

Creekside Oaks Homeowners Association

NOTICE REGARDING DISCRIMINATORY RESTRICTIONS (California Government Code 12956.1)

In accordance with California Government Code 12956.1 the Association includes with this governing document the following information:

"If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, 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 by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. 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."

25382498

Regina Alcomendras
Santa Clara County - Clerk-Recorder
10/05/2022 12:57 PM

RECORDING REQUESTED BY:

Creekside Oaks Homes Association

CONFORMED COPY

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AND WHEN RECORDED MAIL TO:

White & MacDonald, LLP
1530 The Alameda, Suite 215
San Jose, CA 95126

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SECOND AMENDMENT TO SECOND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF CREEKSIDE OAKS HOMES ASSOCIATION**

This Second Amendment to the Second Restated Declaration of Covenants, Conditions and Restrictions of Creekside Oaks Homes Association is made as of the date hereafter shown by the approval of the Members as provided in Article XV, Section 15.01, of the Second Restated Declaration of Covenants, Conditions and Restrictions of Creekside Oaks Homes Association, as hereinafter described.

RECITALS

WHEREAS, the Second Restated Declaration of Covenants, Conditions and Restrictions of Creekside Oaks Homes Association was recorded on or about May 4, 2007, as Document number 19413798, in the Official Records of the County of Santa Clara, State of California (the "Declaration").

WHEREAS, the Declaration is applicable to that real property described in Exhibit "A" to the Declaration as follows:

Tract No. 4964, Lots 1 through 25 "Creekside Oaks of Los Altos Unit One" upon that Subdivision Map recorded on April 10, 1971 in Book 281 of Maps, Pages 50 and 51, in the Office of the Recorder of the County of Santa Clara, and Lots 26 through 78, inclusive, Tract No. 5063, "Creekside Oaks of Los Altos Unit Two" upon that Subdivision Map recorded on October 22, 1971 in Book 291 of Maps, Pages 53 and 54, in the Office of the County Recorder of the County of Santa Clara.

WHEREAS, the Declaration was previously amended by the First Amendment to the Second Restated Declaration of Covenants, Conditions and Restrictions of Creekside Oaks Homes Association recorded on or about April 13, 2021, and Document number 24918816, in the Official Records of the County of Santa Clara, State of California

WHEREAS, the Creekside Oaks Homes Association desires to amend the Declaration by this Second Amendment, as more particularly set forth herein.

NOW, THEREFORE, the Second Restated Declaration of Covenants, Conditions and Restrictions of Creekside Oaks Homes Association is hereby amended as follows:

1. **Article II, Section 2.01, Owners; Non-Exclusive Easements of Enjoyment, is amended and superseded in its entirety as follows:**

Section 2.01. Owners' Non-Exclusive Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, including ingress and egress to and from the Owner's Lot, which shall be appurtenant to and shall pass with the title to every Lot, which easement and Lot are subject to the following provisions:

(a) The right of the Association to suspend the voting rights and right to use of the Common Area and/or Common Facilities by an Owner for any period during which any Regular, Special or Special Individual Assessment against the Owner, individually, remains unpaid. However, an Owner's right of ingress and egress to and from his Residence shall not be impaired.

(b) The right of the Association to adopt rules and regulations as provided in Article III, Section 3.08 hereof, and, after prior notice of at least fifteen (15) days, and a hearing before the Board, if requested by the Owner, to temporarily suspend the voting rights and right to the use of Common Area and/or Common Facilities of any Owner, the Owner's Tenants and guests in accordance with Article XIV, Section 14.06 for a breach of the Association Management Documents.

(c) The right of the Association, to the extent reasonably necessary to protect the rights, privileges, benefits, uses and enjoyment of the Members in common, to limit the number of guests of Members who may use Common Area and/or recreation facilities and to adopt uniform Association Rules pursuant to Section 3.08 of Article III hereof regulating use and enjoyment of the Properties.

