

RECORDED AT REQUEST OF

RECORDED AT REQUEST OF
MOTHER LODE TITLE COMPANY
Pl. 25 min. book 1 P. M
297 Official Records p 113

WHEN RECORDED, MAIL TO:

Ponderosa Hills Sales Co., Inc.
Ponderosa Hills
Route 1
Tuolumne, California

Recorder C. G. California
Albert H. Shewell
Fee \$ 12.40
No. 1717

DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR
PONDEROSA HILLS SUBDIVISION UNIT NO. 6

WHEREAS, Declarant owns all of the lots in the following described subdivision situated in the County of Tuolumne, State of California,

Lots 238 to 292, inclusive, as shown on the map entitled "PONDEROSA HILLS SUBDIVISION UNIT NO. 6" filed in the Recorder's Office of Tuolumne County on MARCH 3, 1970, in Volume 5 of Subdivisions, page 79. Tuolumne County Records

and

WHEREAS, Declarant wishes to set forth covenants, conditions and restrictions for the benefit of said subdivision,

NOW, THEREFORE, IT IS DECLARED AS FOLLOWS:

A general plan for the improvement, development, protection and maintenance of the real property described above is hereby established and, in order to accomplish such improvement and development, to insure such protection and maintenance, to encourage best use and improvement of the above described real property and in the general to adequately provide for improvements of high type and quality. Declarant does hereby establish and impose upon Lots 238 & 292, inclusive, of said subdivision, limitations, covenants, conditions, restrictions, easements, and reservations upon and subject to which each and all of said lots are held and shall be held, conveyed, sold, hypothecated or encumbered, leased, rented, used, occupied, and improved. All of said limitations, covenants, conditions, restrictions, easements, and reservations shall run with the above described real property, and shall be binding on all parties having or acquiring any right, title, or interest in the above described real property or any part thereof, and shall be for the benefit of each owner of any portion of said real property, or any interest herein, and shall inure to the benefit of and be binding on each successor in interest or the owners thereof. Said limitation covenants, conditions restrictions, easements, and reservations now made applicable to said lots are as follows:

ARTICLE I

DEFINITIONS

The following words have, in this Declaration, the meaning attached to them in this Article, unless otherwise apparent from the context:

1. "Unit" shall mean (a) any one of lots 238-291 through of Ponderosa Hills Subdivision Unit No. 6, located in the County of Tuolumne, State of California, together with all improvements thereupon, (b) any one of the lots 206 through 235 of Ponderosa Hills Subdivision Unit No. 5, (c) any one of the lots 125 through 205 of Ponderosa Hills Subdivision Unit No. 4, (d) any one of lots in Unit Nos 1 through 3 of said subdivision, and the unsubdivided improvement lot adjacent to Unit No. 3, together with all improvements thereon, provided that the owner of said lot(s) shall first accept membership in the club as provided in Article II, and (e) subject to the approval of the Real Estate Commissioner of the State of California, any lot in an addition to Ponderosa Hills Subdivision.

2. "Common Area" shall mean that certain tract of land of approximately 47.1 acres located in Tuolumne County, State of California, which land is leased to the club by Ponderosa Hills Land Company.

3. "Owner" shall mean the owner(s) of a Unit.

4. "Club" or "Corporation" or "Association" means Ponderosa Hills Recreation Club, a non-profit corporation.

ARTICLE II

RECREATION CLUB

1. Membership

Each owner of a Unit in Ponderosa Hills Subdivision Unit No. 6 shall automatically become a member of PONDEROSA HILLS RECREATION CLUB, a non-profit corporation organized under the laws of the State of California. Each owner of a lot in Units 1 through 3 of said subdivision, together with the owner of the unsubdivided lot adjacent to Unit No. 3, of said subdivision, may become a member by executing an agreement in recordable form obligating himself personally and subjecting the Unit (s) which he owns to the provisions of this Declaration of Covenants, Conditions, and Restrictions and the By-Laws of the club. Subject to the approval by the Commissioner of Real Estate of the State of California of subsequent additions to Ponderosa Hills Subdivision as planned developments, the owners of units in said subsequent additions shall automatically, upon becoming an owner of a Unit, become a member of PONDEROSA HILLS RECREATION CLUB.

