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**THE MENLO COMMONS ASSOCIATION ("ASSOCIATION")  
SENIOR HOUSING RESIDENCY RULES ("RULES")**

**GENERAL RULES**

1. Senior Citizen Housing Development. The Menlo Commons development (the "Project") is a senior housing development that is intended to (i) qualify for the "housing for older persons" exemption from the prohibitions on discrimination based on familial status contained in the federal Fair Housing Act, including those provisions adopted pursuant to the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995 (the "Federal Act") and California's Fair Employment and Housing Act ("FEHA"); (ii) qualify for the "senior citizen housing development" (as that term is defined in California Civil Code section 51.3) exemption from prohibitions on discrimination based on age contained in California's Unruh Civil Rights Act (including FEHA, the "State Acts"); and (iii) otherwise comply with the requirements of the Federal Act and the State Acts (together, "Applicable Law").

2. Definitions. Capitalized terms used in these Rules shall have the definitions set forth in this Section 2. All other capitalized terms that are not defined below shall have the meaning ascribed to them in the Association's Third Amended and Restated Declaration, unless the context requires otherwise.

2.1. Qualifying Resident means a person fifty-five (55) years of age or older.

2.2. Qualified Permanent Resident means a person who meets either of the following requirements:

(a) The person is residing or will reside with a Qualifying Resident **and** the person is forty-five (45) year of age or older *or* is a spouse or cohabitant (that is, persons who live together as husband and wife or are domestic partners within the meaning of California Family Code section 297) of the Qualifying Resident, *or* is a person providing *primary* physical or economic support to the Qualifying Resident (but not a Permitted Health Care Resident as defined in Section 2.3, below); **or**

(b) The person is a disabled person or person with a disabling illness or injury who is a child or grandchild of a Qualifying Resident or Qualified Permanent Resident, who needs to live with the Qualifying Resident or Qualified Permanent Resident because of the disabling condition, illness, or injury. "Disabled person" means a person who has a disability as defined in California Civil Code section 54(b). "Disabling illness or injury" means an illness or injury which results in a condition meeting the definition of a disability set forth in California Civil Code section 54(b). California Civil Code section 54(b) defines "disability" as any mental or physical disability as defined in California Government Code section 12926 (which, *generally*,

includes, but is not limited to, a mental or psychological disorder or condition that limits a major life activity; a physiological disease, disorder, condition, cosmetic disfigurement or anatomical loss that affects a statutorily prescribed body system and limits a major life activity; and certain disorders, conditions and impairments that require special education or related services).

2.3. Permitted Health Care Resident means a person hired to provide live-in, long-term, or terminal health care to a Qualifying Resident *or* a family member of a Qualifying Resident who is providing that care to a Qualifying Resident (other than a person who is a Qualified Permanent Resident as defined in Section 2.2, above). The care provided by a Permitted Health Care Resident must be substantial in nature and must provide assistance with necessary daily activities or medical treatment or both.

3. Residency Requirements and Restrictions, Generally. Except as otherwise specifically provided in this Section 3 and in Sections 19 and 20, below, every Unit, if occupied, must be occupied by at least one Qualifying Resident and every other person occupying the Unit must be a Qualifying Resident, Qualified Permanent Resident, or a Permitted Health Care Resident as defined in Section 51.3 (b) (7) of the California Civil Code. Notwithstanding, a Unit can be occupied by a person under fifty-five (55) years of age whose continued occupancy is permitted under certain "grandfathering" provisions of California law contained in Civil Code sections 51.3(h) and 51.4 (b).

#### **QUALIFIED RESIDENCY VERIFICATION PROCEDURES**

4. Periodic Verification of Qualification for Occupancy. Annually (or at such other times as may be requested by the Board of Directors in its sole discretion ("Board")), each owner (multiple owners of a single Unit shall be treated as one "owner" for purposes of this verification) **and** each resident of the Project shall be required to complete a questionnaire and/or application for purposes of verifying the age and/or other qualifying basis for occupancy of each resident of the Project.

5. Senior Housing Questionnaire & Certification. Each owner shall be required to complete the Senior Housing Questionnaire & Certification ("Questionnaire") and return the Questionnaire to the Association (as directed) by the deadline requested by the Association. If a Unit is not occupied by an owner, then at least one resident occupying the Unit shall also complete and return a Questionnaire (in addition to the owner). Each owner, and if applicable, resident shall certify under penalty of perjury the names and ages of all residents of the Unit (which shall include any guests or other persons residing in the Unit for more than 60 days per year) and shall attach proof of age for each resident as required by the Questionnaire.