(d) The right of the Association, or its agents, when necessary to enter any Lot and/or any Exclusive Use Common Area to perform its obligations under this Declaration, including the enforcement of restrictions; to install, maintain, repair, replace and/or monitor submeters or other equipment for measuring or recording the use of water and/or other utility services for allocation and assessment of cost reimbursement assessments; any obligations with respect to construction, maintenance and repair as necessary for the benefit of the Common Area or the Owners in common; or to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, Association property. Without limitation, such entry may be had for the purpose of conducting an inspection to determine compliance with this Declaration. The Association's right of entry for such purposes shall be immediate in case of an emergency originating in or threatening such Lot, and the Association's work may be performed under such circumstances whether or not the Owner is present. In all non-emergency situations, the Association, or its agents, shall furnish the Owner with at least twenty-four (24) hours written notice of its intent to enter the Lot, specifying the purpose of such entry.

(e) The right of the Association, subject to this Declaration (including Article VII, Section 7.02(i)), its Articles and the Bylaws to borrow money for the purpose of improving the Common Area and facilities, and in aid thereof to mortgage said property and grant a security interest in Association property including assessments; provided, the rights of any such mortgagee in the Common Area and facilities shall be subordinate to the rights of the Owners hereunder.

(f) The right of the Association to sell, dedicate or transfer all or any part of the Common Area

to any person(s) and/or to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners. No such sale, dedication or transfer shall be effective unless approved by at least two-thirds (2/3rds) of the Voting Power of the Owners.

(g) The right of the Association to adopt and enforce Association Rules concerning the control and use of any private streets, roadways and paving areas located upon or across the Common Area, including the right to regulate the kind of vehicles and their speed and the parking of vehicles upon such private streets and roadways. The Association is authorized to delegate to a municipality or other governmental entity or to contract with any private security patrol company to exercise its authorized rights in connection with such private streets, roadways, and parking areas.

(h) The right of the Board, subject to approval of the Members as set forth in Section 7.02(b), to grant to Owners easements, licenses, and rights of way upon the Common Area, and the right of the Board, subject to the approval of the Members as set forth in Section 4.03(b), to construct Capital Improvements on the Common Area.

(i) The right of Members to the exclusive use of certain Exclusive Use Common Area.

2. Article IV, Section 4.02, Regular Assessments is amended and superseded in its entirety as follows:

4.02 Regular Assessments and Cost Reimbursement Assessments

(a) Estimate. Not less than thirty (30) nor more than ninety (90) days prior to the beginning of each fiscal year of the Association, the Board shall estimate the anticipated Common Expenses (including prudent contributions to the capital reserve fund for repair and replacement of Common Facilities) for the next succeeding fiscal year and shall deduct therefrom the amount of any estimated surplus which will remain from the current year's Assessment. In preparing its annual estimates of Common Expenses and the appropriate deductions therefrom on account of surplus, the Board shall consider the Common Expenses all as more particularly provided in Exhibit "B" attached hereto. Association assessments or charges shall include an adequate reserve fund for maintenance, repair and replacement of those improvements which the Association is obligated to maintain and that must be replaced on a periodic basis, and the assessments therefor shall be payable in regular installments rather than by Special Assessments. The total expenses (less deductions) thus estimated shall be allocated among all the Lots within the Properties in the manner described in subparagraph (b) of this Section 4.02 as the Regular Assessment for such Lot; notwithstanding any other provision in this Declaration to the contrary, the Board may not impose a Regular Assessment for any fiscal year more than twenty percent (20%) above the Regular Assessment for the Association's preceding fiscal year without the approval of a majority of the votes of the Members pursuant to Section 7.04 of the Bylaws. For purposes of this Section, a quorum means more than fifty percent (50%) of the Owners of the Association, and the meeting or ballot procedure must be conducted in accordance with Civil Code Section 1363.03, and Section 7.04(c) of the Bylaws.

