

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
HIDDEN VALLEY SUBDIVISION

THIS DECLARATION is made this 10th day of March, 1980, by HIDDEN VALLEY PARTNERSHIP.

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the county of San Benito, State of California, which is more particularly described in the subdivision map hereafter described;

NOW, THEREFORE, Declarant hereby declares that all of the properties described in said subdivision map shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. “Association” means Hidden Valley Homeowners’ Association, a non-profit, unincorporated association, its successors and assigns.

Section 2. “Architectural control committee” or “committee” means the architectural control committee established in Article VI, Section 1 hereof, its successors and assigns.

Section 3. “Subdivision” means all of the property described in that certain final subdivision map of the Hidden Valley subdivision recorded March 6, 1980 in Book 8 of Maps, page nn, Official Records of San Benito County.

Section 4. “Subdivision map” means the final subdivision map hereinabove referred to.

Section 5. “Lot” means any of the numbered and dimensioned residential lots of parcels shown on the subdivision map.

Section 6. “Owner” or “lot owner” means the holder or holders of record fee title to any lot, including contract sellers, but excluding those having such title merely as security for the performance of an obligation.

Section 7. “Open space area” means the real property so designated on the subdivision map.

Section 8. “Recreation area” means the real property so designated on the subdivision map.

Section 9. “Equestrian trail” means the real property so designated on the subdivision map.

Section 10. “Roads” means all roads within the subdivision as shown on the subdivision map.

Section 11. “Common area” means the open space area, the recreational area, the equestrian trails and the roads.

Section 12. “Member” means a member of the Association as hereinafter defined and provided.

Section 13. “Covenants” means this instrument.

Section 14. “Subdivider” means Hidden Valley Partnership, which is now the record owner of the subdivision.

Section 15. “Declarant” means Hidden Valley Partnership, the present owner of the subdivision.

Section 16. “Height” means the vertical distance from the average of the highest and lowest finish grades within five (5) horizontal feet from the vertical projection of the peripheral outline of any structure to the highest point of the structure.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment and Use.

Every owner shall have a right and easement of enjoyment and use in and to the common area which shall be appurtenant to and shall pass with the title to every lot. All such rights and easements shall be subject to the provisions of these covenants, the Articles, By-laws and published rules and regulations of the Association and the following provisions:

- (a) The right of the association to suspend the voting rights and right to use of the common area and facilities thereon, other than the roads, by an owner, his family, his tenants, his guests and contract purchasers for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 30 days for any infraction of its published rules and regulations after giving the accused at least one week's notice of a hearing by the Board of Directors of the Association on the alleged infraction and a decision by said Board after said hearing that discipline should be imposed.
- (b) The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer of any common area shall be effective unless an instrument executed by members who represent at least two-thirds of the voting power of the Association, agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use.

Any Owner may delegate, in accordance with the By-laws and regulations of the Association, his right of enjoyment and use to the common area and facilities to which he is entitled to the members of his family, his tenants, his guests or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership Appurtenant.

Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot. All lots shall be subject to assessment.

Section 2. Voting.

The Association shall have only one class of membership. Each residential lot within the subdivision shall have one vote.

When more than one person holds an ownership interest in any lot, all such persons shall be members, and shall enjoy all the benefits of membership, except individual voting by each co-owner. The vote for such lot shall be exercised as the co-owners among themselves determine, but in no event shall more than one vote be cast with respect to the lot. The co-owners shall specify in a written notice to the secretary of the Association the name of the one owner authorized to cast the vote of such lot.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant hereby covenants for each lot within the subdivision, and each future owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such a deed, is deemed to covenant and agree to pay the Association, subject to the maximum limitations stated in Sections 3 and 4 below: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the real property and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal, obligation of all persons who were the owners of such lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title to the lot unless expressly assumed by them.

Section 2. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the subdivision and for the maintenance, preservation and improvement of the common area, including but not limited to, recreational areas, equestrian areas, fences, roads and other improvements.

