

## BOARD OF DIRECTOR'S RESOLUTION

### RESOLUTION PERTAINING TO SMOKING FOR THE SOUTH BAY ASSOCIATION

#### RESOLUTION OF THE BOARD OF DIRECTORS

WHEREAS, the South Bay Association (“Association”) is a Nevada non- profit corporation duly organized and existing under the laws of the State of Nevada; and CC&Rs and Bylaws gives the Board of Directors (“Board”) the power to adopt, amend, repeal and enforce reasonable rules and regulations for the use and occupancy of the Association project; and

WHEREAS, NRS 116.3102, gives the Board rule-making authority; and

WHEREAS, the purpose of this smoking resolution is to set forth rules regarding smoking on the common areas and in and around the units. The Board is aware that smoking in the community can be hazardous to the health of others and interfere with the ability of the residents to use and enjoy their homes free from nuisances; and

WHEREAS, pursuant to Section 9.5(b) of the CC&Rs, the Board has the authority to regulate the use of the common areas and promulgate rules and regulations. Section 9.5(c) reads as follows:

Use of Common Area. Except as otherwise provided herein, the Common Area shall be improved and used only for the following purposes:

(b) Recreational use by the Owners and occupants of Living Units in the Condominium Property and their guests, subject to rules established by the Board;

WHEREAS, pursuant to Section 9.9 of the CC&Rs, nuisances are prohibited. Section 9.9 of the CC&Rs reads as follows:

Nuisances. No Living Unit or Exclusive Use Area shall be used in such a manner as to interfere with the enjoyment of other Owners or annoy them by unreasonable noise or otherwise, nor shall any nuisance be committed or permitted to occur in any Living Unit, nor on the Common Area.

WHEREAS, upon effective adoption of this resolution, it shall be a part of the Association’s governing documents and apply to all members, tenants, family members, guests or invitees in the Association as permitted under the Association’s governing documents and Nevada law. Any other previous rules or regulations that conflict with any of the rules and regulations below are hereby revoked and are superseded hereby; and

NOW, THEREFORE, BE IT RESOLVED, the Board adopts the following Smoking Resolution:

1. **Definitions.** For the purposes of this Resolution, "Smoking" shall mean and include (A) the inhaling, exhaling, burning or carrying of any lighted cigarette, cigar, or other tobacco product, marijuana or illegal substance, (B) the inhaling, exhaling, burning or carrying of any e-cigarette, personal vaporizer or electronic nicotine delivery system, and/or (C) the use of any other similar type of paraphernalia related to smoking or alternatives to smoking.

2. **Prohibited Smoking Areas.** Except as otherwise permitted as set forth below, Smoking is prohibited on any common area that is within fifty (50) feet of any condominium building. Smoking of any kind in any pool or recreational common areas is strictly prohibited. Outside of fifty (50) feet from any condominium building, but not the pool or other recreational common area, persons may smoke tobacco products but may not smoke marijuana.

3. **Smoking in the Living Units and Exclusive Use Areas.** Residents may smoke tobacco products within their Living Units and on any porch, balcony or other Exclusive Use Area appurtenant to their Living Unit; except that smoking of marijuana is prohibited.

4. **Smoking as a Nuisance.** In the event that any adjacent or nearby neighbor is negatively impacted by any Smoking occurring in a Living Unit or Exclusive Use Area, the Board has the right to demand that the person Smoking cease such activities unless and until an alternative that does not negatively impact such neighbor(s) is found. Notwithstanding anything in this Resolution, the Board has the right to deem any Smoking occurring anywhere on the Association Property to be a nuisance.

5. **Marijuana Consumption.** As of the date of this Resolution, under federal law, marijuana use is an illegal controlled substance. Smoking marijuana is prohibited anywhere in the Association Property, including, but not limited to, the Living Units and any appurtenant Exclusive Use Areas. In the event that a resident or guest needs to consume marijuana products in order to treat a handicap (as that term is defined in the federal Fair Housing Act), the resident or guest can request an accommodation to the prohibitions set forth herein. If the Board receives a request for an accommodation, and where the handicap being treated is one that is not apparent, the Board has the right to request from that person information that is necessary to determine the relationship between the handicap and the accommodation. In the event that an accommodation is granted, the Board can require that the marijuana being consumed to treat the handicap be consumed in a manner other than smoking (e.g., edible forms or other forms that do not produce second hand smoke).

6. **No Littering.** Any person Smoking anywhere in an authorized location on the Association Property shall be responsible for cleaning up and properly disposing of any cigarette butts or other related debris resulting from the Smoking.

7. **Enforcement.** The Board has the right to enforce the rules as set forth herein and treat any violation of the rules herein as it would a violation of any other governing document.

Enforcement may include, but not be limited to, the imposition of fines and suspension of membership privileges.

**IN WITNESS WHEREOF**, this Resolution has been executed by the Association as of this 29<sup>th</sup> day of SEPTEMBER, 2017. The undersigned hereby certify that this Resolution has been adopted and approved in accordance with the NRS 116 and the Association's Governing Documents.

**SOUTH BAY ASSOCIATION**, a Nevada non-profit corporation

By: Sandra Shields By: Robert Tessier Jr.  
Its: Secretary Its: President  
(Print Name): Sandra Shields (Print Name): ROBERT TESSIER JR