The foregoing restrictions on assessment increases do not apply to increases necessary for emergency situations. For purposes of this Section 4.02 an emergency situation is any one of the following:

- (1) An extraordinary expense required by an order of the court.
- (2) An extraordinary expense necessary to repair or maintain the Properties or any part of it that the Association is responsible to maintain when a threat to personal safety on the property is discovered.
- (3) An extraordinary expense necessary to repair or maintain the Properties or any part of it that the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget required under California Civil Code Section

1365, provided that before the imposition or collection of any assessment under this subparagraph the Board must 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 shall distribute the resolution to the Members with the notice of assessment.

However, the Board may not increase the Regular Assessment for a fiscal year as provided herein unless the Board has complied with subdivision (a) of Section 1365 of the California Civil Code with respect to that fiscal year, or has obtained the approval of Owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association conducted in accordance with Section 7.04(c) of the Bylaws. "Quorum" for purposes of such a vote means more than fifty percent (50%) of the Owners of the Association.

This Section 4.02(a) incorporates the statutory requirements of California Civil Code Section 1366(b). If this Section of the California Civil Code is amended in any way, this Section 4.02(a) automatically shall be amended in the same manner without the necessity of amending this Declaration.

(b) Allocation of Regular Assessments Among the Owners. The total estimated Common Expenses shall be divided equally among, assessed against and charged to all Lots within the Properties. However, the provisions of Article XII shall control over this Section 4.02(b) in the event of conflict.

(c) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded upon an assessment roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or the Owner's authorized representative. The assessment roll shall show for each Lot the name and address of the Owner of record thereof, all Assessments, whether Regular or Special, levied against each Owner and the Owner's Lot, and the amount of such Assessments which have been paid or remain unpaid. A certificate executed and acknowledged by the Secretary, Treasurer or designated management representative of the Association stating the indebtedness secured by any lien created hereunder upon any such Lot shall be conclusive upon the Association and the Owner of such Lot as to the amount of such indebtedness as of the date of such certificate, in favor of all persons who rely thereon in good faith, and such a certificate shall be furnished by the Association to any Owner or to any first Mortgagee under a Mortgage encumbering a Lot upon written request therefor at a reasonable fee payable to the Association.

(d) Mailing. The Board of Directors shall cause to be mailed to each Owner at the street address of the Owner's Lot, or at such other address as such Owner may from time to time designate to the Association in writing, a statement of the amount of the Regular Assessment assessed against the Owner's Lot for the next succeeding fiscal year after determination thereof in accordance with Section 4.02(a) hereof. The Association shall provide notice by first-class mail to the Owners of any increase in the Regular Assessments of the Association, not less than thirty (30) nor more than ninety (90) days prior to the increased assessment becoming due.

(e) Failure to Make Estimate. If, for any fiscal year, the Board of Directors shall fail to make an estimate of the Common Expenses, the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to Section 4.03 hereof for that year, shall be assessed against each Owner and the Owner's Lot on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic assessment shall be payable on the regular payment dates established by the Association.

(f) Installment Payment. The Regular Assessment made against each Owner shall be due and payable in advance to the Association in equal monthly installments on the first day of each month or on such other date or dates as may be established from time to time by the Board. Monthly installments of Regular Assessments shall be delinquent if not paid by the fifteenth (15th) day of the month. In the event of default of the payment of any installment of the Regular Assessment, in addition to the remedies set forth in this

Declaration, the Board may, in its discretion, accelerate and declare immediately due and payable any remaining installment payments of the Regular Assessment levied for the fiscal year.

(g) **Surplus Funds.** If, as of the end of any fiscal year, there is an excess of membership income over membership expenses as defined in Internal Revenue Code Section 277 for the year ended, such excess shall be applied against the subsequent tax year's Member assessments as provided in Internal Revenue Service Revenue Ruling 70-604, unless some other lawful disposition of such excess income is determined by the vote of the Members.

