

3.8 Age Restrictions

The Association is a senior citizen housing development and shall be subject to the provisions of Civil Code Section 51.3, as well as any successor statutes. The Association is an age fifty-five (55) and over age-restricted and deed-restricted development. The provisions of Civil Code Section 51.3 shall apply, and to the extent that any part of this Section 3.8 is inconsistent with the respective Code Section, or any successor statutes, the Code shall prevail. Residency, occupancy and use of a Residence on any Lot in the Association shall be limited in accordance with the following:

A. Occupants - Definitions:

(1) "Qualifying Resident" or "Senior Citizen" means a person 55 years of age or older;

(2) "Qualified Permanent Resident" means a person who meets both of the following requirements:

(a) Such person is actually residing with a Qualifying Resident prior to the death, hospitalization, or other necessary prolonged absence of, or dissolution of the marriage of, the Qualifying Resident or Senior Citizen.

(b) Such person is 45 years of age or older, is a spouse or cohabitant, or is a person providing primary physical or economic support to the Qualifying Resident or Senior Citizen.

(3) "Qualified Permanent Resident" shall also mean a permanently physically or mentally impaired or terminally ill adult who is a dependent child or grandchild of a Qualifying Resident, Senior Citizen, or Qualifying Permanent Resident who lives with the Senior Citizen or Qualified Permanent Resident because of the disabling condition, illness, or injury, unless the Board of Directors determines that there are special circumstances to disallow this particular dependent child as a Qualified Permanent Resident. Special circumstances, for purposes of this paragraph, include, but are not limited to, a condition wherein a dependent child

is or may be harmful to themselves or others. For the purposes of this section, “disabled” means a person who has a disability as defined in subdivision (b) of Section 54 of the Civil Code.

(4) “Permitted Resident” means any person who is a Qualified Permanent Resident living in the Residence at the time of the death, hospitalization or other prolonged absence of the Qualifying Resident, or upon dissolution of marriage.

(5) “Cohabitant” means persons who live together as husband and wife or persons who are domestic partners within the meaning of Section 297 of the Family Code, but who are not legally married.

(6) “Permitted Health Care Resident” means a person hired to provide live-in, long-term, or terminal health care to a Qualifying Resident pursuant to a written treatment plan prepared by a physician or surgeon, or a family member of the Qualifying Resident providing such care. For the purposes of this section, the care provided by the Permitted Health Care Resident must be substantial in nature, and the Permitted Health Care Resident must provide either assistance with necessary daily activities or medical treatment or both. A Permitted Health Care Resident shall be entitled to continue his or her occupancy, residency, or use of the Residence as a Permitted Resident in the absence of the Qualifying Resident from the Residence only if both of the following are applicable:

(a) The Qualifying Resident became absent from the Residence due to hospitalization or other necessary medical treatment and expects or is expected to return to his or her Residence within ninety (90) days from the date the absence began; and

(b) The absent Qualifying Resident or an authorized person acting for the Qualifying Resident submits a written request at any time to the Board of Directors stating that the Qualifying Resident desires the Permitted Health Care Resident to be allowed to remain in the Residence in order to be present when the Qualifying Resident returns to reside in the Residence. Upon written request by the Qualifying Resident or an authorized person acting for the Qualifying

Resident, the Board shall have the discretion to allow the Permitted Health Care Resident to remain in the Residence for a time period of ninety (90) days from the date that the Qualifying Resident's absence began. The Board shall also have the discretion to allow the Permitted Health Care Resident to remain in the Residence for no longer than an additional ninety (90) days if it appears that the Qualifying Resident will return within a period of time not to exceed an additional ninety (90) days from the expiration of the initial ninety (90) days residency following the departure of the Qualifying Resident from the Residence. At no time shall the Association charge a fee for the temporary residence of a Permitted Health Care Resident. Upon the death of a Qualifying Resident, his or her Permitted Health Care Resident shall not be permitted to continue his or her occupancy, residency, or use of the Residence.

B. Restrictions.

(1) At least one occupant of each dwelling shall be a Qualifying Resident. All other permanent occupants of a Residence on each Lot must be Qualified Permanent Residents or Permitted Health Care Residents. Persons commencing any occupancy of a Residence shall include a Senior Citizen who intends to reside at the Residence.

(a) Upon the death, hospitalization or other prolonged absence of the Qualifying Resident, or upon resolution of marriage with such Qualifying Resident, any Qualified Permanent Resident shall be entitled to continue occupancy of a Residence, and shall be deemed a "Permitted Resident."

(b) Upon happening of an event which affects such Permitted Resident's status, such as marriage or cohabitation with a non-qualifying resident, and unless such Permitted Resident has become a Qualified Resident by virtue of attained age, then such Permitted Resident shall vacate the dwelling within sixty (60) days after such event.

(c) For any person who is a Qualified Permanent Resident whose disabling condition ends, the Board may require the formerly disabled Qualified Permanent

Resident to cease his or her residence at the Association upon receipt of six (6) months' written notice, provided, however, that the Board may allow the person to remain a resident for up to one (1) year after the disabling condition ends.

(d) The Board may take action to prohibit or terminate occupancy by a Qualified Permanent Resident if the Board finds, based on credible and objective evidence, that the person is likely to pose a significant threat to the health or safety of others or to that person himself or herself, that cannot be ameliorated by means of a reasonable accommodation, provided, however, that the action to prohibit or terminate the occupancy may be taken only after doing both of the following:

(i) Providing reasonable written notice to and an opportunity to be heard at a hearing for the Qualified Permanent Resident whose occupancy is being challenged, and reasonable notice to the Qualifying Resident of that person; and

(ii) Giving due consideration to the relevant, credible, and objective information provided in the hearing. The evidence shall be taken and held in a confidential manner, in a closed meeting of the Board, in order to preserve the privacy of the affected persons. The affected persons shall be entitled to have present at the hearing an attorney or any other person authorized by them to speak on their behalf or to assist them in the matter.

(2) Notwithstanding the foregoing, nothing herein shall prohibit the temporary occupancy of a Residence by any guests of the Qualifying Resident, regardless of age, so long as the Qualifying Resident is also in actual occupancy of a Residence, for cumulative periods of up to sixty (60) days during any consecutive twelve (12) month period.

(a) The Qualifying Resident shall inform the Association, through the Board of Directors, in writing of the name, birth date, and anticipated stay of such guests, as set forth in the Rules of the Association, and shall provide other information as requested by the Board.

(3) Further, and notwithstanding anything to the contrary herein, nothing herein shall prohibit the temporary occupancy of a dwelling by a bona fide employee providing necessary medical or hospice care for any Resident pursuant to Subsection A(6) of this Section.

(4) The Association shall, through the Board of Directors, obtain written verification of age, as required herein, from each Qualifying Resident and Qualified Permanent Resident, and each such person shall provide said information, either in the form of a driver's license or governmental issued photo identification or signed declaration of age, in a form provided by the Association, upon the request of the Board. The Board of Directors may enact rules and regulations to facilitate compliance with the restrictions set forth above.

(5) The Qualifying Resident, any Qualified Permanent Residents, any Permitted Health Care Residents, and any guests of the Qualifying Resident must comply with the Governing Documents of the Association.

(6) These Residential Age Restrictions are to be interpreted so as to be consistent with the provisions of Civil Code Section 51.3, as long as such statute and/or any successor or superseding statute shall exist.

(7) Notwithstanding any provision of this Declaration to the contrary, the Board may enact rules regarding guests and temporary residency and other rules regarding the occupancy of any residence and use of the Common Area facilities.