Only one membership shall be issued per Unit irrespective of the number of owners of a Unit.

Each owner shall remain a member of the club until the transfer of title to his Unit, which transfer shall automatically transfer the membership appurtenant to said Unit to the transferee.

Declarant shall remain a member of said club for so long as it owns any Unit located in Ponderosa Hills Subdivision Unit No. 6.

2. By-Laws

The By-Laws adopted by the club shall not be amended except by a vote or the written consent of the owners (including Declarant) holding seventy-five percent (75%) of the total vote and shall not conflict with the provisions of this Declaration. In the event of any such conflict, the provisions of this Declaration shall control.

3. Meetings

(a) Annual Meetings

The first annual meeting of the club shall be held as soon as the sales of at least 41 of the Units located in Ponderosa Hills Subdivision Unit No. 4 have been consummated, but in no event later than one year after the first transfer, and conveyance of a Unit. Thereafter, annual meetings of such Owners shall be held on the anniversary date of the first annual meeting, or in the event that day is a legal holiday on the first day thereafter which is not a legal holiday.

A notice of each annual meeting shall be delivered to each Owner and notice posted in a conspicuous place at Ponderosa Hills Subdivision, or at another suitable location, not more than thirty (30) days or less than seven (7) days prior to such meeting. Said notice shall specify the date, time, and place of the meeting.

(b) Special Meeting

Special meetings of the owners may be called at any time for the purpose of considering matters which, by the terms of this Declaration, requires the approval of all or some of the owners, or for any other reasonable purpose. Said meetings shall be called by written notice, signed by a majority of the Board of Directors of the Association (hereinafter sometimes referred to as "the Board"), or by one-fifth (1/5th) of the owners. Said notice shall be delivered to each owner and notice posted in a conspicuous place at Ponderosa Hills Subdivision, or at another suitable location, not more than thirty (30) days or less than seven (7) days prior to such meeting. Such notices shall specify the date, time, and place of the meeting, and the matters to be considered thereat.

4. Voting and Quorum

(a) At any meeting of the members, each member shall be entitled to cast one vote for each Unit he owns. Declarant shall be entitled to the following votes:

(1) Commencing with the date on which the first deed to a Unit is sold, and for five years thereafter, said Declarant shall have one vote for each unsold Unit in Ponderosa Hills Subdivision Unit Nos. 4, 5, and 6. At the end of said five year period, Declarant shall not have votes for unsold Units, except as provided in subparagraph (2) below.

(a) Declarant shall be entitled to one vote as long as it owns any unsold Unit in Ponderosa Hills Subdivision Unit 4, 5, or 6 (whether improved or not), provided it is not entitled to any other votes provided in subparagraph (1) above.

(3) Any owner may attend and vote at such meeting in person, or by an agent duly appointed by an instrument in writing signed by the owner, and filed with the Secretary of the Association. Any designation of an agent to act for an owner may be revoked at any time by written notice to the Secretary, and shall be deemed revoked when the Secretary shall receive actual notice of the death or judicially declared incompetence of such owner or the conveyance by such

owner of his Unit and undivided fractional interest in the Common Area. Where there is more than one record owner, any of all of such persons may attend any meeting of the owners, but it shall be necessary for those present to act unanimously in order to cast the vote to which they are entitled. Any designation of an agent to act for such persons must be signed by all such persons.

(b) Unless otherwise expressly provided herein, the present, in person or by proxy, of the owners holding a majority of the total votes shall be requisite for, and shall constitute a quorum for, the transaction of business at all meetings of the owners and any action may be taken at any meetings, at which a quorum is present, upon the affirmative vote of a majority of the total votes present at such meeting in person or by proxy.

5. Board of Directors

(a) Number and Qualifications of Directors

The authorized number of Directors of the club shall be five (5). Directors need not be members of the club.

(b) Election and Tenure of Office

The initial Board of Directors shall serve until the first annual meeting of the owners.

At the first annual meeting and at each annual meeting thereafter, the owners shall elect a new Board of Directors.