(h) **Cost Reimbursement Assessments.** In addition to the Regular Assessment as set forth above, the Board may levy a cost reimbursement assessment in order to reimburse the Association for the actual costs or portion of the actual costs of providing water service to Residences and/or Lots in the Properties. For water service, the Association shall allocate and assess the cost reimbursement assessment to the Residences and/or Lots based on the relative use of the service by the Owners as determined from readings of submeters, if installed within the Properties. Although determined and allocated as is set forth in this paragraph (h), cost reimbursement assessments are deemed to be, are added to, and are enforceable as, Regular Assessments.

Article VI, Section 6.01, Maintenance, Repair and Replacement, is amended and superseded in its entirety as follows:

Section 6.01. Maintenance, Repair and Replacement.

(a) **Allocation of Responsibilities Between Association and Owners.** Except as otherwise specifically provided in this Section 6.01, or elsewhere in this Declaration, the Association shall be solely responsible for maintenance, repair and replacement of the Common Area and the Owner shall be solely responsible for maintenance, repair and replacement of the Lot. The respective responsibilities of the Association and the Owners with respect to maintenance, repair and replacement of the Common Area and Lots shall be as set forth on the following Table in which "A" designates Association, and "O" designates Owner:

Component	Maintenance	Repair	Replacement
Common Area and Common Facilities (painting, maintaining, cleaning, repairing and replacing of the Common Area, including landscaping, parking areas and recreational facilities) (excluding Exclusive Use Common Area)	A	A	A
Common Area (except Exclusive Use Common Area) termites (repair and maintenance occasioned by the presence of wood-destroying pests or organisms)	A	A	A
Exclusive Use Common Area(s) (except fences)	O	O	O
Roofs, including sheathing, gutters and downspouts	A	A	A
Skylights (including flashings)	A	A	A
Chimney caps, spark arresters	A	A	A
Chimney flue cleaning	O	O	O

Solar equipment, including but not limited to flashings, leak repairs and damage from wood destroying pests and organisms	O	O	O
Paint, stain and finish: (1) exterior wood siding and trim; (2) entry doors and garage doors; and (3) chimney caps	A	A	A
Weatherproof envelope, including building paper (but excluding doors and windows)	A	A	A
Windows and doors	O	O	O
Window framing, door framing	O	O	O
Atrium drains and drywell	A	A	A
Fire alarm system	O	O	O
Flashing beneath paint	A	A	A
Entry doors, garage doors (including initial painting), utility closet door, window screens, screen doors, garage interiors, including openers, hinges, bolts, Jocks and weatherstripping (except painting, staining or finishing of exterior doors)	O	O	O
Paint, stain and finish exterior doors, garage doors and utility closet doors	A	A	A
Decks, including but not limited to flashings, leak repairs and damage from wood destroying pests or organisms	O	O	O
Patios, including but not limited to flashings, leak repairs and damage from wood destroying pests and organisms	O	O	O
Heating, ventilating and air-conditioning equipment	O	O	O
Garage doors	O	O	O
Cleaning of all vents serving Owner's Residence	O	O	O
Doorbell and wiring of Owner's Residence and all exterior lights attached to Residence	O	O	O
Wiring for utilities servicing Owner's Lot or Residence, located inside the foundation lines of Residence.	O	O	O
Trees, shrubs, grass, walks, and fences located on Common Area, except Exclusive Use Common Area	A	A	A
Landscaping in Exclusive Use Common Area	O	O	O
Sewer lines, water lines, gas lines and electrical lines on the Lot and Exclusive Use Common Area (excluding submeters, if installed by Association)	O	O	O
Sewer lines, water lines, gas lines and electrical lines in the Common Area excluding the Exclusive Use Common Area, but including submeters, if	A	A	A