6. Application for Exemption from Senior Housing Residency Restrictions. Each resident who is under fifty-five (55) years of age shall complete an Application for Exemption from Senior Housing Residency Restrictions ("Application") and return the Application to the Association (as directed) by the deadline requested by the Association. Each resident shall certify under penalty of perjury as to his/her age, attach reliable proof

of age, certify as to his/her relationship to the Qualifying Resident and attach proof of this relationship as required by the Application.

7. New Owners Must Submit Questionnaire. Any person that acquires title to a Project Unit shall be required to notify the Association in writing of such acquisition and to complete and submit a Questionnaire to the Association within fifteen (15) days of such acquisition.

8. New Occupants Must Submit Application. Each owner shall notify the Association in writing **prior to** any new person taking up residency in the Unit. **In addition**, each new resident shall notify the Association in writing of his/her residency AND complete and submit an Application to the Association within five (5) days of occupying a Unit.

9. Reliable Documentation Required; Burden of Proof. Certifications must be supported by reliable documentation of age and/or other relevant qualification(s) for occupancy, which documentation is acceptable to the Board in its sole reasonable discretion. All residents have the burden of proving to the satisfaction of the Board that they meet the qualifications for occupancy.

10. Verification of Age. The following documents, if authentic, are acceptable as proof of age:

- (a) Valid state-issued driver's license or identification card
- (b) Medicare card
- (c) Birth certificate
- (d) Passport
- (e) Immigration card
- (f) Military identification card
- (g) State, local, national, or international official documents containing a birth date of comparable reliability.

11. Verification of Spouse, Domestic Partner, or Cohabitant Relationship. Where it is asserted that a person is the spouse, domestic partner or cohabitant of a Qualifying Resident, such person may be required to provide a copy of the Marriage Certificate, Declaration of Domestic Partnership, or documentation that substantiates cohabitant status.

12. Verification of Primary Physical or Economic Support. (a) Where it is asserted that a person provides primary physical support to a Qualifying Resident, the person

and/or the Qualifying Resident or agent of the Qualifying Resident may be required to provide one or both of the following to the Association: (i) a written statement from the Qualifying Resident's physician, other medical care provider, case worker or social worker stating that the Qualifying Resident requires physical support to perform or engage in one or more major life activities, and (ii) a written explanation of the type and amount of physical support provided to the Qualifying Resident by the person with a comparison of physical support provided by others and the activities that the Qualifying Resident may undertake without assistance.

(b) Where it is asserted that a person provides primary economic support to a Qualifying Resident, the person and/or the Qualifying Resident or agent of the Qualifying Resident may be required to demonstrate one or both of the following: (i) that the person has independent means and is able to support himself or herself without assistance from the Qualifying Resident, and (ii) that the financial support provided to the Qualifying Resident by such person exceeds the income and other financial support received by the Qualifying Resident.

13. Verification of Disability or Disabling Illness or Injury. Where it is asserted that a person is a disabled person or person with a disabling illness or injury who is a child or grandchild of a Qualifying Resident or Qualified Permanent Resident, who needs to live with the Qualifying Resident or Qualified Permanent Resident because of the disabling condition, illness, or injury (as defined in Section 2.2(b)), the person and/or the Qualifying Resident or Qualified Permanent Resident or his or her agent may be required to provide to the Association: (i) birth certificates or other documentation satisfactory to the Board showing that the person is the child or grandchild of the Qualifying Resident or Qualified Permanent Resident, (ii) a written statement or other documentation prepared by the person's physician, other medical care provider, case worker, or social worker confirming the diagnosis of the claimed disability or disabling illness or injury and/or the continuing existence of the disability or disabling illness or injury, and (iii) a written statement from the person's physician, other medical care provider, case worker or social worker stating that the disability or disabling illness or injury limits a major life activity of the person and that the person needs to live with the Qualifying Resident or Qualified Permanent Resident because of the disability or disabling illness or injury.

14. Verification of Permitted Health Care Resident Status. Where it is asserted that a person is a Permitted Health Care Resident, the Permitted Health Care Resident, Qualifying Resident, or an agent of either may be required to provide any or all of the following: (i) evidence of certification, licensure, or other qualification to provide live-in, long-term or terminal health care, (ii) a detailed description of the care provided to the Qualifying Resident, (iii) evidence of the compensation received in exchange for the provision of such care or of such person's familial relationship to the Qualifying Resident, and (iv) a written statement or other documentation prepared by the Qualifying Resident's physician, other medical care provider, case worker, or social worker confirming that the person does provide assistance with necessary daily activities or medical treatment or both to the Qualifying Resident.

