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**RECORDED AT THE REQUEST OF:**

Singing Brook Homeowners Assn  
346 Singing Brook Circle  
Santa Rosa, CA 95409-6485

**WHEN RECORDED MAIL TO:**

Singing Brook Homeowners Assn  
346 Singing Brook Circle  
Santa Rosa, CA 95409-6485

Space Above This Line for Recorder's Use

**EXCLUSIVE USE OF COMMON AREA  
AMENDMENT TO  
OAKMONT VILLAGE DECLARATION NO. 43  
OF PROTECTIVE RESTRICTIONS**

This is an Amendment to those certain protective restrictions entitled "Oakmont Village Declaration No. 43" recorded in the Office of the County Recorder of Sonoma County, California, on February 14, 1989 as instrument No. 89012877, as amended from time to time, (the "Original Declaration") is made this 3<sup>RD</sup> day of November, 2016, by the owners of record of the Lots within the Project and by the Singing Brook Owners Association, an unincorporated association.

The Original Declaration encumbers the real property described as follows:

All that certain real property situated in the City of Santa Rosa, County of Sonoma, State of California being lots 1 through 49, as shown on the maps, entitled "Oakmont No. 17F" and recorded on the 27th day of December, 1988, as instrument No. 88110741 in Book 430 of Maps at pages 30-33 in the Office of the Recorder of County of Sonoma, State of California.

By this document, the Original Declaration is amended pursuant to the provisions of Article XI, Section 2 thereof, as follows:

a. Article XVI is hereby added and shall read in its entirety as follows:

**ARTICLE XVI**

Allocation of Common Area property as Exclusive Use Common Area

**Section 1- Introduction.**

(a) The purpose of this Article is to formally allocate a specified portion of the Owner Association's Common Area to each and every Lot within the Association as Exclusive Use Common Area intended for the sole and exclusive use of each Lot Owner.

(b) This Article has been added to the Declaration (a) to bring the existing usage of Common Area property in line with the current law; (b) to allocate to each Lot a portion of the Common Area as Exclusive Use Common Area, for the sole and exclusive use of the Lot; and (c) to define the uses permitted thereon.

**Section 2 - Allocation of Exclusive Use Common Area**

(a) Each Lot within the Association shall have allocated to it the specific portion of the Association's Common Area as defined herein as Exclusive Use Common Area. Each Owner shall be entitled to the sole and exclusive use of the allocated Exclusive Use Common Area only for the purposes described herein. Any changes in said usage shall be subject to the approval by the Board of Governors and by the Architectural Committee, where such Architectural Committee approval is required under this Article.

(b) For each Lot within the Association, the Owner's usage of unrestricted Common Area for patios, decks and enclosed porches and sunrooms existing on November 3, 2016 is hereby deemed appropriate and approved, and henceforth shall be considered as Exclusive Use Common Area whether initially provided by the Declarant or subsequently approved by the Board of Governors and the Architectural Committee.

(c) Owners shall be responsible for the maintenance, repair and replacement of that portion of the Exclusive Use Common Area allocated to their Lot used for patios, decks, enclosed porches and sunrooms as existing on November 3, 2016 and deemed approved under Section 2(b) of this Article. Owners also shall be responsible for the maintenance, repair and replacement of that portion of the Exclusive Use Common Area allocated to their Lot for which the usage has been approved by the Board of Governors under Section 4 of this Article. The Board of Governors may, as part of their approval process, enter into specific maintenance agreements with individual Lot Owners for the maintenance and upkeep of the allocated Exclusive Use Common Area.

(d) The Exclusive Use Common Area associated with each Lot shall be primarily determined based on the floor plan of the home constructed on said Lot. Exceptions to the general allocation plan are identified by herein.

**Section 3 - Specific Restricted Common Area Allocations**

(a) For Lots with the GLEN ALLEN floor plan, the Exclusive Use Common Area shall be the area enclosed by

- i. extending the side eave line on the bedroom side of the home outward from the rear eave line of the home for a distance of THREE (3) feet from the wall and
- ii. a line parallel to the rear eave line
- iii. connecting to an extension of the side eave line at the kitchen side of the home.

