Calaveras County on each recorded deed whose names and lot numbers are set forth in Exhibit A, are hereto incorporated into this single declaration covering all properties here.

## RECITALS

1. Lilac Park is a planned development which was developed in three phases in the County of Calaveras, State of California and is more particularly described as follows:

All that certain Real Property shown on those certain maps entitled Lilac Park Subdivision No.1, Lilac Park Subdivision No. 2, and Lilac Park Subdivision No. 3, as shown upon those certain maps filed in the Office of the County Recorder of this County of Calaveras, State of California.

2. The purpose of this Declaration is to consolidate the Covenants and Conditions hereto unrecorded to be consolidated with the current deed restrictions, subject to limitations, reservations, grants of easement rights, rights of way, liens, charges, and equitable servitudes as previously recorded on each deed.
3. As previously provided, a Homeowners' Association shall own and maintain a Common Area and Common Facilities reserved exclusively for the use and enjoyment of the members of the Association, their tenants, lessees, guests and invitees, all subject to the terms and conditions of the governing documents.
4. On August 13, 1994, the Officers and Directors of the Association recorded this Declaration by a unanimous affirmative vote. These Easements, Covenants, Restrictions and Conditions shall be binding on all parties having or acquiring any right, title or interest in the properties of any portion thereof, and shall insure to the benefit of each owner.

## ARTICLE I Definitions

Section 1. Architectural Review Committee (ARC) shall mean and refer to the committee of persons appointed and acting pursuant to Article VI, Section 1 of this declaration.

Section 2. "Assessment" means any regular, special or special individual assessment made or assessed against an owner and his parcel in accordance with the provisions of Article IV of this declaration.

Section 3. "Association" shall mean and refer to Arnold Lilac Park Homeowners' Association, a California nonprofit mutual benefit corporation, its successors and assigns.

Section 4. "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

Section 5. "Bylaws" shall mean the Bylaws of the Association, as such bylaws may, from time to time be amended.

Section 6. “Common Area” (Lots 30 and 31, as set forth in Exhibit A), shall mean all real property in which the Association owns an interest for the common use and enjoyment of owners.

Section 7: “Declaration” shall mean this first restated Declaration of Covenants, Conditions and Restrictions as such Declaration may, from time to time be amended.

Section 8. “Family” shall mean one or more persons, each related to the other by blood, a marriage or legal adoptions; or a group of not more than three persons not so related who maintain a common household in a residence.

Section 9. “Governing Documents” shall refer collectively to this declaration, the articles, and the bylaws and the association rules, and to any amendments to such documents.

Section 10. “Lot” shall mean any single family residential lot as designated on a Subdivision Map. It shall also include the residence and any other improvements thereon.

Section 11. “Single Family Residential Use” shall mean occupation and use of a residence for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state or municipal rules and regulations.

**ARTICLE II**  
**Property Rights and Obligations**

Section 1. Owners' Non-exclusive Easements of Enjoyment. Every owner shall have a non-exclusive right and easement of enjoyment in and to the common area.

- a) The right of the Association to charge reasonable admission and other fees.
- b) The right of the Association to adopt rules and regulations, and, in the event of a breach of such rules or any provisions of the governing documents, to temporarily suspend the voting rights and right to the use of common facilities by any owner, the owners' tenants and guests after prior notice of at least 15 days, and bearing a hearing before the Board. The Association's right hereunder shall include the right to suspend the voting rights and right to use any of the common facilities by an owner for any period during which any assessment against his lot remains unpaid.
- c) The right of the Association, when necessary, to enter any lot to perform its obligations under this declaration, including the enforcement of restrictions, and obligations with respect to construction, maintenance and repair of the common area or common facilities for the benefit of the owners in common, which, if left undone, will pose a threat to, or cause an unreasonable interference with, association property or any neighboring lots.

The Association's right of entry for the purpose aforesaid shall be immediate in case of an emergency originating in or threatening such lot or any adjacent lot or common area and the Association's work may be performed under such circumstances whether or not the owner or the lessee is present. In all non-emergency situations, the Association shall furnish the owner of the lessee with at least 7 days written notice of its intention to enter the lot, specifying the purpose of such entry, and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the lot owner or lessee. The Association or Board has no right to enter homes or residences. This is the responsibility of authorities.

Section 2. Persons Subject to Governing Documents. All present and future owners, tenants and occupants of lots within the properties, shall be subject to, and shall comply with, all laws, ordinances, statutes, rules, and requirements of local, County (R-1), State, or Federal bodies and, each and every provision of the Governing Documents (Articles of Incorporation, Bylaws, CC&R's), and the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons, i.e., owners, tenants, guests, invitees, etc. The acceptance of a deed to any lot, the entering into a lease, sublease or contract of sale with respect to any lot, or the occupancy of any lot, shall constitute the consent and agreement of such owner, tenant or occupant that each and all of the provisions of this declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Governing Documents.