Section 3. Regular Annual Assessment.

Until January 1 of the year immediately following the conveyance of the first lot by the subdivider, the regular annual assessment shall be \$150 per lot.

- (a) From and after such January 1 of the year immediately following the conveyance of the first lot to an owner, the regular annual assessment may be increased each year not more than 20% above the regular assessment for the previous year without a majority vote or assent of the members, other than the subdivider, entitled to vote.
- (b) From and after such January 1, the regular annual assessment may be increased above 20% by the vote or written assent of 51% of the members, other than the subdivider, entitled to vote.
- (c) The Board of Directors shall fix the annual assessment at such amount per lot as it estimates to be necessary to pay all taxes on the common areas, to

maintain the fences and facilities on the common areas, to provide adequate insurance and to defray the Association's other operating expenses.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purposes of defraying, in whole or in part, the cost of any construction, reconstruction, or replacement of a capital improvement, including fixtures and personal property related thereto, provided that any such assessment, and the amount thereof, shall have the vote or written assent of 51% of all members, other than the subdivider, entitled to vote. Furthermore, the Association may not incur expenditures for capital improvements to the common area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for the fiscal year without the vote or written assent of 51% of all members, other than the subdivider, entitled to vote.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4.

Any action authorized under Section 3 or 4 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members entitled to vote not less than 10 or more than 60 days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite 51% of the members, other than the subdivider, entitled to vote, then such members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than 30 days from the date of such meeting.

Section 6. Uniform Rate of Assessment.

Both annual and special assessments must be fixed at rates which are uniform for all lots.

Section 7. Date of Commencement of Regular Annual Assessments: Due Dates.

The regular annual assessments shall commence as to all lots (including those owned by the subdivider) on the first day of the month following the closing of the first sale of a lot. The Board of Directors shall fix the amount of the annual assessment against each lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every lot owner. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association.

Each monthly portion of a regular assessment and each special assessment shall be a separate, distinct and personal debt and obligation of the lot owner against whom the same is assessed. The amount of any assessment not paid when due shall (1) bear interest from the due date at the rate of 9 percent per annum, or such other rate as may be set by the Board of Directors from time to time, and (2) be deemed to be delinquent and shall become a lien upon the lot when a notice of assessment is duly recorded as provided in Section 1356 of the California Civil Code. A notice of assessment shall not be recorded until the lot owner has been given a notice of delinquency and has not cured said delinquency within fifteen (15) days. A certificate executed and acknowledged by a majority of the Board and the lot owner stating the indebtedness secured by a lien on any lot shall be conclusive upon the Board and the lot owner as to the amount of such indebtedness on the date of the certificate in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any lot owner upon request at a reasonable fee.

Any such lean may be foreclosed by an appropriate action in court or in the manner provided by law for the foreclosure of a mortgage under power of sale. Any action in court brought to foreclose such a lien shall be commenced not later than one year nor less than ten (10) days after the recordation of the notice of assessment. In the event the foreclosure is under power of sale, the Board, or any other person designated by it in writing, shall be deemed to be acting as the agent of the lienor and shall be entitled to actual expenses and such fees as may be allowed by law or as may be prevailing at the time the sale is conducted.

Such sale shall be conducted in accordance with the provisions of Section 2924, 2924b and 2924c of the California Civil Code applicable to the exercise of powers of sale and mortgages and deeds of trust, or in any other manner permitted by law. The certificates of sale shall be executed and acknowledged by any two members of the Board or by the person conducting the sale. A deed upon court foreclosure shall be executed in a like manner after the lapse of the period of redemption then required by statute.

No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas or abandonment of his lot.

Section 9. Subordination of the Lien of Mortgages and Deeds of Trust.

The lien of the assessments shall be subordinate to the lien of any first mortgage or deed of trust. Neither sale nor transfer of any lot nor a deed in lieu of foreclosure shall affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

MAJOR DUTIES OF THE ASSOCIATION

Section 1. Open Space areas.