At any election of Directors of the club, each owner entitled to vote, including Declarant may cumulate his votes and give one candidate a number of votes equal to the number of votes of such owner would otherwise be entitled to cast, or distribute his votes on the same principle among as many candidates as he sees fit. The candidates receiving the highest number of votes up to the number of members of the Board to be elected shall be deemed elected.

Members of the Board shall serve for a term of one (1) year, and until their respective successors are elected, or until their death, resignation or removal. Any member of the Board may resign at any time by giving written notice to the other members of the Board, and any member may be removed from the Board by a vote of the owners, provided, however, that unless the entire Board is removed, an individual Director shall not be removed if the number of votes cast against his removal exceeds the quotient arrived at when the total number of votes is divided by one plus the authorized number of Directors. In the event a vacancy in the Board caused by any reason other than the removal of a Board member by a vote of the owners, the majority of the remaining Board members shall fill the vacancy at a special meeting of the Board to be called within thirty (30) days following such vacancy, for the purpose of appointing a successor. Any vacancies created by the removal of a Board member by a vote of the owners shall be filled by a vote of the owners at the same meeting in which said Board member is removed. Any successor so appointed or elected by the Board or by the Owners shall serve for the balance of the term held by his predecessor.

(c) Quorum and Meetings

A majority of the Board shall constitute a quorum and, if a quorum is present, the decision of a majority of those present shall be the act of the Board. Meetings of the Board shall be called, held and conducted in accordance with the By-Laws of the Association. The Board may also act without a meeting by unanimous written consent of its members.

(d) Officers

The principal officers of the Association shall be a President, Vice President, Secretary, and Treasurer, who shall be elected annually by and from the Board at the organization meeting of each new Board and who shall hold office at the pleasure of the Board. The duties and powers of each officer shall be as provided for in the By-Laws of the Association.

(e) Powers and Duties

The Board of Directors shall have the exclusive right and obligation to perform the following functions of the club, except as otherwise provided herein:

(1) To permanently keep up and maintain the open spaces, parking areas, service areas, driveways, streets and other improvements on the Common Area, including, but not limited to, the acquisition of sewer, garbage, water, gas, electrical and other necessary utility services for the Common Area, the painting, maintenance, repair and landscaping of the Common Area, and the improvements thereon, and the acquisition of such furnishings and equipment for the Common Area as the Board shall determine are necessary and proper.

(2) To pay for all materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board is required to secure or pay for, pursuant to the terms of this Declaration, or by law, or which, in its opinion, shall be necessary or proper for the operation of the Common Area, or for the enforcement of this Declaration.

(3) To obtain adequate liability insurance insuring the corporation, the Board of Directors, the owners and the manager, if any, against liability to the public or to the owners (and their invitees and tenants) arising out of the ownership or use of the Common Area, in such amounts as the Board shall determine, but not less than One Hundred Thousand Dollars (\$100,000.00) for any one person injured, Five Hundred Thousand Dollars (\$500,000.00) for any one accident and Fifty Thousand Dollars (\$50,000.00) for property damage.

(4) To obtain fire insurance, with extended coverage endorsement, covering all improvements, equipment, fixtures, furniture and furnishings, which are located on the Common Area, in an amount not less than the full insurable value thereof, payable as provided in Article IV. Said insurance shall provide for a separate loss payable endorsement in favor of any mortgages, holder or beneficiary of any mortgage or deed of trust against the Common Area, as their interests shall appear.

(5) To obtain an adequate fidelity bond naming the Manager, if any, and any director or officer of the corporation handling or responsible for the maintenance or other funds received by the corporation, as principals, and all members of the corporation as obligees.

(6) To obtain legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of this Declaration.

(7) To establish and levy assessments against each member in accordance with the provisions of Articles III and IV, and to obtain a lien in accordance with said provisions.

(8) To make contracts as it deems necessary or proper to perform its duties under this Declaration, including the hiring of personnel for the maintenance and operation of the Common Area.

(9) To enforce each and every provision contained in this Declaration by any remedy provided by law or by this Declaration, including the right to commence and maintain an action to enjoin any breach or threatened breach of any of said provisions.

