

ARTICLE V
MAINTENANCE, REPAIR AND
RECONSTRUCTION OF
IMPROVEMENTS

5.1 MAINTENANCE OF COMMON AREA:

5.1.1 Generally: The Association shall be responsible for the maintenance, repair, replacement, management, operation, painting and upkeep of Common Area and all Improvements situated in, upon or under the Common Area. The Association shall keep the Common Area and Improvements thereon in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of the Common Area in first class condition.

5.1.2 Improvement Districts: Notwithstanding paragraphs 5.1.1 and 5.6.1, the Association shall not be obligated to maintain, repair or replace any landscaping, irrigation systems, drainage facilities, improvements or geological hazards which are maintained, repaired or replaced by any district and/or governmental entity.

5.1.3 Irrigation Lake: The Common Area may include one or more lakes which may be used by the Golf Course for irrigation purposes. Additionally, one or more lakes may be constructed on the Golf Course. Lake levels will fluctuate to accommodate irrigation of the Golf Course. The Association shall be responsible for the maintenance of any lake situated on the Common Area except that the owner of the Golf Course shall reimburse the Association for the costs of providing water service to the lake to the extent that such water is used for the irrigation of the Golf Course. The Association shall have no maintenance responsibility for any lake situated on the Golf Course.

5.2 ALTERATIONS TO COMMON AREA:

5.2.1 Approval: Only the Association shall construct, reconstruct, refinish or alter any Improvement situated in, upon or under the Common Area. A proposal for any construction of or alteration, maintenance or repair to an Improvement may be made at any meeting. A proposal may be adopted by the Board, subject to the limitations contained in the Bylaws.

5.2.2 Funding: Expenditures for maintenance, repair or replacement of an existing capital Improvement for which reserves have been collected may be made from the Reserve Account. Subject to the limitations set forth in Section 6.5.2, the Board may levy a Special Assessment to fund any construction, alteration, repair or maintenance of an Improvement for which no reserve has been collected or to alter existing Improvements.

5.3 MAINTENANCE OF LOTS AND RESIDENCES: Except as otherwise specifically provided in this Declaration, each Owner shall maintain and care for the Owner's Lot, including the Residence, and other Improvements located

thereon, in a manner consistent with the standards established by the Project Documents and other well maintained residential areas in the vicinity of the Project. The preceding sentence shall not obligate an Owner to maintain any portion of the Owner's Residence which is maintained by a Subassociation in accordance with a Supplemental Declaration. Each Owner shall regularly clear all storm drainage inlets and maintain the capacity and flow of all storm drainage Improvements situated on that Owner's Lot. Special architectural design standards may be established in the Rules.

5.4 ALTERATIONS TO LOTS AND RESIDENCES:

Owners may alter or remodel the interiors of their Residences, if the alterations do not impair the structural integrity of the Residence and if the Owner complies with all laws and ordinances regarding alterations and remodeling. Any proposals for alterations, additions or other Improvements on Lots or to the exteriors of Residences shall be made in accordance with the provisions of Article XI.

5.5 INSTALLATION, MAINTENANCE AND REPAIR OF FENCES AND WALLS:

For purposes of this Section, the term "fence" does not include masonry, concrete, stucco or brick walls which are subject to Section 5.5.4, below.

5.5.1 Party Fences: The Owners of a Party Fence shall be responsible for maintaining, repairing and replacing it. The costs of such maintenance, repair and/or replacement shall be shared equally by the Owners; provided, however, that all costs of any maintenance, repair or replacement necessitated by the negligent or willful action of an Owner shall be borne by that Owner. In the absence of negligent or willful conduct, any necessary maintenance, repair or replacement performed by an Owner shall entitle that Owner to a right of contribution from the other Owners of the Party Fence. The right of contribution shall be appurtenant to the Lot and shall pass to the successor(s) in interest of the Owner entitled to contribution.

5.5.2 Fences Separating Common Area and Lots:

Each fence which separates a Lot from Common Area shall be maintained, repaired and replaced by the Owner of the Lot except for the surface facing the Common Area which shall be maintained by the Association. Maintenance shall include refinishing the exterior surface of the fence if that surface was previously finished with paint or stain.