installed within Exclusive Use Common Area by Association.			
Fences and walks located on Lot and Exclusive Use Common Area, except the painting of the exterior side, but including painting of good neighbor fence	O	O	O
Painting of exterior side of perimeter fences, but not good neighbor fences	A	NA	NA
Water lines between shutoff valve and Residence, shutoff valve, and pipes and conduits on the Lot	O	O	O
Damage to Lot or Residence occasioned by presence of wood-destroying pests or organisms (expense of temporary relocation during repair being responsibility of the Owner)	O	O	O
Modifications from original construction, not by Association	O	O	O
Exclusive Use Common Area (except for submeters if installed by Association)	O	O	O
Except for the limited maintenance, repair and replacement of certain components of the Properties which is the obligation of the Association as shown in this Table, each Lot Owner shall, at the Owner's sole cost and expense, maintain and repair the Owner's Lot and the improvements thereon. Such maintenance and repair shall be performed by the Owner so as to keep the Owner's Lot in a condition of good order and repair, and in accordance with the Association Rules.	O	O	O

(b) **Negligent Damage.** The financial responsibility of the Association for maintenance, repair and replacement under this Section 6.01 shall not extend to damage arising out of or caused by the willful or negligent act or negligence of an Owner, or the Owner's Household members, guests, Tenants or invitees. The cost of maintenance, repair or replacement resulting from such willful or negligent acts shall be the responsibility of the Owner who caused or whose Household members, guests, Tenants or invitees caused such damage. Owners are solely responsible for construction components on their Lots or Exclusive Use Common Area, such as atrium covers which impair Association access for maintenance, repair or replacement. The cost thereof shall constitute a Special Individual Assessment chargeable to such Residence and shall be payable to the Association by the Owner of such Residence.

(c) **Modifications for the Disabled.** A Residence may be modified by an Owner, at the Owner's sole expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which may be hazardous to such persons, subject to the limitations and requirements set forth in Section 1360 of the California Civil Code as that statute may be amended, revised or altered and of this Declaration, the Bylaws and the Rules.

(d) Modifications. Each Owner, his successors and assigns, shall be solely responsible for the maintenance, repair and replacement of any modifications made to the Residence, or Common Area, whether or not such modifications received approval pursuant to Article VIII of this Declaration. Notwithstanding the foregoing, the Board shall have the power to enforce the provisions of this Declaration relating to unauthorized modifications to the Common Area, including, without limitation, the remedies set forth in Article XIV of this Declaration.

(e) Duty to Notify. Each Owner has an affirmative duty to notify the Association of water intrusion into the Owner's Residence or Residence within seventy-two hours (72) of the time that the Owner knew or reasonably should have known of such damage. Within such seventy-two (72) hour period, each Owner shall also notify the Association of any damage to the Owner's Residence or Residence which the Owner contends is the responsibility of the Association. The Association shall not be liable for any personal injury, property damage or economic loss of any kind resulting from the failure of the Owner to so notify the Association.

CERTIFICATE OF PRESIDENT AND SECRETARY

The undersigned President and Secretary of CREEKSIDE OAKS HOMES ASSOCIATION, a California non-profit mutual benefit corporation, do hereby certify that the above Second Amendment to the Second Restated Declaration of Covenants, Conditions and Restrictions of Creekside Oaks Homes Association consisting of eight (8) pages, inclusive of the signature pages, was duly adopted by written ballot approved by the required percentage of the Members of the Creekside Oaks Homes Association and that it now constitutes an Amendment to the Second Restated Declaration of Covenants, Conditions and Restrictions of Creekside Oaks Homes of Association.

DATED: 10.3.2022

PRESIDENT:

BY

Carol Kelly

President

Carol Kelly

[Print Name]

DATED: 10-3-22

SECRETARY:

BY

Barbara C. Shukov

Secretary

BARBARA C. SHUKOV

[Print Name]

PLEASE SEE
NOTARY ATTACHMENT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of SANTA CLARA)

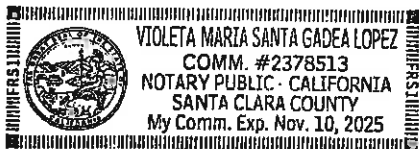
On 10/03/2022 before me, Violeta Maria Santa Gadea Lopez, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Carol Kelly & Barbara Claudine Shukov
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Violeta Maria Santa Gadea Lopez
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: amendment Document Date: 10/3/2022
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____