

**EXHIBIT E**  
**RESOLUTION 2024-13**  
**Amenity Access Rule**

**WHEREAS**, the duties of the Tahoe Donner Association (“Association”) include owning, maintaining, and operating the Common Facilities, including the recreational amenities (“Amenities”), for the benefit of the members and “reserved exclusively for the use and enjoyment of the Members of the Association, their tenants, lessees, guests and invitees, and the public, when approved by the Board, all subject to the terms and conditions of the Governing Documents.”<sup>1</sup>

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**WHEREAS**, the Board of Directors (“Board”) is responsible for the establishment of the annual regular assessment based upon the preparation of an annual budget that estimates “the total amount required to fund the Association’s anticipated Common Expenses for the next succeeding fiscal year.”<sup>2</sup>

**THE** Association’s Common Expenses include “all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area, Common Facilities, or Other Association Real Property.”<sup>3</sup>

**THE** responsibility for the Common Expenses “shall be allocated among, assessed against, and charged to each Owner of Record according to the ratio of the number of Separate Interests within the Properties owned by the assessed Owner to the total number of Separate Interests subject to Assessment so that each Separate Interest bears an equal share of the total Regular Assessment.”<sup>4</sup>

**THE** Governing Documents further state that the intent of the annual regular assessment includes promoting “the recreation, health, safety and welfare of the Owners and other residents within the Properties,” and promoting “the enjoyment and use of the Properties by the Owners and their families, tenants and guests.”<sup>5</sup>

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<sup>1</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Recitals.

<sup>2</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article IV, Section 2(b).

<sup>3</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article I, Section 9.

<sup>4</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article IX, Section 3(c)..

<sup>5</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article IV, Section 6. “Properties,” as used in this sentence, “means all parcels of real property (Common Area, Lots and Other Association Real Property).” Further, “Any reference to ‘Properties’ shall also include: (a) all buildings, structures, utilities, Common Facilities, and other Improvements now located or hereafter constructed or installed thereon, and all appurtenances thereto; and (b) any additional real property that is hereafter annexed ... and subjected to this Declaration.” First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article I, Section 29.

**THE** Governing Documents stipulate that, “No Owner may exempt himself/herself or the Owner’s Separate Interest from liability or charge for the Owner’s share of any Assessment ... by waiving or relinquishing, or offering to waive or relinquish, the Owner’s right to use and enjoy all or any portion of the Common Area or Common Facilities,”<sup>6</sup> and that “No Owner, by non-use of the Common Area or Common Facilities ... may avoid the burdens, and obligations imposed on such Owner by the Governing Documents, including, without limitation, the obligation to pay Assessments levied against the Owner and his or her Separate Interest pursuant to this Declaration.”<sup>7</sup>

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**WHEREAS**, the Association’s Board of Directors has the right to propose, enact and amend “Association Rules ... pertaining to use of the Common Area and Common Facilities and any Other Association Real Property by Owners, their tenants, guests and invitees, or any other person(s) who have rights of use and enjoyment of such Common Area, Common Facilities and Other Association Real Property.”<sup>8</sup>

**THIS** right includes “the right to regulate the use and enjoyment of its Common Facilities, including, without limitation, the right to: (i) charge reasonable admission and other fees as a condition to facilities access and usage; (ii) limit the number of Owners or guests who may use any recreational Common Facilities within the Properties; or (iii) adopt and implement, as part of the Association Rules, a recreational facility pass system to regulate the number of individuals who have the right to use and enjoy such facilities by virtue of the ownership of a Separate Interest and the terms and conditions of such usage.”<sup>9</sup>

**THIS** right provides that “If a system of user fees or amenity access passes is implemented, the system can make reasonable distinctions between the user privileges of Owners, tenants, guests and invitees, and subclasses of each, so long as all classes of users similarly situated are treated fairly and equally,” and that “The Board shall also be authorized to permit members of the public to use recreational Common Facilities if the Board reasonably determines that such usage will make the facility more cost effective and can be accommodated without overburdening the facility.”<sup>10</sup>

**AND** the Governing Documents state that “The right of any person to use and enjoy the Common Areas and Common Facilities shall at all times be subject to the rules, limitations and

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<sup>6</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article IV, Section 1(c).

<sup>7</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article II, Section 4(g).

<sup>8</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article III, Section 7(a).

<sup>9</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article II, Section 1(a).

<sup>10</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article II, Section 1(a).

restrictions set forth herein, in the Declaration and in the Association’s published rules and regulations as promulgated by the Board from time to time.”<sup>11</sup>

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**WHEREAS**, the Association’s Governing Documents define the Association’s Members as the Owners of the Residential Parcels within Tahoe Donner and the Owners’ Families.<sup>12</sup>

**THE** Governing Documents state that, “Every Owner shall have a nonexclusive right and easement of enjoyment in and to all Common Areas within the Properties,” and that, “Each Member and the members of his or her Family shall be entitled to the use and enjoyment of all Common Areas and Common Facilities within the Properties; provided, however, that the Board shall be entitled to impose reasonable rules and regulations regarding use of Common Facilities to avoid an overburdening of such Facilities.”<sup>13</sup>

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**WHEREAS**, the Governing Documents state that “The invitees and guests of a Member shall have the right to use and enjoy the Common Areas and Common Facilities within the Properties,”<sup>14</sup> and that “Each Member shall have the right to assign his or her rights as a Member (other than voting rights) to a tenant residing within the Member’s Residence;”<sup>15</sup> provided, however, that these rights shall at all times be subject to the rules, limitations and restrictions set forth in the Association’s Governing Documents and published in the Association’s rules and regulations.<sup>16</sup>

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<sup>11</sup> Restated Bylaws of Tahoe Donner Association, Article VI, Sections 3 and 4.