5.5.3 Fences Adjacent to Golf Course:

Each Owner of a Lot which is adjacent to the Golf Course shall install fencing on the common boundary of the Lot and Golf Course prior to commencement of construction of a Residence on the Lot. Such fencing must be constructed in strict conformance with the Architectural Rules and, after it is installed, it shall be maintained by the Owner of the Lot. All fences situated on the common boundary of Common Area and Golf Course shall be maintained by the Association at the sole cost and expense of the Association. All fences situated on the common boundary of Subassociation Common Area and Golf Course shall be maintained by the Subassociation at the sole cost and expense of the Subassociation. In accordance with Section

5.6.4. below, the owner of the Golf Course shall have the right, but not the duty, to maintain any fencing installed along the boundary of the Golf Course.

5.5.4 Walls: The Association shall maintain all masonry, concrete, stucco and brick walls situated in, on or adjacent to Common Area or on the boundary of Subassociation Common Area; provided, however, each Owner shall be responsible for maintaining any wall surface which is situated on or immediately adjacent to their Lot and which faces their Lot, and each Subassociation shall be responsible for maintaining any wall surface which is situated on or immediately adjacent to Subassociation Common Area and which faces such Subassociation Common Area owned or governed by that Subassociation.

5.6 LANDSCAPING: All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality as originally established by Declarant and in a condition comparable to that of other well maintained residential areas in the vicinity of the Project. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed. Other specific restrictions on landscaping may be established in the Rules.

5.6.1 Association: The Association shall be responsible for all landscaping located on Common Area.

5.6.2 Subassociation: Each Subassociation shall be responsible for all landscaping located on the Subassociation Common Area governed by such Subassociation.

5.6.3 Lot Owners: Each Owner of a Lot shall be responsible for all landscaping located within the Owner's Lot other than any portions of the Owner's Lot maintained by a Subassociation. Unless otherwise provided in a Supplemental Declaration or a Declaration of Annexation, each Owner of a Lot other than Declarant or a Merchant Builder shall commence installation of permanent landscaping within all such portions of the Owner's Lot within one hundred eighty (180) days after the original conveyance of the Lot by Declarant to an Owner (excluding conveyances to Declarants or Merchant Builders) and shall complete the installation within one (1) year after such conveyance. The Board may adopt a Rule which extends the preceding time periods in selected circumstances or Neighborhoods. Additionally, if pursuant to the preceding sentence, an Owner is required to landscape before a Residence is completed on that Owner's Lot, the landscaping shall conform to any special landscaping Rules applicable to vacant Lots. Notwithstanding the preceding sentences, landscaping need not be installed in Neighborhood 7 until January 2, 2001. Each Owner shall be required to maintain any trees installed on their Lot along the private streets in the Project.

5.6.4 Owner of Golf Course: If the Association, a Subassociation or an Owner ("defaulting party") fails to maintain any landscaping or fencing situated adjacent to the Golf Course as required by this Declaration, the owner of

the Golf Course shall have the right, but not the duty, to maintain the landscaping or fencing. The defaulting party shall reimburse the owner of the Golf Course for all such costs of maintaining landscaping and fencing. If the owner of the Golf Course desires to perform any such maintenance authorized by the preceding sentences, the owner of the Golf Course shall first notify the defaulting party in writing and provide the defaulting party with at least thirty (30) days from the date of the notice to perform such maintenance. If the defaulting party fails to commence and complete such maintenance within said thirty (30) day period, the owner of the Golf Course shall have the right to enter the Common Area, Subassociation Common Area or Separate Interest on which the maintenance is required during reasonable business hours and perform such maintenance.

5.6.5 Height Limitation: Landscaping over twenty-five (25) feet in height is subject to control by the Association as follows: If (i) any landscaping is installed or grows to a height in excess of twenty-five (25) feet and (ii) the Board determines in its absolute discretion that such landscaping unreasonably blocks or obscures views from any portion of the Project, the Association may require the Owner (the Subassociation, in the case of Subassociation Common Area) to trim the landscaping to a height less than twenty-five (25) feet. The Architectural Committee may adopt Rules which otherwise restrict the types and location of landscaping as the Architectural Committee determines to be appropriate to avoid unreasonably blocking or obscuring views. The foregoing provisions do not apply to landscaping installed on the Golf Course. The owner of the Golf Course shall have no obligation to trim or thin landscaping which reasonably or unreasonably blocks or obscures views, including views of the Golf Course.

