

## Summary of Proposed Changes to HPOA's Governing Documents

This Summary is intended to highlight key changes to the Hiddenbrooke Property Owners Association's (HPOA, the "Association") governing documents -- the Articles of Incorporation, Bylaws, and Covenants Conditions and Restrictions (CC&Rs), which you are being asked to vote upon as set forth in the letter from the Inspector of Election dated June 18, 2019. These are changes deemed to be the most important and of most interest to members; however, members are encouraged to also refer to the existing governing documents and the proposed governing documents posted on the HPOA's website for any questions about the proposed changes (see below).

Items marked as "NEW" do not appear in the current CC&Rs or Bylaws and are therefore new additions. Items marked as "MODIFIED" are new or additional language, but the main sections of the CC&Rs or Bylaws are largely unchanged. A reference is included in each of the MODIFIED topics to the current section of the CC&Rs or Bylaws containing this topic.

For the full text of both the proposed new governing documents as well as the existing governing documents, please refer to the Hiddenbrooke website.

- The new governing documents are on the Home Page of the Hiddenbrooke website (<https://www.hiddenbrookeonline.org/>)
- The existing governing documents can also be found on the website under: Homeowner Assoc/Documents/Hiddenbrooke Documents.

### -----CC&Rs-----

General: References to Declarant (Triad, the master developer) have been removed and various Corporation Code sections updated throughout as appropriate; any references to Common Area are deleted.

#### RECITALS

*NEW: Whereas the Development does not own any "common area" as defined in Civil Code section 4095, and the Development is not a "common interest development" as defined in Civil Code section 4100. The Association is not an "association" as defined in Civil Code section 4080.*

#### Article 1 – DEFINITIONS

*NEW: Definitions have been added for "Maintenance," "Repair," "Replacement," "Capital Improvement," "Member in Good Standing," and "City Street Tree."*

#### Article 2 - HOMEOWNER ASSOCIATION

*NEW: Section 2.7 Safety and Security - Added language stating that neither the Association nor the Board is responsible for ensuring the safety and security of residents, guests, or invitees. Also, the Association and Board do not have police powers.*

### Article 3 - OWNERSHIP RIGHTS AND EASEMENT

NEW: Section 3.6 No Right to a View - Added language stating Owners do not have the right to an unobstructed view and the Association is not required to take any action to preserve any view including from a "View Lot."

### Article 4 - USE RESTRICTIONS

NEW: Section 4.4 Child Care Facilities - Establishes certain requirements for such facilities including must provide Association with written notice of operation, must supervise children at all times, and must comply with the CC&Rs and all governmental requirements.

NEW: Section 4.5 Residential Care Facilities - Prohibits operation of care facilities serving more than six (6) people, must supervise and be responsible for occupants at all times, must comply with the CC&Rs and all government requirements.

#### NEW: Section 4.9 Accessory Dwelling Units

4.9.1 Construction of ADUs – must obtain approval from HARC and be reviewed by HARC prior to submitting plans to the City

4.9.2 Use of ADUs – limited to residential use only

4.9.3 Rental of ADUs – rentals subject to rental restrictions in Article 5

NEW: Section 4.10 Sports Apparatus - Portable basketball standards are allowed in the side or rear yards, but not in the front yard or street; *portable standards* should be stored out of view when not in use if visible from the street.

MODIFIED: Section 4.16.3 Owner's Responsibility for Animals and Pets – Currently Owners must keep pets on a leash when outside the Lot; this requirement is extended to include in an unenclosed front yard (see current CC&Rs Section 4.1.4).

MODIFIED: Section 4.17 Trash Disposal – Would allow Association to remove any extraordinary accumulation of trash, rubbish, garbage, or debris at Owner's expense; makes it clear trash containers cannot be stored in the front yard of a Lot (see current CC&Rs Section 4.1.13).

MODIFIED: Section 4.20 Signs – Adds each lot may have one (1) US Flag, subject to any federal, state, or local restrictions.

MODIFIED: Section 4.21 Vehicles and Parking - Owner vehicles shall be parked wholly within the garage and driveway unless there are more vehicles than these areas are designed to contain; no vehicle, including trailers, recreational vehicles, boats, or commercial vehicles shall be parked continuously in the street for more than 72 hours (enforced by the City) (see current CC&Rs Section 4.1.11).

MODIFIED: Section 4.22 Prohibited Vehicles – Clarifies that vehicles that are dilapidated, inoperable, registered for non-operation, or covered with tarps must be

parked in the Garage. Current CC&Rs say must not be visible from the street or neighboring property (see current CC&Rs Section 4.1.10).

NEW: Section 4.23 Definition of Commercial Vehicle - Adds definition of a "commercial vehicle."