(10) To keep books of account showing its receipts and disbursements, and to present to the owners at each of their annual meetings, after the first annual meeting, a complete statement of the maintenance funds. Said statement shall include an itemized list of all receipts and disbursements for the preceding year, the balance in the maintenance fund and the estimated maintenance charges for the coming year. A copy of this statement shall also be given to each owner within ten (10) days after the annual meeting. In addition, the Board shall cause an annual report to be delivered to each of the owners within thirty (30) days after its completion, but not later than one hundred twenty (120) days after the close of the fiscal or calendar year of the Club. Said annual report shall contain, if applicable, the same information required by the California Corporations Code to be set forth in the annual reports of the Board of Directors of stock corporations.

(11) To adopt rules for the use of the Common Area which do not conflict with any of the provisions contained herein, and to enforce the same in the manner provided for in subparagraph (9) above, or in any other appropriate manner.

(12) To do such other things and incur such other obligations as are necessary and proper to carry out its duties and powers under this Declaration.

ARTICLE III

MAINTENANCE AND OTHER ASSESSMENTS

1. The Board shall have the power and duty to establish and levy monthly or annual assessments against each owner, as hereinafter provided, to defray the cost of the items set forth in Article II, Section 5 (e), the fees of any Manager and for a reasonable reserve for contingencies and replacements.

(1) the amount of the assessment that is unpaid, plus any interest and costs of collection, including all costs and charges incurred in the preparation and filing of such notice and claim of lien, that are due and owing, (a) a description of the property against which the claim of lien is made; (3) the name of the record owner thereof, (4) that the claim of lien is made by the club pursuant to the terms of this Declaration and (5) that a lien is claimed against said described property in the amount stated to be due and owing to the club by the defaulting member. The claim of lien shall be signed and acknowledged by at least two (2) members of the Board of Directors of the club. Upon the recording of such claim, the amount due and owing the corporation, as stated in the claim of lien, shall become a lien upon the described property. Any such lien may be foreclosed by appropriate action in court or in any manner provided by law for the foreclosure of a mortgage or deed of trust under power of sale. If such foreclosure be by suit in court, the defaulting owner shall pay to the club such sums as the court may fix as attorney's fees. The Board on behalf of the club may bid on the property at the foreclosure sale, and may hold, lease, mortgage and convey at the foreclosure sale, and may hold, lease, mortgage and convey the same, subject to the provisions of this Declaration.

Any action to be taken by the Board to enforce the collection of any unpaid assessments, pursuant to the above provisions or by any other remedy provided by law, must be authorized by a majority of the Board at any regular or special meeting thereof, or by the written consent of all the members of the Board, provided, that should the defaulting member be a member of the Board, only the presence of the majority of the remaining Directors shall be necessary to establish a quorum and only the vote of the majority of or the unanimous written consent of the remaining Directors shall be necessary to take any such action.

Upon payment in full of said assessment and charges after a claim of lien has been recorded, as aforesaid, a notice of satisfaction and release of the lien shall be recorded in the Tuolumne County Recorder's Office by the Board, said notice to be executed and acknowledged by at least two (2) members of the Board on behalf of the Club.

ARTICLE IV

DAMAGE OR DESTRUCTION

1. Damage and Destruction Affecting the Common Area. If any portion of the Common Area is damaged or destroyed by fire or other casualty, then

(a) If

(1) the available insurance proceeds initially offered or paid by the insurer do not exceed the sum of Five Thousand Dollars (\$5,000.00), and'

(2) The cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than Two Thousand Dollars (\$2,000.00), then the insurance

proceeds shall be paid to the Board which shall thereupon contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications therefor. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Board shall levy a special assessment on all owners, in proportion to their ownership of Units, to make up any deficiency;

(b) If the foregoing is inapplicable, then:

(1) All insurance proceeds shall be paid to a bank or trust company to be held for the benefit of the owners and their mortgagees and the holders of, or beneficiaries under, their trust deeds, as their interests shall appear. The Board is authorized, on behalf of the owners, to enter into an agreement consistent with this Declaration with such insurance trustee, relating to its powers, duties and compensation, as the Board may approve;

2. The Board shall obtain firm bids (including an obligation to obtain a performance bond) from two or more responsible contractors to rebuild the Common Area substantially in accordance with its original plans and specifications and shall, as soon as possible thereafter, call a special meeting of the members to consider such bids. If the Board fails to do so within sixty (60) days after the casualty occurs, any owners may obtain such bids, and call and conduct such meeting, as herein provided. At such meeting, the owners may, by a fifty per cent (50%) vote, elect to reject all of such bids. Failure to thus reject all of such bids shall authorize the Board to accept the bid it considers most favorable.