Section 3. Delegation of Use. All permitted uses, conditional uses, temporary uses, or accessories uses set by the County of Calaveras R-1, 17.24 shall be observed.

- a) Delegation of the Use and Leasing Residences. Any owner may delegate, in accordance with the governing documents, his/her right to use and enjoy the Common Area and Common Facilities, to the members of the owner's family, or to the owner's tenants or contract purchasers who reside in the owner's residence.

Any rental or lease of a residence shall be subject to the R-1 provisions of the Governing Documents, each of which shall be deemed to be incorporated by reference in the lease or rental agreement. Each owner shall provide any tenant or lessee with a current copy of all the Governing Documents and shall at all times be responsible for compliance of the owners' tenants or lessee with the Governing Documents during the lease or rental term. The owner should notify the administrative assistant of permanent renter's names, addresses and phone numbers.

- b) Discipline of Lessees. Subject to subparagraph (c) below, in the event that any tenant or lessee fails to honor any provision of the Governing Documents, the Association shall be entitled to take appropriate corrective action if, within a reasonable time, the owner fails to take such action with respect to the tenant or lessee. Such corrective action may include suspension of the tenant's privileges to use the Common Area, and/or Common Facilities or the imposition of fines and penalties against the owner.
- c) Association's right to Initiate Eviction Proceedings to protect the Common Interests. In the event a tenant's conduct involves material damage to, or misuse of, the Common Areas or Common Facilities, or constitutes an unreasonable nuisance to neighboring lot owners, the Association shall be entitled to maintain an eviction action against such tenant to the same extent as the owner of the subject lot, the Association being deemed to be a third party beneficiary of any lease agreement involving any residence located within the properties. The Association's rights hereunder shall be subject to the due process requirements of subparagraph (d) below.
- d) Due Process requirements for Disciplinary Action. Except for circumstances in which immediate action is necessary to prevent damage to, or destruction of, the properties or to preserve the right of quiet enjoyment of other residents, the Association shall have no right to initiate disciplinary action against an owner (or the owner's lessee or tenant) on account of the misconduct of the owner's lessee or tenant, unless and until the following conditions have been satisfied: (i) The owner has received written notice from the Board detailing the nature of the lessee's/tenant's alleged infraction or misconduct and advising the owner of his right to a hearing; (ii) the owner has been given a reasonable opportunity to take corrective action against the tenant/lessee on a voluntary basis, or to appear at a hearing to present arguments as to why disciplinary action is unnecessary or



unwarranted; and (iii) the owner has failed to prevent or correct the tenant's objectionable actions or misconduct.

(a) Owner's duty to notify Association of tenants and contract purchasers.

Each owner shall notify the secretary of the association of the names of any contract purchaser or tenant of the owner's lot and name and address of the escrow holder so that a proper filing may be made. Each owner, contract purchaser, or tenant, shall also notify the secretary of the Association of the names of all persons to whom such owner, contract purchase, or tenant has delegated their rights to use the common area.

(b) Contract Purchasers. Any owner who enters into a contract of sale, with respect to any lot, must delegate his/her voting rights as a member of the association and his/her right to use or enjoy the Common Area and Common Facilities to the contract purchaser if the purchaser is in possession of the property. Notwithstanding the foregoing, the contract seller shall remain liable for any default in the payment of assessments by the contract purchaser until title to the property sold has been transferred to the purchaser.

(c) Notification regarding governing documents.

- (i) As more particularly provided in section 1368 of the California Civil Code, as soon as practical before transfer of title or the execution of a real property sales contract with respect to the lot, the owner thereof must give the prospective purchaser: (a) a current copy of the governing documents; (b) the Association's most current financial statements; and (c) a true statement in writing from the Association as to the amount of any delinquent assessments, together with information relating to late charges, attorney's fees, interest and reasonable costs of collection which, as of the date the statement is issued, are or may become a lien on the lot or unit being sold.
- (ii) In order to carry out the intent and purpose of this statutory provision, the Association shall, within 10 days of the mailing or delivery of a request therefore, provide the owner with a copy of the current Governing Documents, together with the delinquency statement referred to in the immediately preceding paragraph. The Association shall be entitled to impose a fee for providing the Governing Documents and delinquency statement equal to (but not more than) the reasonable cost of preparing and reproducing the request materials.

(d) Payment of assessments and compliance with restrictions and rules. Each owner shall pay when due each regular, special and special individual assessment levied against the owner and the parcel and shall observe, comply with, and abide by, any and all rules, regulations and restrictions

set forth in any governing document for the purpose of protecting the interests of all owners or protecting the Common Area.