GLEN ELLEN HOMES (7)

Addresses – All Singing Brook Circle – 316, 320, 328, 332, 348, 362, 368

(b) For Lots with the KENWOOD floor plan, the Exclusive Use Common Area

shall be the area enclosed by

- i. extending the side eave line on the bedroom side of the home outward from the rear eave line of the home for a distance of NINE (9) feet from the wall and
- ii. a line parallel to the rear eave line
- iii. connecting to an extension of the side eave line at the kitchen side of the home

KENWOOD HOME (1)

Address - 356 Singing Brook Circle

(c) For Lots with the ANNADEL floor plan, the Exclusive Use Common Area shall be the area enclosed by

- i. extending the side eave line on the bedroom side of the home outward from the rear eave line of the home for a distance of FIVE (5) feet from the wall and
- ii. a line parallel to the rear eave line
- iii. connecting to an extension of the side eave line at the kitchen side of the home.

ANNADEL Homes (12)

Addresses - All Singing Brook Circle - 322, 330, 334, 338, 342, 354, 360, 364, 366, 370, 372, 376

(d) For Lots with the SUGARLOAF floor plan, the Exclusive Use Common Area shall be the area enclosed by

- i. extending the side eave line on the bedroom side of the home outward from the rear eave line of the home for a distance of TEN (10) feet from the wall and
- ii. a line parallel to the rear eave line
- iii. connecting to an extension of the side eave line at the kitchen side of the home.

SUGARLOAF HOMES (4)

Addresses - All Singing Brook Circle - 326, 346, 353, 357

(e) For Lots with the SONOMA floor plan, the Exclusive Use Common Area shall be the area enclosed by

- i. extending the side eave line on the bedroom side of the home outward from the rear eave line of the home for a distance of EIGHT (8) feet from the wall and
- ii. a line parallel to the rear eave line
- iii. connecting to an extension of the side eave line at the kitchen side of the home

SONOMA HOMES (5)

Addresses - All Singing Brook Circle - 310, 352, 355, 358, 380

(F) For Lots with the ST. HELENA floor plan, the Exclusive Use Common Area shall be the area enclosed by

- i. extending the side eave line on the bedroom side of the home outward from the rear eave line of the home for a distance of THREE (3) feet from the wall and
- ii. a line parallel to the rear eave line

iii. connecting to an extension of the side eave line at the kitchen side of the home

**ST. HELENA HOMES (3)**

Addresses – All Singing Brook Circle – 344, 350, 378

(g) For Lots with the BENNETT MOUNTAIN (duplex) floor plan, the Exclusive Use Common Area shall be the area enclosed by

- i. extending the side eave line on the bedroom side of the home outward from the rear eave line of the home for a distance of NINE (9) feet from the wall and
- ii. a line parallel to the rear eave line
- iii. connecting to an extension of a line at the living room/dining room parallel to the side eave line.

**BENNETT MOUNTAIN (DUPLEX) HOMES (12)**

Addresses – All Singing Brook Circle - 312, 314, 345, 347, 349, 351, 359, 361, 363, 365, 367, 369

(h) For Lots with the MT. HOOD floor plan, the Exclusive Use Common Area shall be the area enclosed by

- i. extending the side eave line on the bedroom side of the home outward from the rear eave line of the home for a distance of EIGHT (8) feet from the wall and
- ii. a line parallel to the rear eave line
- iii. connecting to an extension of the side eave line at the kitchen side of the home.

**MT. HOOD HOMES (5)**

Addresses – All Singing Brook Circle – 318, 324, 336, 340, 374

(i) The following exceptions to the general allocation rules shall limit the size of the Exclusive Use Common Area for any Lot meeting the exception condition:

(1) If the allocated area extends beyond the property line of the Common Area, the Exclusive Use Common Area shall be limited to that portion of the allocated area lying within the Common Area property line.

(2) If the allocated area for any two adjoining Lots shall overlap, the overlapping section shall be split as determined by mutual agreement of the Lot Owners or, if no mutual agreement can be achieved, as decided by the Board of Governors.

(3) Eave lines shall be determined based on the primary eave line on the selected side of the home ignoring any patio covers or other roof segments that may extend out further than two feet from the outer wall of the home.

**Section 4 - Use of Exclusive Use Common Areas**

(a) Individual Owners may utilize all or a portion of the Exclusive Use Common Area for any residence-related use approved by the Board of Governors. The used portion of the Exclusive Use Common Area may be enclosed, wholly or partially, by fencing or landscaping. If fencing is used for enclosure, the fencing shall be maintained by the Lot Owner and shall conform to the OVA Architectural Committee guidelines. If landscaping is used for enclosure, the Lot Owner shall be responsible for maintaining said landscaping to the standards established by the Board of Governors.