3. If all such original bids are rejected, the Board may prepare and present to the owners various alternative plans for repair and reconstruction of the Common Area, said plans to embody such changes and deviations from the original plans and specifications as the Board shall deem necessary or desirable. Before presenting any such plan to the owners, however, the Board shall obtain firm bids (including an obligation to obtain a performance bond) from two or more responsible contractors to perform the work of repair or reconstruction in accordance with each such plan. Such bids shall be considered as soon as possible after they have been obtained. The owners may, by a fifty percent (50%) vote, elect to reject all such bids. Failure to thus reject all of such bids shall authorize the Board to accept the bid it considers most favorable;

4. If a bid is accepted, the Board shall levy a special assessment on all the owners, in proportion to the number of units owned by them, to make up any deficiency between the total insurance proceeds and the contract price for such repair and rebuilding, and such assessment and all insurance proceeds, whether or not subject to mortgages or trust deeds, shall be paid to said insurance trustee to be used for such rebuilding. If any owner shall fail to pay the special assessment within thirty (30) days after the levy thereof, the Board shall make up the deficiency by payment from the maintenance fund. Upon payment, the Board shall let the contract to the successful bidder;

5. If no such bid is accepted within six (6) months after the date on which such damage or destruction occurs, then the Board shall use the said insurance proceeds to demolish and remove all damaged or destroyed

structures from the Common Area and level and landscape the sites thereof. In the event that all of the said insurance proceeds are not required to perform this work, the excess not so required shall be distributed to the owners (and the mortgagees of, and the holders of, or beneficiaries under any trust deeds of the owners, as their interests shall appear) in the proportion to the number of units owned by them. In the event the insurance proceeds are not sufficient to accomplish such demolition and removal and site finishing, then the Board shall levy a special assessment on all the owners, in proportion to the number of units owned by them, to make up the deficiency;

(c) All special assessments made pursuant to the terms of this Section may be secured by the lien provided for in Article III of this Declaration.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE

The Board shall designate three (3) persons to act as an Architectural Control Committee (herein called the "Committee") to perform the functions given to it by this Declaration. The Board shall appoint the Committee and fill any vacancies thereon. Two members of the Committee shall be owners and the other member shall be a licensed architect or a person having qualifications and experience in the field of residential land planning. Membership on the Committee shall be for a term of one (1) year. In case of death, or resignation of any member of the Committee, the Board shall appoint a successor to serve the unexpired term. At any time, the Board may remove a member of the Committee or the entire Committee and appoint new members to serve the unexpired terms.

Within ten (10) days after the appointment of a Committee or any change in the membership thereof, the Board shall cause written notice of said appointment or change, setting forth the name, address and qualifications of each appointed person, to be given to the owners.

The Committee shall act by the concurrence of two out of three members.

ARTICLE VI

FURTHER CONDITIONS OF OWNERSHIP

1. All of said lots are designed as residence lots and shall be used for residential purposes exclusively. That no building whatsoever other than a first-class residence building including garage, may be erected, placed, or maintained on any parcel of land in said subdivision. The lots in this subdivision are hereby restricted solely and exclusively for residential purposes. No multiple family structures shall be permitted or maintained thereon. No private or public roadways or vehicle thoroughfares may be constructed through or on any lot that will connect the subdivision to adjoining property.

2. Not more than one residence may be built on any one lot in the above-described property. That no building of any kind or character be constructed on any lot in the subdivision until the plans and specifications are submitted to and approved by the Architectural Control

Committee, and all other terms and conditions of Declaration of Restrictions are fully complied with.