5.7 RIGHT OF MAINTENANCE AND ENTRY BY ASSOCIATION: If an Owner fails to perform maintenance and/or repair which that Owner is obligated to perform pursuant to this Declaration, and if the Association determines, after Notice and Hearing given pursuant to the provisions of the Bylaws, that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature and/or value of the Project, the Association may cause such maintenance and/or repair to be performed. The costs of such maintenance and/or repair shall be charged to the Owner of the Separate Interest as a Reimbursement Assessment. In order to effectuate the provisions of this Declaration, the Association may enter any Separate Interest whenever entry is necessary in connection with the performance of any maintenance or construction which the Association is authorized to undertake. Entry within a Separate Interest shall be made with as little inconvenience to an Owner as practicable and only after reasonable advance written notice of not less than forty-eight (48) hours, except in emergency situations.

5.8 DAMAGE AND DESTRUCTION: The term "restore" shall mean repairing, rebuilding or reconstructing a damaged Common Area Improvement to substantially the same condition and appearance in which it existed prior to fire or other casualty damage. If fire or other casualty damage extends to any Common Area which is so insured, the Association shall proceed with the filing and adjustment

of all claims arising under the existing insurance policies. The insurance proceeds shall be paid to and held by the Association.

5.8.1 Bids: Whenever restoration is to be performed pursuant to this Section, the Board shall obtain such bids from responsible licensed contractors to restore the damaged Common Area as the Board deems reasonable; and the Board, on behalf of the Association, shall contract with the contractor whose bid the Board deems to be the most reasonable.

5.8.2 Sufficient Proceeds: The costs of restoration of the damaged Common Area shall be funded pursuant to the provisions and in the priority established by this Section 5.8.2. A lower priority procedure shall be utilized only if the aggregate amount of funds then available pursuant to the procedures of higher priority are insufficient to restore the damaged Common Area. The following funds and procedures shall be utilized:

1. The first priority shall be any insurance proceeds paid to the Association under existing insurance policies.
2. The second priority shall be all Reserve Account funds designated for the repair or replacement of the capital improvement(s) which has been damaged.
3. The third priority shall be funds raised by a Special Assessment against all Owners levied by the Board up to the maximum amount permitted without the approval of the Members in accordance with the limitations set forth in Section 6.5.2.
4. The fourth priority shall be any funds raised by a Special Assessment against Owners levied by the Board pursuant to a vote of the Members pursuant to Section 5.8.3.

5.8.3 Additional Special Assessment: If the total funds available to restore the damaged Common Area pursuant to the first three priorities described in Section 5.8.2 is insufficient to restore the damaged Common Area, then a special meeting of the Members shall be called for the purpose of voting whether to impose an additional Special Assessment and deciding upon the amount thereof. The Board shall then contract for the restoration of the damaged Common Area as described above, making use of whatever funds are then available to it.

5.9 DAMAGE OR DESTRUCTION TO RESIDENCES AND/OR SEPARATE INTERESTS: If all or any portion of a Separate Interest or Residence is damaged by fire or other casualty, the damaged Improvements shall be fully restored or the damaged Improvements shall be removed, leaving the Separate Interest in a clean and safe condition. Any restoration under (i) preceding must be performed so that the Improvements are in substantially the same condition in which they existed prior to the damage, unless the provisions of Article XI are complied with. The restoration or removal shall be performed by the Owner of the Residence or other damaged Improvement; provided, however, if a Supplemental Declaration provides that the restoration or removal is the responsibility of a Subassociation, then the Subassociation,

and not the Owner, shall perform the restoration or removal. Unless extended by the Board, any restoration or removal must commence within one hundred twenty (120) days after the damage occurs and must be completed within one (1) year thereafter.

5.10 CONDEMNATION OF COMMON AREA: If all or any portion of the Common Area is taken for any public or quasi-public use under any statute, by right of eminent domain or by purchase in lieu of eminent domain, the entire award shall be deposited into the Current Operation Account until distributed. The Association shall distribute such funds proportionately to all Owners as their interests appear according to the respective fair market values of their Separate Interests at the time of condemnation, as determined by an independent appraisal made by an independent real estate appraiser with a Member of the Appraisal Institute Certificate or the equivalent, as selected by the Board. The Association shall represent the interests of all Owners.