<sup>12</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article I, Section 22; Article I, Section 26; Article III, Sections 1; Restated Bylaws of Tahoe Donner Association, Article I, Section 4(e); Article III, Section 1. Note that Restated Bylaws of Tahoe Donner Association, Article I, Section 4(e) states that “The Association Rules may further define those persons comprising the family members of Owners.”

<sup>13</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article II, Section 1; Restated Bylaws of Tahoe Donner Association, Article IV, Section 1.

<sup>14</sup> Restated Bylaws of Tahoe Donner Association, Article VI, Sections 3.

<sup>15</sup> Restated Bylaws of Tahoe Donner Association, Article VI, Sections 2. This section continues: “Such assignment shall only be effective so long as said tenant is residing in said Residence and is in compliance with the Declaration and the Association Rules as the same may exist from time to time.” See also First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article II, Section 3(a), which states that “Use of recreational Common Facilities by tenants and lessees is subject to reasonable regulation by the Association,” and which further provide that “The Association shall be entitled to adopt rules of uniform and nondiscriminatory application ... regulating specific matters of collective concern arising out of or pertaining to the rental or lease of Residences or Condominiums. Such rules may make reasonable distinctions between the rights and privileges accorded to Owners, tenants and lessees with respect to Common Facilities and other Common Area amenities.”

<sup>16</sup> Restated Bylaws of Tahoe Donner Association, Article VI, Sections 4.

**WHEREAS**, the foundation of Tahoe Donner’s Amenity Access Policy was adopted in 1989 and became effective on January 1, 1990, with incremental updates in 1993, 1995, 2005, 2009, and 2012.

**ON** January 22, 2021 the Board adopted the Tahoe Donner Five-Year Strategic Plan (2021-2026), which included a goal to update Tahoe Donner’s Amenity Access Policy.<sup>17</sup>

**THROUGH** staff-led member working groups, board workshops, and member forums, the Association has been working to develop an updated Amenity Access Policy proposal since 2022.

**THE** Board has identified the following goals for the Amenity Access Policy Update Project:

- Promote member value
- Promote a sense of community among members
- Protect the Amenities, environment and membership
- Foster member enjoyment and use
- Simplify the policy for ease of understanding and administration
- Support a long-term, sustainable, and equitable funding and pricing system
- Clarify user categories



**CONSISTENT** with the First Restated Declaration of Covenants and Restrictions of Tahoe Donner adopted on January 17, 1992, this Amenity Access Policy Update shall take the form of an Amenity Access Rule change.

**On** August 14, 2024, the Board authorized publication of a 45-day member notice to initiate a formal member comment period for the Amenity Access Rule change.<sup>18</sup>

**On** August 26, 2024, the 45-day notice for the Amenity Access Rule was published to the members.

**On** September 23, 2024, the Board held an evening member forum devoted to the Amenity Access Rule change.

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<sup>17</sup> Since the adoption of this strategic plan, the Amenity Access Policy Update Project has been reorganized as a rule change to align more closely with First Restated Declaration of Covenants and Restrictions of Tahoe Donner, Article III, Section 7(a).

<sup>18</sup> Pursuant to Tahoe Donner Covenants and Restrictions Article III, Section 7, modifications to rules and proposed new rules must go out for a 45-day member notification and comment period prior to Board consideration and/or approval.

**On** September 27, 2024, the Board received member comments on the Amenity Access Rule change during a regularly scheduled board meeting.

**WITH** the 45-day comment period having now concluded, and in accordance with its duties, the Board must now complete its obligation to decide whether to approve the Amenity Access Rule change.

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**CONSISTENT** with the Amenity Access Policy Update Project goals, and with the rights and duties of both the Board and the Association’s members,

**NOW, THEREFORE, BE IT RESOLVED**, that the Tahoe Donner Association Board of Directors does hereby move to:

**By Motion:**

The Board of Directors adopts Policy Resolution 2024-13, which:

1. Rescinds Resolution 1998-4, Access to Tahoe Donner Association Amenities, and
2. Rescinds the Tahoe Donner Association Amenity Access Policy, and
3. Adopts the Amenity Access Rule (Exhibit B), and
4. Adopts the initial Amenity Access Rule Phased Implementation Plan (Exhibit C)

**By Motion:**

The Board of Directors approves the proposed 2025 Operating Plan Fees relating to the rule change as indicated in Exhibit D with Daily Access Fees option #TBD.

**ACCEPTED AND DATED: October 10, 2024**

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BENJAMIN LEVINE, President

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COURTNEY MURRELL, Secretary

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DENISE GAUNY, Vice President

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DON KOENES, Treasurer

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JIM ROTH, Director