- (e) Discharge of assessment Liens. Each owner shall promptly discharge any assessment lien that may hereafter become a charge against his lot.
- (f) Joint ownership of lots. In the event of joint ownership of any lot, the obligations and liabilities of the multiple owners shall be joint and several. Without limiting the foregoing, this subparagraph (f) shall apply to all obligations, duties and responsibilities of owners as set forth in this declaration, including the payment of all assessments.
- (g) Prohibition on avoidance of obligations. No owner, by non-use of the Common Area or Common Facilities, abandonment of the owner's parcel or otherwise, may avoid the burdens and obligations imposed on such owner by the governing documents.
- (h) Termination of Obligations. Upon the conveyance, sale, assignment or other transfer of a lot to a new owner, the transferor-owner shall not be liable for any assessments levied with respect to such lot after the date of recording the deed evidencing said transfer and upon such recording all association membership rights possessed by the transferor by virtue of the ownership of said lot shall cease.

### **ARTICLE III Homeowners Association**

Section 1. Association Membership. Each owner shall hold one membership in the Association for each lot owned, and the membership shall be appurtenant to such lot. Ownership of a lot, or interest in it, shall be the sole qualification for the membership in the Association. Each owner shall remain a member of the "Association until such ownership in all lots in the properties ceases, at which time the membership in the Association shall automatically cease. Persons or entities who hold an interest or encumbrance in a lot merely as security for performance of an obligation are not members until such time as the security holder comes into title to the lot through foreclosure or deed in lien thereof.

Section 2. Voting Rights of members. Each member of the Association shall be entitled to one vote for each lot owned by said member. When more than one person holds an interest in any lot, all such persons shall be members, although in no event shall more than one vote be cast with respect to any lot. Voting rights may be temporarily suspended under those circumstances if member is not in good standing.

Section 3. Assessments. The Association shall have the power to establish, fix and levy assessments against the owners of lots within the properties and to enforce payment of such assessments.

Section 4. Transfer of Membership. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or

encumbrance of the lot to which it is appurtenant and then, only to the purchaser. When a lot or unit is sold, the appurtenant membership passes automatically to the purchaser upon recording of a deed evidencing transfer of title to the lot. Tenants who are delegated rights of use pursuant to Article II, Section 3, hereof do not thereby become members, although the tenant and members of the tenant's family shall, at all times, be subject to the provisions of all governing documents. Any attempt to make a prohibited transfer is void.

Section 5. Powers and Authority of the Association. The Association shall have the responsibility of owning, managing and maintaining the Common Area and discharging the other duties and responsibilities imposed on the Association by the Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California, subject only to such limitations upon the exercise of such powers as are expressly set forth in the governing documents. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the governing documents, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the owners. The specific powers of the Association and the limitations thereon shall be set forth in Article III of the bylaws.

Section 6. Association Rules.

- (a) Rule Making Power. The Board may, from time to time, and subject to the provisions of this declaration, propose, enact and amend rules and regulations of general application to the owners of lots within the properties. Such rules may concern, but need not be limited to: (i) matters pertaining to use of the Common Area and Common Facilities by owners, their tenants, guests and invitees, or any other person(s) who have rights of use and enjoyment of such Common Area and Common Facilities.
- (b) Distribution of Rules. A copy of the Association rules and Bylaws, as they may from time to time be adopted, amended or repealed, shall be mailed, or otherwise delivered to each owner. A copy of the Association rules and bylaws shall also be available and open for inspection upon request.
- (c) Adoption and Amendment of Rules. The Association rules and bylaws may be adopted, amended, or supplemented by a majority vote of the Board. Any duly adopted rule or amendment thereto shall become effective as of the date of adoption thereof by the board, or at such later date as the board may deem appropriate in order to afford residents a reasonable opportunity to comply with the new rule or amendment.

Section 7. Breach of rules or restrictions. Any breach of the Association rules, or other Governing Documents, shall give rise to the rights and remedies set forth in Article VIII hereof.

Section 8. Limitation on liability of the Association and the Association's Directors and Officers.

- (a) No Director, Officer, Committee Member, or other person retained by the Association, shall be personally liable to any Association member of anyone else, for any error or omission in the discharge of their duties under the governing documents or for failure to provide any service required, provided that person acted reasonably and in good faith, believing to be in the best interest of the Association.
- (b) No Director, Officer, Committee member, or any other person retained by the Association shall be responsible for any owner, family member, tenants, invitees or anyone else due to any damage or loss of any property, or building on any lot, unless the Officer, Director or any other person retained by the Association acted unlawfully, or willfully in discharge of their duties.

#### **ARTICLE IV Assessments**

Section 1. Assessments Generally.

- (a) Each owner of a lot by acceptance of a deed (whether or not it appears on the deed) agrees to pay to the Association the regular assessment, special assessment and special individual assessment as billed by the Association.
- (b) Each owner acquiring title to a lot shall be personally liable only for assessments attributable after the date of acquiring the title. Any unpaid assessment prior to such date shall remain against the previous owner, except a lien not cleared by such acquiring of title will remain in effect subject to foreclosure.
- (c) No owner may exempt his/her lot from any and all assessments by waiving his/her right to use the Common Area, or by abandonment or non-use of his/her property.