NEW: Section 4.24 Parking Enforcement; Parking Rules - Allows Association to tow vehicles parked on an Owner's Lot in violation of the CC&Rs and allows Association to collect the cost of towing/storage from the Owner via a Reimbursement Assessment.

MODIFIED: Section 4.25 Garages - States that garages are to serve as the primary parking facility, compared to Owners "shall" park their vehicles in the garage in the current CC&Rs. No alterations of a permanent nature allowed that would reduce the number of available parking spaces in a garage. Vehicle maintenance must be done in the garage, except in an emergency; current CC&Rs say vehicles under repair shall not be parked anywhere on the property (see current CC&Rs Section 4.1.11).

MODIFIED: Section 4.30 Weed Abatement - Includes additional language that all weeds must be collected and not allowed to be blown onto adjacent lots or left in the street (see current CC&Rs, Section 4.1.21).

MODIFIED: Section 4.33 Utility Service - Includes new language that after recording of new Declaration, wires and conduits for satellite dishes and solar panels visible from the street must be painted to match the exterior color of the Residence and/or roof (see current CC&Rs Section 4.1.7).

NEW: Section 4.37 Outdoor Holiday Decorations - Holiday decorations and lights must not go up more than 30 days before a Holiday and must be taken down 14 days after the Holiday.

NEW: Article 5 – RENTING OR LEASING (all Sections below are new)

Section 5.1 Requirements for Renting - Owners must have a written lease, provide Association with names of all tenants, keep Association apprised of current address and telephone number, and provide copy of governing documents to tenants.

Section 5.2 Rental of Lots and Residences - Owners can: a) rent entire Lot (including any ADU), however no portion of the Lot may be subleased, b) rent a room or ADU as long as Owner lives in non-rented portion of Residence for the entire rental period, or c) live in the ADU and rent the main Residence as long as the Owner lives in the ADU for the entire rental period.

Section 5.3 Subleases/Roommates - There may only be one lease per Lot and subleases are prohibited.

Section 5.4 Short-Term Rentals - Short-term rentals, i.e., less than 30 days, are prohibited (Note: short-term, less than 30-day rentals, are already prohibited in current CC&Rs).

Sections 5.5 Time Share Arrangements - Time Share arrangements are prohibited.

Section 5.8 Owner Responsible for Tenant's Actions; Indemnification of Association - Each Owner renting or leasing a Lot is responsible and strictly liable for the action of their tenants and for indemnifying the Association.

Article 6 – MAINTENANCE, REPAIR AND REPLACEMENT RESPONSIBILITIES (new Article, but retains various sections from current CC&Rs)

NEW: Section 6.1 Lots and Residences – Adds new requirement for Owners to maintain their residence in good condition and state of repair (Note: as required by the other HOAs in Hiddenbrooke), including but not limited to: exterior paint, shutters, stucco and siding, patios, structural elements, accessory structures, fences, mailboxes, driveways, walkways, and lighted house numbers.

MODIFIED: Section 6.2 Landscaping – Expands language in more detail about standards for landscape care and states that areas of bare ground should be vegetated and/or covered with mulch, except that large areas of only mulch and bark are not allowed (see current CC&Rs Section 4.1.21).

MODIFIED: Section 6.3.3 Trees - Adds new language that no City Street Tree shall be "topped" or severely trimmed in a manner that will permanently damage the structure and appearance of the tree (see current CC&Rs Section 4.1.23).

NEW: Section 6.7 Board Discretion – The Board may require work to be done to correct a safety hazard or preserve the appearance and value of the property within the Development. The Board may also cause needed work to be done in the case of an emergency and defines an emergency as: (i) an immediate and unreasonable infringement of or threat to the safety or peaceful enjoyment of Residents of the Development; (ii) a traffic or fire hazard, (iii) a threat of material damage to or destruction of the Development or any part thereof

Article 8 – ARCHITECTURAL REVIEW

NEW: Section 8.1.5 ADUs - ADUs require approval from HARC and are limited to one (1) bedroom and 800 square feet of floor area; also must meet all other requirements in the Design Guidelines.

MODIFIED: Sections 8.5 and 8.6 Approval of Plans and Specification – Updates procedures and timeframes for review of plans and specifications for "New Owner/Builder Homes and Additions" and "Improvements and Enhancements by Owner to Existing Residences and or Landscaping" consistent with HARC's current procedures.

#### Article 10 – ASSESSMENTS AND LIENS

MODIFIED: Section 10.6.4 Increases in Annual Assessments – Increases the base Association dues to \$85 a year (\$73 currently) and limits increases above that amount to changes in the Bay Area Consumer Price Index as in the current CC&Rs. Increases above this amount must be approved by a majority of a quorum, with a quorum being 25% of members. Currently the CC&R require 25% of members to approve a dues increase (see current CC&Rs Sections 10.1.1.3 and 10.1.1.4).

