

**RECORDED AT THE REQUEST OF:**  
Meadowcreek Home Owners Association  
c/o Hugh Helm  
6458 Stone Bridge Road  
Santa Rosa, CA. 95409  
phone and fax: (707) 538-5858



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SONOMA COUNTY  
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**6** PGS



**WHEN RECORDED MAIL TO:**  
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**NON-OWNER OCCUPANCY LIMITATIONS  
AMENDMENT TO OAKMONT VILLAGE HOMEOWNERS  
ASSOCIATION DECLARATION NO. 23**

This is an amendment to those certain protective restrictions entitled "OAKMONT VILLAGE ASSOCIATION NO. 23 OF PROTECTIVE RESTRICTIONS" recorded in the Official Records of Sonoma County on July 29, 1979, in Book 3136, Page 473 (hereinafter the "Declaration").

The property subject to said Declaration and this amendment is particularly described as follows:

**All that certain real property situated in the City of Santa Rosa, County of Sonoma, State of California, as shown on the maps entitled, "OAKMONT NO. 12-B" and recorded on the 7<sup>th</sup> day of October, 1976, in Book 235 of Maps as pages 41 and 42 in the Office of the Recorder of the County of Sonoma, State of California. (commonly referred to as Meadowcreek Home Owners Association, and hereinafter the "property" or the "subject property")**

**THE AMENDMENT:**

It is hereby certified by the undersigned that **Article III** of the OAKMONT VILLAGE ASSOCIATION DECLARATION NO. 23 OF THE PROTECTIVE RESTRICTIONS is hereby amended to add the following section 4:

**Section 4. Non-owner Occupancy Limitations**

(a) **Purposes for Amendment:** There is a growing and pronounced need for owners of residential lots subject to this Declaration to adopt a policy and restrictions which place limits on non-owner occupied residences within the subject property. Among the principal reasons for this Amendment are the following:

(1) The Protective Restrictions for the property require that members of Meadowcreek Home Owners Association elect a Board of Governors. It is desirable that Governors be owner-occupants, but there are a growing number of non-owner occupied residences within the property. Because absentee owners are often not geographically close enough to serve on the Board, and because the retirement community aspect of Oakmont further reduces the pool of available Board members due to aging and health issues, there is a growing need to protect the pool of available owner-occupants from which to select a Board of Governors;

(2) There are already federally mandated owner-occupancy financing loan guidelines which may eventually adversely effect the financing and refinancing of residences within the subject property, by such Federal agencies as the Department of Housing and Urban Development (HUD), the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC); and

(3) There is a need to maintain the property, and protect and enhance the value of residences within the property. The feeling of permanence and pride of ownership is greater in communities with larger numbers of owner-occupants, who also are more likely to have greater familiarity with the rules and procedures of Oakmont Village Association and Meadowcreek Home Owners Association.

(b) **Owner Occupancy Requirement.** Except as otherwise provided in this Amendment, commencing on the effective date of this Amendment, all residences subject to this Declaration shall be owner-occupied except that up to 4 residences or 16 2/3 % of the residences subject to this Declaration may be non-owner occupied subject to approval by the Meadowcreek Board of Governors. All remaining residences must be owner-occupied. Any person or persons who desire to (a) acquire a residence for purposes of non-owner occupancy, or (b) convert a residence from owner occupied to non-owner occupied, shall apply to the Meadowcreek Board of Governors (which may be contacted through Oakmont Village Association) for approval.

(c) **Rules and Procedures.** The Board of Governors shall adopt guidelines and procedures to implement this Amendment. Included in such guidelines and procedures shall be an application process to permit non-owner occupied residences; an inventory (not less than annually) of residences which are non-owner occupied; a procedure for a waiting list where the rental rate is already equal to or exceeds the 16 2/3% limitation; a procedure to allow exemptions as set forth below, and such other procedures and rules as are reasonably necessary to carry out this Amendment. Such Rules and Procedures

shall be distributed to owners at least once a year, and shall be available to anyone on request.

(d) **Exemptions.** Recognizing that a strict 16 2/3% non-owner occupancy limit may operate as a hardship, the Board of Governors may permit a residence to be non-owner occupied in spite of the 16 2/3% limitation upon a formal written application by the owner or prospective owner. The Board of Governors is authorized to permit exemptions where:

(1) An owner-occupant or some other person with whom the owner-occupant has a significant relationship or responsibility, develops serious health issues which require non-owner occupancy;

(2) An owner-occupant or some other person with whom the owner-occupant has a significant relationship or responsibility, has an unexpected financial hardship which requires non-owner occupancy, or:

(3) An under age-55 person acquires ownership due to the death, succession, or other good faith intestate transfer of an owner-occupant. The period of this exemption shall be for not more than two (2) years, by which time the owner must transfer ownership or secure another exemption under this section.