The Association shall own, control, preserve and maintain the open space areas within the subdivision. The Association may, upon such terms as its Board of Directors determines, lease all of any part of any open space area for grazing or other such uses as are not incompatible with the preservation of the land as open space. The Board of Directors may, from time to time, promulgate, amend, terminate and enforce written rules and regulations for the use of the open space areas. At least 30 days prior to the effective date of any such rule or regulation it shall be sent or delivered to all members.

Section 2. Roads.

The Association shall maintain and improve all roads within the subdivision. The board of Directors shall make all decisions with respect to the need for maintenance, repair and improvement of the roads. The Board of Directors shall hire all contractors, materialmen and workmen for such maintenance repair and improvement; provided, however, that it may, by resolution, delegate to any officer or officers of the Association the authority to hire and supervise such contractors, materialmen and workmen. The Board of Directors may, from time to time, promulgate, amend, terminate and enforce written rules and regulations with regard to the roads, including, but not limited to, speed limits. At least 30 days prior to the effective date of any such rule or regulation it shall be sent or delivered to all members.

Section 3. Recreational Area.

The Association shall own, control and maintain the recreational area and all facilities, equipment and improvements thereon. The Association shall maintain all fences, around and within the recreational area. The Board of Directors of the Association may, from time to time, promulgate, amend, terminate and enforce written rules and regulation for the use of the recreational area and its facilities. At least 30 days prior to the effective date of any such rule or regulation it shall be sent or delivered to all members.

Section 4. Equestrian Trails.

The Association shall maintain the equestrian trails. The Board of Directors of the Association may, from time to time, promulgate, amend, terminate and enforce written rules and regulations for the use of the equestrian trails. At least 30 days prior to the effective date of any such rule or regulation it shall be sent of delivered to all members.

The trails may be abandoned when 40 of 55 Association members entitled to vote agree in writing to such abandonment.

Note: Rules and Regulations were adopted by the Board of Directors on 7/31/2000 regarding the use and maintenance of Equestrian Trails.

Section 5. Boundary Fences.

The Association shall maintain all external boundary fences of the subdivision. All fences within the subdivision shall be erected and maintained by the individual lot owners in accordance with Article VI, section 7 below.

Section 6. Other Duties.

The Association, its Board of Directors and officers shall have such other rights and duties as are set forth in these Covenants and the Association's Article of Association and By-Laws, as amended from time to time.

ARTICLE VI

ARCHITECTURAL CONTROL AND RESTRICTIONS

Section 1. Architectural Control Committee

An architectural control committee comprised of three owners is hereby established for the purpose of reviewing, and approving or rejecting, plans for any building or other structure proposed to be built upon any lot and for the purpose of monitoring compliance with, and enforcing, the provisions of Sections 2 through 11 hereof.

The original architectural control committee shall be comprised of Roy R. Woods, Thomas Ewen and Dewey L. Carpenter. After one year from the sale of the first lot by the subdivider, the Board of Directors of the Association may appoint a member of the committee, who shall replace Thomas Ewen. When 30 lots have been sold by the subdivider or on the fifth anniversary of the issuance of the final public report for the subdivision, whichever occurs first, the term of the original members of the committee who then remain on the committee shall automatically end and the Board of Directors of the Association shall appoint all members of the committee required to fill their vacancies. Thereafter, the Board of directors shall, from time to time, appoint all members of the committee and shall have the right and power to change the composition of the committee, amend its duties and powers or dissolve the committee.

All persons appointed to the committee by the Board of Directors must be members of the association.

A majority of the committee may designate a representative to act for it. In case of death or resignation of any committeeman, the board of directors may appoint a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for his services.

Section 2. Prior Approval of Plans

Prior to the construction or erection of any structure or fence on any lot, the lot owner shall submit plans and specifications of the proposed structure or fence to the committee, in such detail as the committee shall require. The committee, by a majority vote, shall have the right to approve, approve with conditions, or reject the proposed structure or fence. The committee shall act on any proposal within thirty (30) days of the date such proposal is submitted to the committee. All structures and fences built on any lot shall be constructed in accordance with the plans and specifications approved by the committee and shall comply with any conditions set forth in a conditional approval of the committee.