3. No lot or parcel of land shall be divided or partitioned or sold except in accordance with the description of said lot from the original Grantor, nor subdivided or partitioned by any Grantee or subsequent Grantee, except as provided in Section 2 above.

4. No building or structure shall be located on any of said lots nearer than ten (10) feet to any of the boundaries of the lot upon which the said residence or building is constructed. It is understood that the Declarant reserves the right to construct all public utilities that are an adjunct to the Subdivision within five (5) feet of any lot boundary, and to enter in and upon the premises to make any and all repairs to said public utilities, and may grant this right to any public utility that is duly authorized to carry on its business under the laws of the State of California. It is understood and agreed that cutting and/or trimming of trees necessary for the public utility to properly maintain their lines shall be allowed in order that satisfactory service may be maintained in the area.

5. The living area of any residence built on the property herein described, exclusive of any porches and garages, shall not be less than eight hundred (800) square feet. "A" frame type dwellings shall have a minimum ground floor area of eight hundred (800) square feet and have wooden shake or single roofing.

6. No trailer, tent, shack, garage, barn or other outbuilding erected in the Subdivision shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted, except during the period of actual construction of a permanent residence. The exterior of any dwelling or building must be fully completed within six (6) months from the date of commencement of construction including the exterior painting.

7. No substandard chimneys or flues shall be erected or permitted on any structure. All chimneys or flues shall be built of brick or mortar, rock, masonry or California patent type, and no metal roofs or rolled composition roof will be allowed. All dwellings are to meet the minimum building standards of California, or F.H.A. Standards. All and any structures erected upon said lots or situated thereon shall be kept in a clean and safe condition, free from all fire hazards. Any unsightly material and debris shall be removed by the owners. No firearms will be allowed to be discharged within the area or within a perimeter of 500 yards of the outer boundaries of the Subdivision.

8. In no event shall any tree with the diameter of 10 inches or more, measured 12 inches above the ground be cut, destroyed or removed from said real property without first obtaining written consent of the Architectural Control Committee.

9. Until such time as public mains for sewage disposal are available, if ever, sewage disposal shall be by means of individual septic tanks and necessary leach fields connected to patented toilets. No cesspools or outside toilets shall be permitted. Such septic tanks and required leach fields shall be of a type constructed and located in

accordance with the recommendations of the State of California Department of Public Health.

10. All access roads from the streets to the individual parcels and methods of entrance from the streets to the individual parcels shall be subject to the approval of the Road Commissioner of the County of Tuolumne.

11. No fowl, rabbits, goats, cows, pigs, sheep, horses, donkeys nor any animals, birds, or creatures of any kind other than the usual household pets, such as caged birds, dogs and cats in reasonable number shall be kept on any lot or building in this subdivision.

12. No manufacturing, fabrication, or commercial enterprise of any kind for profit shall be made upon, in front of, or in connection with any said real property heretofore described, nor shall any of said real property in any way be used for other than strictly residential purposes. That said premises or any building erected thereon shall not at any time be used for the purposes of any trade, business or manufacture. That no nuisance or offensive or noxious, noisy or illegal trade or trades, calling or transaction shall be done, suffered, or permitted upon the above described property. That no part of said real property shall be used or occupied injuriously to affect the use, occupation or value of the adjoining or adjacent property for residential purposes or the neighborhood wherein said property is situated.

13. No advertising sign shall be permitted on any unimproved lot without the written consent of the Architectural Control Committee. That no advertising sign shall be permitted on any improved lot with a dwelling upon it, without written consent of the Subdivider or their agent. "For Sale" signs of reasonable dimensions are permitted on any lot without the consent of the Architectural Control Committee.

14. No owner shall permit or suffer anything to be done or kept in any part of the Common Area which will increase the rate of insurance on the Common Area or which will result in the cancellation of insurance on the Common Area, or which will obstruct or interfere with the rights of the owners. No owner shall make any unreasonable noises or otherwise annoy the other owners, nor shall he commit or suffer any immoral or illegal act to be committed thereon. Each owner shall comply with all of the requirements of the local or State Board of Health and with all other governmental authorities with respect to the occupancy and use of his unit and the Common Area.