(4) Non-owner occupancy is part of a bona fide estate plan by an owner occupant.

(5) Temporary rentals of less than six (6) months duration by an owner occupant.

(5) Other unexpected significant hardship meriting exceptional treatment.

(e) **Prospective Operation.** This Amendment shall not apply to existing owners, or to existing mortgagors, who shall remain free to continue to occupy or not occupy their residences despite the 16 2/3% non-owner occupancy limitation, the same as if this Amendment were not in place. This Amendment shall apply prospectively only, to each lot for which the title or ownership (legal and equitable) changes on or after the effective date the Amendment is recorded.

(f) **Savings Clause.** If any term, provision, covenant, or condition of this Amendment is held by a Court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated. Furthermore, should any decision, statute or other law impose limitations or requirements which affect the terms and conditions of the rental restriction limitations adopted in this Amendment, it is the intent of those adopting this Amendment that the Amendment shall thereupon be further amended and changed to adopt such lawful changes and limitations, so that this

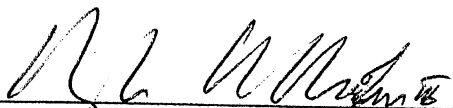
Amendment shall be construed and interpreted as consistent with such decision, statute, or law, to the fullest extent possible. All other provisions of the Declaration shall remain in full force and effect.

(g) **Costs of Enforcement.** In any action to enforce the terms of this Section 4 of Article III, the Board of Governors shall be entitled to costs, including reasonable attorney fees.


### CERTIFICATION

THE UNDERSIGNED HEREBY DECLARE THAT, PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1355, MORE THAN SEVENTY-FIVE PERCENT (75%) OF THE OWNERS COVERED BY THE ABOVE-REFERENCED DECLARATION (WHICH IS THE REQUISITE PERCENTAGE FOR APPROVAL) HAVE APPROVED THE AMENDMENT AS STATED ABOVE, IN WRITING, AND THAT THE UNDERSIGNED ARE OFFICERS OF THE GOVERNING BODY, CHARGED WITH THE OBLIGATION TO SO CERTIFY THIS AMENDMENT.


Dated: 5/14/04

  
\_\_\_\_\_  
Hugh N. Helm III, Governor  
Meadowcreek Home Owners Association

Dated: May 11, 2004

  
\_\_\_\_\_  
Patricia T King, Governor  
Meadowcreek Home Owners Association

Dated: May 11, 2004

  
\_\_\_\_\_  
R. Donald Gass, Governor  
Meadowcreek Home Owners Association

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

SONOMA

ss.

On May 11, 2004

Date

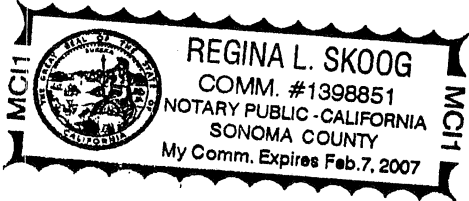
before me, Regina L Skoog

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Patricia T King and R Donald GASS

Name(s) of Signer(s)

- personally known to me
- 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.

WITNESS my hand and official seal.

[Signature]  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

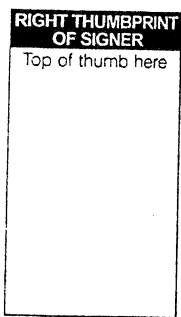
Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

SONOMA

} SS.

On May 14, 2004

Date

before me,

Regina L Skoog

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

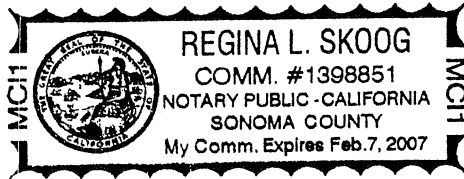
Hugh N Helm

Name(s) of Signer(s)

personally known to me

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.



Place Notary Seal Above

WITNESS my hand and official seal.

[Signature]  
Signature of Notary Public

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Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer

Signer's Name: \_\_\_\_\_

Individual

Corporate Officer — Title(s): \_\_\_\_\_

Partner —  Limited  General

Attorney in Fact

Trustee

Guardian or Conservator

Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER

Top of thumb here