Note: Rules and Regulations were adopted by the Board of Directors on 7/31/2000, regarding the checklist to be used by the ACC to review planned structures, and defining the process for appeal to the Board of Directors.

Section 3. Land Use

All lots shall be used only for residential purposes. And no trade, business, or commercial activity of any kind shall be conducted on any lot.

Section 4. Residential Standards.

Every residence within the subdivision shall comply with the following standards:

- (a) The subdivider has designated the subdivision to provide the maximum privacy for each building site and the minimum obstruction of views by structures on neighboring lots. The map attached hereto, marked Exhibit "A" and by this reference made a part hereof, delineates the building site for each lot within the subdivision. No residence may be built on any lot outside the boundaries of the delineated building site except those lots for which no delineated building site is shown on exhibit "A". Single story structures are preferred. The maximum height for all buildings shall be 30 feet or two stories. Heights shall be calculated in accordance with Article 1, Section 16 above.
- (b) Each residence shall have a minimum floor space of 1,700 square feet.
- (c) Each residence shall be built with adobe, plaster, rock or wood or a combination of such materials. No other materials shall be allowed.
- (d) *Wood Shake, or Shingle roofs are allowed, preferred roofing will be fire proofed or textured tile to resemble wood. Terra Cotta Tile, Asphalt or high quality Fiber Glass shingles are considered to be materials acceptable for this use.*
- (e) All driveways shall be paved or surfaced with rock.
- (f) All utility services (water, power, telephone, etc.) from main lines to residences and outbuildings shall be installed underground at the lot owners expense. Meters for such services shall be installed by and at the expense of the owner.
- (g) All of the lots shall be landscaped within one year of the filing of a notice of completion of the residence.

Note: Item (d) was amended by the Association in 1992.

Section 5. Outbuilding Standards

Garages, sheds and other structures, except residences, on any lot (hereinafter collectively called “outbuildings”) shall comply with the following standards:

- (a) No detached guest house may be built or placed on any lot.
- (b) All outbuildings shall be built and roofed with the same material as the residence on the lot, and, as nearly as practical shall harmonize in appearance with the residence.
- (c) All outbuildings must be built within the building site designated on Exhibit “A”, unless the architectural control committee gives written approval of a different site before the outbuilding is constructed.
- (d) No outbuilding may be used as a residence, guest house, office or other human habitation.
- (e) Solar collectors and panels may be built on the roof of any residence or outbuilding. However, no solar collector or panel shall be constructed, erected or placed anywhere else on any lot except by prior written approval of the association.
- (f) No temporary buildings of any kind shall be constructed, erected or placed on any lot, except that during the period of construction of an improvement on the lot, temporary construction buildings shall be permitted

Section 6. Parking Areas.

At least 8 on-site parking spaces shall be provided on each lot. The parking areas for each lot shall be fenced or landscaped to hide the owner’s vehicles and those of his family, guests and invitees from view from adjacent lots and roads. In addition, motor homes, trailers, trucks or other equipment must be parked in a covered building or landscaped so as to be hidden from view. Except during construction of improvements on a lot when such a vehicle is used by the contractor, no trailer, mobile home or other vehicle shall be used as an office or occupied by humans.

Section 7. Fences.

Fences may be erected on individual lots by the lot owner and shall comply with and be maintained according to the following standards.

- (a) Fences enclosing the residence, outbuildings and parking areas shall be

constructed of wooden posts and boards, wooden pickets, wooden rails, stone or any combination of these materials. Cement block or metal shall not be used for such fencing.