Section 2. Regular Assessments.

- (a) Preparation of Annual Budget: Establishment of Regular Assessments. Not less than 30 days prior to the beginning of the Association's fiscal year, the Board shall set up a budget for the following fiscal year. This budget shall include reserve funds for any foreseeable repair or addition to the Common Area and Facilities. The prepared budget shall be distributed to all members not later than the day of the Annual Meeting.

- (b) Establishment of Regular Assessment by Board/Membership Approval Requirements. The total amount of the estimated budget (less any income not generated by sale of property) shall be divided equally among all lot owners. Unimproved lots shall have an assessment of not less than 60% and not more than 75% of improved lots. If the Board fails to make an estimate, the prior year's assessment amount will prevail.
- (c) Membership Approval. The Board of Directors cannot raise regular assessments more than 20 % from the previous year. Any assessment increase in excess of 20% must be approved by the majority of members in a written ballot to comply with Section 1366 of the California Civil Code.
- (d) Assessments to Address Emergency Situations. The requirement of a membership vote for regular assessment increases in excess of 20 % of the previous year's regular assessment shall not apply to assessment increases necessary to address emergency situations. For purposes of this subparagraph (d), an emergency situation if any of the following:
- i. An extraordinary expense required by an order of a court.
  - ii. An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities where a threat to personal safety is discovered.
  - iii. An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to subparagraph (a) above; provided, however, that prior to the imposition of collection of an assessment under this paragraph (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.
- (e) Assessment Roll. The Board of Directors shall maintain an assessment roll (ledger) on each lot, showing the name and address of the owner; regular or special assessments and payments of same. Quarterly statements to each owner shall be mailed not later than the last day of the quarter, showing balance forward, amount of regular, special or individual assessment, any payment made the prior quarter, total amount due and past due amount if any. Payment is due the day of such mailing, but not later than the last day of the quarter. Account will be considered delinquent the last day of the quarter, subject to collection proceedings as set up by the Board. Interest shall be charged commencing that day at the rate of prevailing prime rate plus two percent.
- (f) Mailing. The Board of Directors shall mail to each owner at the address as such owner designates to the association in writing, a statement of the amount of the regular assessment for the next succeeding fiscal year no less than 25 days nor more than 60 days prior to the beginning of the next fiscal year.

### Section 3. Special Assessments.

- (a) Purposes for Special Assessment.
- i. Regular Assessment is insufficient. If it appears at any time that regular assessment is insufficient to meet some expense not anticipated in the budget proposed at the beginning of the fiscal year, the Board of Directors may levy a special assessment to cover the unforeseen expense and defray the deficit created.
  - ii. Capital Improvements. The board may levy a special assessment for additional capital improvements within the Common Area. This must be approved by a simple majority of all members.
- (b) Special Assessments Requiring Membership Approval. All special assessments in subparagraph (a) (i) require a written vote of the majority of the members. This membership approval is not necessary for special assessments described in Section 2, subparagraph (d).
- (c) Levy and Payment of Special Assessments. When levied by the Board, or approved by the members as provided above, the special assessments shall be divided equally among all lots. All special assessments shall be recorded on the Association assessment roll and a notice (bill) shall be sent to each owner. Payment is due on the date of such mailing, but not later than the last day of the quarter, when it will be considered delinquent, subject to collection proceedings as set up the Board. Interest shall be charged at the rate of prevailing prime rate plus two percent.

### Section 4. Special Individual Assessments

- (a) Circumstances Leading to Charging Special Individual Assessments. In addition to the special assessment, the Board may impose a special individual assessment in any of the circumstances listed below, in subparagraph (i) to (iv), provided that such owner received a written notification, afforded a right to a prompt hearing, date to be set by the Board, and has been given a reasonable time to comply with the governing documents.
- i. Damage to Common Area. In the event of any damage to, or destruction of, any portion or equipment of the Common Area and facilities caused by the willful misconduct or negligent act of any owner, member of his family, or any of his tenants, guests, employees or invitees, the Board shall repair or replace the damage. All costs and expenses incurred, but not compensated by insurance, shall be assessed and charged against such owner and said lot as a special assessment.
  - ii. Acts Increasing Insurance Premiums. In the event that any act or omission of any owner, any member of the owner's family, or any of the owner's tenants, guests, employees or invitees, shall in any way be the sole or material cause for any increase in the premiums for any insurance obtained by the Association in accordance with the provision of Article X hereof, the amount of such increase shall

be assessed and charged solely to and against such owner and said lot as a special individual assessment.