15. Each owner shall be liable to the Association for any damage to the Common Area or any equipment thereon which may be sustained by reason of the negligence or wilful misconduct of said owner or of his family members, relatives, guests or invitees, both minor and adult, to the extent that any such damage shall not be covered by insurance. Each owner does further, by the acceptance of his grant deed, agree to indemnify each and every other owner, and to hold him or her harmless, from any claim of any person for personal injuries or property damage occurring within the individual Unit of that particular owner, unless said injury or damage shall occur by reason of the negligence or wilful misconduct of any other owner temporarily visiting in said Unit, and each owner further agrees to defend, at his expense, any and all remaining owners who may be sued by any person on a claim for personal injury or property damage alleged to have been sustained within the unit of that particular owner.

ARTICLE VII

AMENDMENT

Except as otherwise provided herein, any or all of the provisions set forth in this Declaration may be amended by an instrument in writing signed and acknowledged by record owners, including Declarant, holding seventy-five per cent (75%) of the total vote, which amendment shall be effective upon recordation in the office of the Recorder of the County of Tuolumne.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

1. No owner may exempt himself from liability for his pro-rata portion of the aforesaid maintenance expenses by any waiver of the use or enjoyment of the Common Area, or by the abandonment of his individual Unit.

2. Any owner, including Declarant in the event it still owns any Unit, not at the time in default hereunder, who shall be deemed to be acting on behalf of the Association, shall be entitled to bring an action for damages against any defaulting owner or owners, and, in addition, may enjoin any violation of this Declaration, or a rule or regulation duly adopted by the Board, or to prosecute any other appropriate legal or equitable action that may be necessary under the existing facts. Any judgment rendered in any such action or proceeding shall include a sum for attorney's fees, in such amount as the Court may adjudge reasonable in favor of the prevailing party. Any amounts recovered in any such action shall be turned over to the Board who shall place said sums in the maintenance fund.

3. Any owner, including Declarant in the event it still owns any unit, may at any time and at his own expense cause an audit or inspection to be made of the books and records of the Manager or the Board.

4. Each purchaser by accepting a deed or a valid contract of sale to any Unit accepts the same subject to all of the covenants, conditions and restrictions and other matters contained in this Declaration and agrees to be bound by each and all thereof. Said provisions shall be liberally construed to effectuate their purposes as set forth herein. Failure to enforce any such provision shall not constitute a waiver of the right to enforce such provision or any other provision set forth in any part of this Declaration.

5. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provided for herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and be effective against any owner whose title is derived through foreclosure or Trustee's sale, or otherwise.

6. The provisions of this Declaration shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall in no way affect the validity or enforceability of any other provision hereof.

7. Each remedy provided for in any part of this Declaration shall be cumulative and not exclusive.

8. Except as otherwise provided herein, any notice permitted or required to be delivered under the provisions contained herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty four (24) hours after a copy of same has been deposited in the United States Mail, postage prepaid, addressed to each such person at the address given by such person to the Manager or the Board for the purpose of service of such notice or to the Unit of such person if no address has been given to the Manager or the Board. Such address may be changed from time to time by the Board. Such address may be changed from time to time by notice in writing to the Manager or the Board. Until notice of a change of address has been given as provided herein, all notices delivered by mail to the Declarant shall be addressed as follows: Ponderosa Hills Sales Co., Inc., Ponderosa Hills, Route 1, Tuolumne, California.

IN WITNESS WHEREOF, Declarant has executed this instrument on the 3rd day of March, 1970.

"DECLARANT"

PONDEROSA HILLS SALES CO., INC.

By William E. Gerber III
President

By Virginia H. Gerber
Secretary

STATE OF CALIFORNIA)
) ss.
COUNTY OF TUOLUMNE)

On this 3rd day of March, 1970, before me, the undersigned, a Notary Public in and for the County of Tuolumne, State of California, duly commissioned and sworn, personally appeared WILLIAM E. GERBER, III and VIRGINIA H. GERBER known to me to be the President and Secretary, respectively, of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County of Tuolumne the day and year in this certificate first above written.

George L. Taylor
Notary Public in and for said
County and State.



1717
INDEXED

VOL 297 PAGE 126