- (b) Fences enclosing any lot shall be constructed of 6' 10" steel "T" posts spaced 8' on center and protruding 5' above ground level, with 2 strands of 2 pt. x 12 ½ gauge barbed wire or 12 ½ gauge two-strand twisted smooth wire, the top strand being 2" from the top of the posts, the second strand being 9" from the top of the posts, and 42" 939 x 6, 12 ½ gauge woven wire (sheep wire) installed 16" from the top of the posts to 2" above ground level. Stretch posts shall be railroad ties.
- (c) *Other woven wire fencing may be used (with architectural control committee approval) such as woven horse wire. This fencing must be installed on T posts and meet the criteria listed in (b) concerning the height of posts above ground and the method of installation. However, the two stranded barb wire or smooth wire at the top of the fence is optional at the owner discretion.*
- (d) *Other strand wires will be considered by the Architectural Control Committee as long as they maintain the open appearance desired and are acceptable for animal control.*

Note: Items (c) and (d) were added as Amendments to the C, C & R's in 1992.

Section 8. Signs and Antennas.

No signs, except temporary real estate broker signs and signs required by law, shall be placed, erected or posted on any lot. The name and address of the owner or residence of a lot may however be exhibited on a sign no larger than 18" x 24".

No remote television antennas may be placed or erected on any lot or structure thereon except by prior written approval of the Association.

Note: Rules and Regulations were adopted by the Board of Directors on 7/31/2000 permitting some "house for sale" signs.

Section 9. Trash and Garbage.

Trash, garbage, manure, and other wastes shall be kept in sanitary containers and no lot shall be used or maintained as a dumping ground for rubbish. All incinerators and other equipment for storage and disposal of such material shall be kept in a clean and sanitary condition, and screened from view from any adjoining lots or roads.

Section 10. Oil and Mining operations.

Oil drilling, oil development operations, refining, mining operations of any kind, or quarrying, shall not be permitted upon or in any lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted in any lot.

Section 11. Animals.

Only the following animals may be kept on any one lot:

- (a) 8 or less horses;
- (b) 10 or less sheep;
- (c) 40 or less chickens;
- (d) 3 or less dogs;
- (e) 5 or less cats;
- (f) 40 or less rabbits; and
- (g) 6 or less cattle; provided, however, that there shall not be more than 10 horses, sheep and cattle on any one lot.

All permitted animals other than cats must be stabled, corralled, penned or kept in enclosures approved by the architectural committee. In addition, there shall be no overgrazing of lots or open space areas. Overgrazing shall be determined by the board of Directors.

Section 12. Vehicles.

No motor vehicles of any type shall be allowed in open space areas, on equestrian trails, or within easements except such vehicles as may be needed to preserve these designated areas or to construct or maintain facilities within them.

Section 13. Riding Facilities.

Use of the corrals and riding arena located within the recreation area shall be limited to day use. There shall be no stabling of horses overnight or for longer periods of time except during horse shows or special events in which case prior written permission of the Board of Directors must be obtained.

Section 14. Excavation.

All excavations or similar activities involving earth moving, including the building of roads or landscaping projects, must have prior approval of the architectural control committee.

ARTICLE VII

EASEMENTS

Easements for roads and for the installation and maintenance of utilities and other facilities are reserved as shown on the recorded map. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement.

The Association, the Architectural Control Committee and any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Architectural Control Committee or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability.

Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment.

These restrictions shall run with and bind the land, for a term of 50 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of 25 years, unless an instrument signed by a majority of the then lot owners has been recorded either agreeing to change or terminating the restrictions. This Declaration may be amended by an instrument signed by not less than the owners of 75% of the lots, including a majority of the owners other than the subdivider. Any amendment must be recorded.

Section 4. Annexation.

Additional residential property and common area may be annexed to the properties with the vote or written assent of the owners of two-thirds of the Association members, other than the subdivider, entitled to vote.

Section 5. Resubdivision.

There shall be no further subdivision or resubdivision without the written consent of the owners of two-thirds of the lots.

IN WITNESS WHEREOF, the undersigned, being the General Partners of the Delclarant herein, have hereunto set their hands and seals this 10 day of March, 1980.

Signed _____
Roy R. Woods

Signed _____
Dewey L. Carpenter