- iii. Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses, including reasonable title company, accounting or legal fees to: (a) cause the payment of delinquent assessments, (b) repair, maintain or replace any portion of the properties for which the owner is responsible under the Governing Documents, but has failed to undertake or complete in a timely fashion, or (c) to otherwise bring the owner and/or his/her lot into compliance with the provisions of the Governing Documents, the amount incurred by the Association (including reasonable fines and penalties) shall be assessed and charged solely to and against such owner and his/her lot as a special individual assessment.
- iv. Required Maintenance of Lots. If any lot is maintained so as to become a nuisance, fire or safety hazard for any reason, including, without limitation, the accumulation of trash, junk automobiles or improper weed and/or vegetation abatement and control, the Association shall have the right to enter said lot, correct the offensive or hazardous condition and recover the cost of such action through the imposition of a special individual assessment.

- (b) Levy of Special Individual Assessment and Payment. Once a special individual assessment has been levied against an owner and his/her lot for any reason described and subject to the conditions imposed in subparagraph (a) of this section 4, such special individual assessment shall be recorded on the Association's assessment rolls, notice thereof shall be mailed by certified mail to the affected owner, and the special individual assessment shall thereafter be due as a separate debt of the owner and a lien against the owner's lot, payable as follows: Special Individual Assessments imposed pursuant to either section 4 (a) (i), 4 (a) (iii), or 4 (a) (iv) shall be payable in full to the Association within 30 days after the mailing of notice of the assessment.

Section 5. Purpose and Reasonableness of Assessment. Each regular, special or special individual assessment made in accordance with the provisions of this declaration, is hereby declared and agreed to be: (a) for use exclusively to promote the recreation, health, safety and welfare of the resident of the properties; (b) for the enjoyment and use of the properties by the owners and their families, tenants invitees, guests and employees; (c) for the repair, maintenance, replacement and protection of the Common Area and Common Facilities; (d) a reasonable assessment; and (e) to constitute a separate, distinct and personal obligation (with respect to which a separate lien may be created) of the owner of the lot against which the assessment is made which shall be binding on his/her heirs, successors and assigns; provided that the personal obligation for delinquent assessments shall not pass to the owner's successors in title unless expressly assumed by them.

## Section 6. Maintenance of Assessment Funds.

- (a) Bank Accounts. All sums received or collected by the Association from regular, special or special individual assessments, together with any interest charge or fines thereon, shall be promptly deposited in a federally insured checking or savings account in a bank or savings and loan association selected by the Board of Directors. In addition, the Board shall be entitled to make prudent investment of reserve funds in insured certificates of deposit, money market funds or similar prudent investments, including real estate in Lilac Park, consistent with investment standards normally observed by trustees. The Board, and such officers, or agents of the Association as the Board shall designate, shall have exclusive control over the Association's accounts and investments and shall be responsible to the owners for the maintenance at all times of accurate records thereof.
- (b) Separate Accounts: Commingling of Funds. The proceeds of each assessment shall be used only for the purpose for which such assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discussion, may make appropriate adjustments among the various line items within the Association and its members to make such adjustments. If the proceeds of any special assessment exceed the requirement of which such assessment was made, such surplus shall be reallocated among the Association's reserve accounts. The board shall maintain separate records disclosing the amount of reserve funds allocated to each capital improvements that the association is obligated to repair and maintain.

## Section 7. Collection of Assessments; Legal Procedures

- (a) Delinquent Assessments: Accrual of Interest. If any installment payment of a regular assessment of lump sum or installment payment of any special assessment assessed to any owner is not paid by the last day of the quarter, such payment shall be delinquent and the amount thereof shall bear interest at prime rate plus 2% until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized to promulgate a schedule of reasonable late payment charges for any delinquent assessments, subject to the limitations set forth in California Civil Code section 1366(c) or comparable superseding statute.
- (b) Collection of Assessments: Legal Procedures. Remedies available to the Association to collect delinquent assessments and interest: the Association shall have the right to effect collection of any delinquent assessments, penalties and interests of over 6 months by assigning it to any outside collection agency, and/or placing a lien on the delinquent lot.
- i. Creation and Imposition of a Lien for Delinquent Assessments. The amount of any delinquent regular or special assessment, together with any penalties, interest and costs (including reasonable attorney's fees) attributable thereto or incurred in the collection thereof, shall become a lien upon the lot of the owner so



assessed only when the Association causes to be recorded in the Office of the County Recorder of Calaveras, State of California, a Notice of Delinquent Assessment executed by an authorized representative of the Association, setting forth: (a) the legal description for such lot, (b) the owner of record or reputed owner thereof, (c) the amount claimed, (d) the name and address of the Association, and (e) the name and address of the trustee authorized by the Association to enforce the lien by sale.

- ii. Foreclosing a Lien. The Association may bring legal action against the owner personally obligated to pay the delinquent assessment, foreclose its lien against the owner's lot, or accept a deed in lieu of foreclosure. Foreclosure by the Association of its lien may be by judicial foreclosure or by non-judicial foreclosure pursuant to a power of sale, in the same manner as the foreclosure of a mortgage or deed of trust upon real property under the laws of the State of California.