15. Verification of Grandfathered Status. Where it is asserted that a person's continued occupancy is permitted under certain "grandfathering" provisions of California law contained in Civil Code sections 51.3(h) and 51.4 (b), such person may be required to provide the Association with evidence documenting such continued occupancy.

#### **DISABLED QUALIFIED PERMANENT RESIDENTS**

16. Prohibition or Termination of Occupancy by Certain Disabled Persons. Subject to the hearing requirements set forth in this Section, the Board may prohibit or terminate the occupancy of any person who is a Qualified Permanent Resident pursuant to the definition in Section 2.2(b), above, 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, which threat cannot be ameliorated by means of a reasonable accommodation. The Board must provide to the disabled person whose occupancy is being challenged and to the co-resident parent or grandparent of that person reasonable notice and opportunity to be heard. The disabled person and/or his or her co-resident parent or grandparent shall be entitled to have present at the hearing an attorney or any other person authorized by the disabled person or the parent or grandparent to speak on their behalf or assist them in the matter. To preserve privacy, evidence must be submitted and held in a confidential manner and the hearing must be conducted in executive session of the Board. The Board shall give due consideration to the relevant, credible, and objective evidence provided in the hearing.

17. Termination of Occupancy of Formerly Disabled Qualified Permanent Resident. With respect to a person who is a Qualified Permanent Resident pursuant to the definition in Section 2.2(b), above, if the person's disabling condition ends, the Board may require that the formerly disabled resident cease residing in the Project within six months after written notice from the Board to the formerly disabled person, or, in its discretion, the Board may allow the formerly disabled person to remain a resident for up to one year after the disabling condition has ended.

#### **PROLONGED ABSENCE OF QUALIFYING RESIDENT: NOTICE REQUIREMENTS AND CONTINUED OCCUPANCY RIGHTS**

18. Duty to Provide Notice of Qualifying Resident's Absence. Each resident (other than a Qualifying Resident) who resides with a Qualifying Resident shall provide written notice to the Association within fifteen (15) days of the death, hospitalization, or other prolonged absence of, or dissolution of marriage with, the Qualifying Resident.

19. Continued Occupancy by Qualified Permanent Resident in the Absence of the Qualifying Resident. If the Qualified Permanent Resident was residing with the Qualifying Resident prior to the death, hospitalization, or other prolonged absence of, or dissolution of marriage with, the Qualifying Resident, then the Qualified Permanent Resident shall be entitled to continue his or her occupancy of the Unit in the absence of the Qualifying Resident, unless the Board determines that such continued occupancy will

result in less than eighty percent (80%) of the Units in the Project being occupied by at least one Qualifying Resident as required by the Federal Act.

20. Occupancy by Permitted Health Care Residents. A Permitted Health Care Resident may occupy a Unit only during any period that he or she is actually providing live-in, long-term, or terminal health care to a Qualifying Resident for compensation. For purposes of these Rules, "compensation" shall include the provision of lodging and food in exchange for care. A Permitted Health Care Resident shall be entitled to continue his or her occupancy or use of a Unit in the absence of the Qualifying Resident only if **both** of the following apply and then only for the time periods specified:

(a) The Qualifying Resident became absent from the Unit due to hospitalization or other necessary medical treatment and expects to return to the Unit 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 to the Board stating that the Qualifying Resident desires that the Permitted Health Care Resident be allowed to remain in the Unit in order to be present when the Qualifying Resident returns to reside in the Project.

If it appears that the Qualifying Resident will return within a period not to exceed an additional ninety (90) days, and upon written request by the Qualifying Resident or an authorized person acting for the Qualifying Resident, the Board, in its discretion, may allow a Permitted Health Care Resident to remain for a period longer than ninety (90) days.

#### **MISCELLANEOUS RULES**

21. Confidentiality. The Association shall take reasonable steps to maintain information gathered pursuant to these Rules concerning residents' health conditions, medical care, disabilities and/or financial situation confidential. Such information shall be used only for purposes of verifying the age or other qualified status of all residents, to maintain the senior housing exemptions applicable to the Project, and to enforce the Declaration.

22. Change of Applicable Law. These Rules are intended to comply with Applicable Law. If Applicable Law is modified or amended, these Rules shall automatically be deemed to be modified or amended to be consistent with Applicable law, as modified or amended, without further notice.

23. Enforcement. Pursuant to its authority set forth in Section 8.6 of the Bylaws and Section 13.8 of the Declaration, the Board may impose fines or take other disciplinary action to enforce these Rules, including suspension of membership rights and privileges. The Association shall have the right to enforce these Rules by any proceeding at law or in equity.