

ARTICLE XII EASEMENTS

Section I Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and adjacent portion of the Common Property or as between adjacent lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered (in accordance with the terms of this Declaration). The easement shall be five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point. However, an easement for encroachment shall not exist if the willful conduct by an Owner, tenant, or the Association caused the encroachment.

Section 2. Easements for Owner Use and Enjoyment Every Owner of a Lot shall have a right and easement of entry, exit, use, and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his Lot. Any Lot Owner may delegate his right of use and enjoyment in and to the Common Property to the member: of his family, his tenants and guests. An Owner shall be deemed to have made a delegation of all these rights to the occupants of the Owners Lot, if leased. The aforesaid right and easement of entry, exit, use, and enjoyment appurtenant to each Lot shall be subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions of the Common Property at certain designated times by an Owner, his or her family, tenants, guests, and invitees or by a separate group or entity;
- (b) the right of the Association to suspend the voting rights of a Lot Owner and the right of an Owner to use the recreational facilities available for use by the Community. if any, for any period during which any assessment against his Lot which is hereby provided for remains unpaid; and, for a reasonable period of time for a violation of the Declaration, Bylaws, or rules and regulations;
- (c) the right of the Association to borrow money for the purpose of improving the Common Property, or for constructing, repairing, or improving any facilities located or to be located on the Common Property, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property. However, the Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges reserved or established for the benefit of Declarant, or any Lot or That Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the

Community (Any provision in this Declaration or in any Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights in the Mortgage by the holder of the Mortgage in the event of a default shall not cancel or terminate any rights, easements or privileges reserved or established in this Declaration for the benefit of Declarant, or any That or Lot Owner, or the holder of any Mortgage, irrespective of when executed given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community.) No mortgage conveying all or a portion of the Common Property shall be effective unless an instrument agreeing to the Mortgage has been approved by Owners holding at least two-thirds (2/3) of the total vote of the Association (and also approved by the Declarant, so long as the declarant has an option unilaterally to subject additional property to this Declaration as provided in Article IX); and

(d) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to any conditions agreed on by the members of the Association. No dedication or transfer of the Common Property shall be effective unless an instrument agreeing to the dedication or transfer has been approved by Owners holding at least two-thirds (2/3) of the total Association vote (and also approved by the Declarant, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article X)

Section 3. Easements for Utilities. There is reserved to the Declarant, Approved Builders, and the Association blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining (a) all utilities serving the Community or any portion of the Common Property, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, (b) water runoff and storm drainage systems, and (c) any other service such as, but not limited to, a master television antenna system, cable television system, or security system which may be installed to serve the Community. It shall be expressly permissible for the Declarant, the Association, or the designee of either, to do or to authorize the installation, repairing, replacing, and maintaining of the wires, conduits, cables and other equipment related to providing any such utility or service. Should a party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant or Board, as applicable, shall have the right to grant such easement.

Section 4. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article XIII, Section 2, the Board shall have the right, but not the obligation, to enter upon any property within the Community for emergency, security, and safety reasons. This right may also be exercised by the agents of the Association, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the perform of their duties. Except in an emergency situation, May shall only be during reasonable and after notice to the Owner, and the entering party shall be responsible for any damage caused. The Board shall have the right to

enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard if an Owner or occupant does not cure the condition after request by the Board.

Section 5. Easement for Maintenance. Declarant expressly reserves a perpetual easement for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article V, including, without limitation, an easement over Lots on which features for the Community are located for maintenance of the features. This maintenance shall be performed with a minimum of interference to the quiet enjoyment to Owners' property, reasonable steps shall be taken to protect the property, and damage shall be repaired by the Person causing the damage at its sole expense.