Section 8. Transfer of Lot by Sale or Foreclosure. The Association, acting on behalf of the owners, shall have the power to bid for the lot at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the lot.

(iii) Non-judicial Foreclosure.

- (a) The Association shall have the right conferred by section 2934A of the California Civil Code to assign its rights and obligations as trustee in any non-judicial foreclosure proceeding to the same extent as a trustee designated under a deed of trust and for purposes of said section 2934A, the Association shall be deemed to be the sole beneficiary of the delinquent assessment obligation. Furthermore, in lieu of any assignment of trusteeship, the Association shall be entitled to employ the services of a title insurance company or other responsible company authorized to serve as a trustee in non-judicial foreclosure proceedings to act as an agent on behalf of the Association in commencing and prosecuting any non-judicial foreclosure hereunder.
- (b) Non-judicial foreclosure shall be commenced by the Association or its assignee by recording in the Office of the County Recorder a Notice of Default, which notice shall state all amounts which have become delinquent with respect to the owner's lot and the costs (including collection and attorneys' fees), penalties and interest that have accrued thereon, the amount of any assessment which is due and payable although not delinquent, a legal description of the lot in respect to which the delinquent assessment is owned, and the name of the owner of record or reputed owner thereof. The Notice of Default shall state the election of the association or its assignee to sell the parcel or other property to which the amounts relate and shall otherwise conform with the requirements for a notice of default under section 2924c of the California Civil Code or superseding statute.

(iv) Actions for Money Judgments. In the event of default in payment of assessments, the Association may initiate, in addition to any other remedy

provided herein or by law, legal action to recover a money judgment for unpaid assessments, costs, rent and attorney's fees without foreclosure or waiving the lien securing the same.

## **ARTICLE V Maintenance Responsibility**

Section 1. Common Areas. The Association shall be solely responsible for all maintenance, repair, upkeep and replacement within the Common Area. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any improvement upon, or shall make or create any excavation or fill or change the natural or existing drainage of the Common Area. In addition, no person shall destroy or remove or plant any tree, shrub, or other vegetation upon the Common Area without the express approval of the Board.

### Section 2. Owner Maintenance Responsibility.

- (a) Every owner of a lot shall maintain such property in a lawful manner consistent with the provisions of this section. In case of rented or leased single family dwellings, the property owner shall insure that every occupant properly maintains the property. Such owner remains liable for violations thereof, regardless of any contract or agreement with any renter, lessee or third party regarding such property.
- (b) Every occupant, renter, or holder of any interest in a lot is required to maintain such property in the same manner as is required of the owner.

## **ARTICLE VI Property Use Restriction**

In addition to restrictions established by the law in the Association Rules, the following restrictions are hereby imposed upon the use of all lots and Common Areas with the properties:

Section 1. Architectural Control. No building, fence or wall shall be constructed on any lot, and no exterior addition to or change or alteration of the improvements on any lot, shall be made by or on behalf of any person until a proposal has been submitted in writing to and approved by the Architectural Review Committee and the owner of the lot has obtained approvals from the County of Calaveras. Approval by the ARC shall not be a substitute for or assure the owner of approval by the County. Proposals and/or plans shall be mailed to the ARC at: Arnold Lilac Park Homeowners Association, P.O. Box 722, Arnold, CA 95223.

- a. The Architectural Review Committee may have one (1) to (3) members to be appointed by the Board. Members of this committee must be members of the Association. All variance requests must be reviewed by and approved by a quorum of the Board.

Section 2. Single Family Residential Use. The use of the individual parcels in the properties is hereby restricted to single family residential use. In no event shall a residence be occupied by more individuals than permitted by applicable zoning laws or governmental regulations.

Section 3. Maintenance and Improvement of Lots. Each parcel shall be conveyed as a separately designated and legally described fee simple estate subject to this declaration. No buildings or structures shall be moved from other locations onto any lot or lots unless approved by the Board. All lots, whether occupied or unoccupied, and the residences and other improvements placed thereon, shall at all times be maintained in such a manner as to prevent their becoming unsightly by reason of the accumulation of rubbish, debris or unsightly growth thereon, to prevent or regard erosion and to encourage the growth of indigenous ground cover.

Section 4. Cutting of Trees. It is the policy of the Association to maintain Lilac Park as a forested subdivision. In order to assure that unnecessary and indiscriminate cutting of healthy living trees is not accomplished, prior permission must be obtained from the Board to cut down any tree in excess of 10 (12) inches in diameter (measured four feet above ground level). Clear cutting is prohibited. The Board shall be entitled to adopt a schedule of fines and penalties for violation of this restriction. Any owner or person acting on behalf of the owner must receive the approval of ARC prior to the cutting of trees for construction.

Section 5. Prohibition of Illegal and Noxious Activities.