MODIFIED: Section 10.7.4 Approval of Special Assessments - Approval of a Special Assessment greater than 10% of the Annual Assessment must be approved by a majority of a quorum, with a quorum being 25% of members (see current CC&Rs Section 10.1.2.2).

NO CHANGE: Section 10.12 Delinquent Assessments – Maintains current language that "No procedure shall be initiated to foreclose the lien securing any Assessment levied under this Article 10".

#### Article 11 - ENFORCEMENT

MODIFIED: Section 11.5.3 Additional Remedies – Keeps language in current CC&Rs regarding right to enter a property to correct a violation and adds that any such action would only take place after 60 days notification, a hearing, and 15 days written notice (see current CC&Rs Section 12.1.2).

MODIFIED: Section 11.11 Dispute Resolution - As in current CC&Rs, includes provisions for Internal Dispute Resolution (IDR) and Alternative Dispute Resolution (ADR) and updates references to relevant Corporation Civil Code sections (see current CC&Rs Section 12.1.7).

#### Article 12 - INSURANCE

MODIFIED: Article 12 – INSURANCE – Updates language for various insurance requirements; does not change coverage requirements (see current CC&Rs Article 3).

MODIFIED: EXHIBIT A – Legal Description of Encumbered Properties - Exhibit A has been extensively corrected and updated to provide an accurate legal description of the property in the Hiddenbrooke Development that is covered by the CC&Rs.

#### **-----BYLAWS-----**

General. Any references to Common Area and Reserve Studies are deleted.

#### Article 4 – MEMBER MEETINGS AND VOTING

MODIFIED: Section 4.3 Notice of Meetings - Notice of any meetings of the Members may be given by electronic transmission or other method of delivery subject to the requirements set forth in Corporations Code section 7511 (see current Bylaws Section 4.3).

NEW Section 4.6 Voting - The ballot and any related material for a vote may be sent by electronic transmission by the Association and responses may be returned by electronic transmission in accordance with *Corporations Code Section 7513*.

NEW: Section 4.8.1 Quorum for Election of Directors - The number of written ballots received by the deadline shall constitute a quorum. Currently a Quorum for Election of Directors is 100 members (see current Bylaws Section 2.15).

MODIFIED: Section 4.8.5 Quorum for Votes to Increase Annual and Special Assessments - A quorum for these actions shall be at least 25% of the total voting power of the Association; currently 25% of members must approve (see above).

MODIFIED: Section 4.10 Proxies – Use of Proxies for election of Directors would not be allowed, but allowed for all other votes (see current Bylaws Section 6.2).

NEW: Section 4.11 Manner of Voting – Election of Directors must be by written ballot per Corporation Code section 7513 and Section 4.12 below.

NEW: Section 4.12.1 Ballot Requirements - The ballot and any material may be sent by electronic transmission to the Association and responses may be returned by electronic transmission to the Association in accordance with Corporations Code Section 7513.

#### Article 5 –BOARD OF DIRECTORS ELECTION; TERM OF OFFICE

MODIFIED: Section 5.1 Number of Directors – The number of Directors on the Board would be reduced from 7 to 5. Currently the Board shall consist of at least five (5) but no more than seven (7) Directors (see current Bylaws Section 5.1).

MODIFIED: Section 5.4 Election – Write-in candidates on a ballot for Election of Directors and Nominations of candidates from the floor at an Annual Meeting are not be permitted (Note: allows for potential Election by Acclamation, below, and avoids expense of a new election if there is a nomination from the Floor).

NEW: Section 5.5 Election by Acclamation - If number of Board candidates does not exceed the number of Directors to be elected by the deadline for nominations, these candidates may be declared elected and written notice given to Members.

#### ARTICLE 8 – DUTIES OF THE BOARD OF DIRECTORS

NEW: Article 8.7 Annual and Periodic Notices and Disclosures – Distribute all notices and disclosures required by law, including without limitation (i) annual notice of the Member's right to receive financial report as required by Corporations Code, and (ii), if applicable, an annual financial statement disclosing certain transactions or indemnification as required by Corporation Code

NEW: Article 8.8 Results of Member Votes – Board must respond to written requests from a Member for voting results at an Annual or Special meeting for a period of 60 days following the vote.

**-----ARTICLES OF INCORPORATION-----**

DELETE: Article 3 – STATEMENT REQUIRED BY CIVIL CODE SECTION 4280 – this section classified the Association as a Common Interest Development under the Davis Stirling Common Interest Development Act. It is removed because the Act does not apply to the Association.