(b) Within the Exclusive Use Common Area, the Lot Owner may construct a patio, deck, garden, pet area or any other residence-related purpose approved by both the Board of Governors and the Architectural Committee. The construction of patio covers, trellises, fences and landscaping shall be subject to approval by both the Board of Governors and the Architectural Committee.

(c) The Board of Governors shall be authorized to approve fences above height limit up to six (6) feet. The addition of Golf Ball Screens, either as part of or separate from, any enclosure fence shall not be subject to a height limit.

(d) Painted fences enclosing Exclusive Use Common Area shall be repainted, at the Lot Owner's expense, on the same schedule as the Lot Owner's home.

(e) In giving its approval, the Architectural Committee shall apply the same standards, rules and procedures as applicable to Owner Maintained Lots within Oakmont Village Association. In considering its approval, the Architectural Committee shall treat the involved Exclusive Use Common Area as being owned by the individual Owner. The Architectural Committee shall impose no restrictions or set-back rules that are more stringent than those imposed by the City of Santa Rosa. In applying any set-back requirements, measurements shall be taken from the appropriate Common Area boundary and not the deeded Lot lines or Exclusive Use Common Area boundaries.

(f) The determination whether or not the proposed use of Exclusive Use Common Area is acceptable and appropriate shall rest solely with the Board of Governors of the Owners Association.

#### Section 5 - Adjustment of Allocated Common Area for Lots

(a) Changes to the Exclusive Use Common Area for any Lot shall be permissible with the approval of more than 50% of the then current Owners (25 out of 49) by secret written ballot and the approval of the Board of Governors. The Lot Owner shall be responsible for the cost of soliciting and verifying the secret ballot.

(b) Prior to making any further changes in the use of a lot's Exclusive Use Common Area, the Owner shall submit drawings of the Lot with dimensions, along with an application for approval by the Board of Governors. Any construction, modifications or improvements therein must further be approved by the Oakmont Architectural Committee in accordance with Article III, Section 3, and Article IV of this Declaration.

(c) Upon receipt of the Petition for Approval and prior to giving its approval, the Board of Governors shall contact the owners of all Impacted Lots and consider their objections and concerns. The Board of Governors may give its approval to the proposed change in Exclusive Use Common Area after it considers the written objections of Impacted Lot Owners and determines that the change reasonable and appropriate. Upon approval by the Board of Governors, the Association shall distribute ballots and conduct voting as required by Civil Code section 1363.04 and the Association's Bylaws and voting rule. The Lot Owner will be responsible for the cost of soliciting and verifying the secret ballot.

(d) An Impacted Lot Owner is the Owner of any Lot within the Association whose Lot is within 200 feet of any portion of the Lot requesting the change and that will have visual contact with the

existing or proposed Exclusive Use Common Area,

THE UNDERSIGNED, AS BOARD MEMBERS OF SINGING BROOK OWNERS ASSOCIATION, DO HEREBY CERTIFY AND DECLARE THAT PURSUANT TO THE PROVISION OF ARTICLE XI, SECTION 2 OF THE ORIGINAL DECLARATION, AS AMENDED JANUARY 19, 2006 IN INSTRUMENT NUMBER 2006007349 AND AS AMENDED JUNE 22, 2006 IN INSTRUMENT NUMBER 2006078164 IN THE OFFICIAL RECORDS OF SONOMA COUNTY, CALIFORNIA AND CIVIL CODE SECTION 1363.04, THE FOREGOING AMENDMENT WAS APPROVED BY THE AFFIRMATIVE VOTE, BY SECRET WRITTEN BALLOT, OF THE MEMBERS REPRESENTING THREE-FOURTHS (3/4) OF THE LOT OWNERSHIPS, ON NOVEMBER 3, 2016, AS VERIFIED BY THE ELECTIONS INSPECTOR OF OAS MANAGEMENT.

Dated: 11/3/16

Richard Thayer Richard Thayer \_\_\_\_\_ Chairman

Sahdi Augustine Sahdi Augustine \_\_\_\_\_ Landscape

Arlene Wasserman Arlene Wasserman \_\_\_\_\_ Treasurer

**Notary Certificate  
Attached**