- (a) There shall be no illegal, noxious or offensive activities carried on or conducted upon any lot or common area which is or may become an unreasonable annoyance or nuisance to the neighborhood.
- (b) No owner shall permit disturbances which unreasonably disturb other owners' quiet enjoyment of their lot. Quiet shall be observed between the hours of 10:00 PM and 7:00 AM.
- (c) There shall be no exterior lighting installed or operated which is directed at or shining on neighboring lots.
- (d) No owner shall permit anything to be done or kept in their lot, or in the Common Area, that violates any law, ordinance, statute, rule or regulation of the local, county, state, or federal body.
- (e) No owner, lessee, tenant, guest, children or pets shall have the right to trespass, shortcut by vehicle, bicycle or foot on any property without the permission of said property owner.
- (f) Depositing garbage, refuse, or combustible materials on neighboring properties shall be considered illegal trespassing subject to legal action.

Section 6. Signs. No signs shall be displayed on any lot or posted within or upon any portion of the Common Area except such signs as may be required by legal proceedings. Not more than one “For Rent,” “For Lease,” or “For Sale” sign of reasonable dimensions as are approved by the Board, or a committee thereof and during the time of construction of any building or other improvement, job identification signs having a maximum face area of six square feet per sign and of a type usually employed by contractors, subcontractors and tradesmen may be posted. All construction or for sale signs shall be removed promptly following the conclusion of the construction or sales activity.

Section 7. Business Activities. No business or commercial activities of any kind whatsoever shall be conducted in any building or in any portion of any lot, except that which is compatible with residential use and provisions in this Declaration and the County of Calaveras R-1, Chapter 17.68.

Section 8. Garbage. No rubbish, trash or garbage shall be allowed to accumulate on any lot. Any extraordinary accumulation or rubbish, trash, garbage, debris, or junk vehicles shall be removed from the properties to a public dump or trash collection area by the owner of tenant at his expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed in any manner inconsistent with this section.

Section 9. Fires. Burning is permitted in compliance with all local fire agency requirements.

Section 10. Repairing and Storing Vehicles and Boats. Repairing, storing and or dismantling of vehicles and boats in public view has a negative impact on livability and appearance, on property values and can pose safety or health hazards to children and adults and it is prohibited with the following exceptions:

- (a) Routine maintenance shall be limited to changing oil, tires, filters, spark plugs and tune-ups.
- (b) Major repairs shall include dismantling engines, repair or replacement of transmissions, axles, water pumps, alternators, brakes, shock absorbers and similar works, as well as body, panel repairs and hull or cabin repair of a boat.
- (c) A person performing major repairs on a vehicle or boat shall be a lawful resident of the property where the maintenance is being performed.
  - i. Such vehicle or boat is registered to the lawful resident of the property or a member of the immediate family.
  - ii. Proof of registration or proof of immediate family relation will be provided on request of any member of the Board of Directors.
- (d) There shall be no more than two boats or vehicles under major repairs or stored at any one time in public view.
  - i. Routine maintenance shall be completed within a reasonable time to be determined by a consensus of the Board.
  - ii. All maintenance or repairs shall take place between 8:00AM and 8:00PM.

- iii. Repairs performed in a fully enclosed garage are exempt from this paragraph (c) & (d) providing doors are closed when repair is not in progress.
- (e) All vehicles and boats in public view shall have current legal registrations. Such proof shall be provided to the Board upon request.
- (f) Thorough clean-up will be performed upon completion of any work authorized by this Section 12. All debris, oil, grease, gasoline, rags, containers, parts and discarded materials shall be disposed of in a lawful manner. Hazardous materials shall be used and disposed of in accordance with Calaveras County and State of California regulations.

Section 11. Activities Affecting Insurance. Nothing shall be done or kept on any lot or within the Common Area which will increase the rate of insurance relating thereto without the prior written consent of the Board, and no owner shall permit anything to be done or kept on the lot or the Common Area which would result in the cancellation of insurance on any residence or any part of the Common Area or which would be in violation of any law.

Section 12. Restrictions on Further Subdivision. No lot shall be further subdivided nor shall less than all of any such lot be conveyed by an owner thereof.

## **ARTICLE VII Public Utility Easements**

It is understood and agreed that it may be necessary for the owner to grant rights of way for the purpose of constructing, maintaining and repairing such water lines, gas and electric lines, poles, wires, cables and fixtures as may be reasonably necessary to supply water, gas, and electricity to the subdivision.

## **ARTICLE VIII Insurance**

Section 1. Insurance Coverage. The Association shall purchase, obtain and maintain, with the premiums therefore being paid out of common funds, the following types of insurance, if and to the extent they are available:

- (a) Public Liability and Property Damage Insurance. A policy of comprehensive public liability insurance insuring the Association, each member of the Association Board of Directors, and the owners and occupants of lots, against a liability incident to the ownership or use of the Common Areas.
- (b) Fire and Casualty Insurance. A policy of fire and casualty insurance naming as parties insured the Association, and containing the standard extended coverage and replacement costs endorsements and such other or special endorsements as will afford protection and insure current replacement cost as determined annually

by the Board of Directors, all common facilities and the personal property of the Association for or against the following risks:

- i. Loss or damage by fire or other risks covered by the standard extended coverage endorsement.
- ii. Loss or damage from theft, vandalism or malicious mischief.

Section 2. Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon to have been paid) shall be retained by the Association and shall be available for inspection by owners upon request.

## **ARTICLE IX Damage or Destruction**

Section 1. Damage or Destruction of Residence. In the event of damage or destruction by fire or other casualty affecting a residence, the owner or owners thereof shall, within six months thereafter either:

- i. Diligently commence to rebuild the same in accordance with the terms hereof; or
- ii. Clear and level the lot, removing all wreckage, debris and remains of the residence and leaving the same in a clean condition.

## **ARTICLE X Breach and Default**

Section 1. Failure to Comply with Governing Documents. Failure to comply with any provisions of the Governing Documents may be enforced by appropriate legal proceedings instituted by any owner, the Association, its officers or Board of Directors.

Section 2, Nuisance. Without limiting the generality of the foregoing section 1, the result of every act or omission whereby any covenant contained in this declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 3. Failure Not a Waiver. The failure of any owner, the Board of Directors, or the Association or its officers or agents, to enforce any of the covenants, conditions and restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

Section 4. Enforcement Rights and Remedies of the Association: Limitations Thereon.

- (a) Rights Generally. In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any governing Documents by an owner, his family, or the owner's guests, employees, invitees or tenants, the Board, for and

on behalf of all other owners, shall enforce the obligations of each owner to obey such rule so restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including but not limited to the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the owner's right to use recreational Common Facilities or suspension of the owners' voting rights as a member of the Association; provided, however, the Association's right to undertake disciplinary action against its member shall be subject to the conditions set forth in this section 6. Furthermore, the decision of whether it is appropriate or necessary for the Association to take enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Association's Board. If the Association declines to take action in any instance, any owner shall have such rights of enforcement as exist by virtue of section 1354 of the California Civil Code or otherwise by law.

- (b) Schedule of Fines. The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of assessments, illegally parked vehicles or noncompliance with the governing document(s)). Once imposed, a fine or penalty shall be collected as a special individual assessment.
- (c) Limitations on Disciplinary Rights. No penalty or temporary suspension of rights shall be imposed pursuant to this Article X unless the owner alleged to be in violation is given at least 15 day's prior notice of the proposed penalty or temporary suspension, and is given an opportunity to be heard before the Board of Directors or appropriate committee established by the board with respect to the alleged violation(s) at a hearing conducted at least 5 days before the effective date of the proposed disciplinary action. Notwithstanding the foregoing, under circumstances involving conduct that constitutes:
  - a. An immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring owners
  - b. A traffic or fire hazard
  - c. A treat of material damage to, or destruction of, the Common Area or Common Facilities, or
  - d. A violation of the Governing Documents that is of such a nature that there is no material question regarding the identify of the violator or whether a violation has occurred (such as late payment of assessments, parking violations or noncompliance with the Governing Documents), the Board of Directors, or its duly authorized agents, may undertake immediate corrective or disciplinary action, and upon request of the offending owner (which request must be received by the Association, in writing within 5 days following the Association's disciplinary action), conduct a hearing as soon thereafter as reasonably possible, but in no event more than 15 days after the disciplinary action is imposed or 15 days following receipt of the owner's request for a hearing whichever is later. Under such circumstances, or fine imposed pursuant to an established fine schedule shall be due and payable only upon expiration of the 15 day notice period.

- (d) Notices. Any notice required by this article shall, at a minimum set forth the date and time for the hearing, a brief description of the action or inaction constituting the alleged violation and a reference to the specific governing document provision alleged to have been violated. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice; provided that if notice is given by mail it shall be sent by registered mail to the last address of the member shown on the records of the Association.
- (e) Rules Regarding Disciplinary Proceedings. The Board, or an appropriate committee appointed by the Board, shall be entitled to adopt rules that further elaborate the procedures for conducting disciplinary proceedings. Such rules shall form a part of the Association rules.

**ARTICLE XI**  
**Amendment of Declaration**

Section 1. Amendments in General. This Declaration may be amended or revoked in any part by the vote or assent by written ballot of the holders of a simple majority (51%) of the voting power of the members.

Section 2. Effective Date of Amendment. The amendment shall be effective upon recording thereof in the Office of the Recorder of Calaveras County as an instrument setting forth the terms thereof duly certified and executed by the President and Secretary of the Association. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any first deed of trust or mortgage recorded prior to the recording of such amendment.