

FIRST RESTATED BYLAWS
OF
LAKE RANCHO VIEJO OWNERS' ASSOCIATION, INC.

ARTICLE 1

NAME AND LOCATION

Section 1.1. Name of Association. The name of the Association is LAKE RANCHO VIEJO OWNERS' ASSOCIATION, INC., a California nonprofit mutual benefit corporation (hereinafter referred to as the "Association"). The Association is organized under the California Nonprofit Mutual Benefit Corporation Law.

Section 1.2. Principal Office. The principal office for the transaction of the business of the Association is hereby fixed and located within the City of Fallbrook or at such other place within San Diego County as may be determined by the Board. The Board is hereby granted full power and authority to change the principal office from one location to another within the County of San Diego.

ARTICLE 2

DEFINITIONS

Section 2.1. Definitions Incorporated by Reference. The terms used in these Bylaws, unless the context clearly indicates a contrary intention, shall have the same meaning as those set forth in Article 1 of the Declaration which is incorporated by reference as part of these Bylaws.

Section 2.2. Election ~~Operating~~ Rules. The "Election ~~Operating~~ Rules" are the procedures adopted by the Board in conformance with *Civil Code* Section 5105.

Section 2.3. Good Standing. The term "Good Standing" means the Member is current in the payment of all regular and special Assessments levied against the Member's Lot, or has entered into a valid payment plan for payment of delinquent assessments. ~~is current in all other financial obligations of the Association and is not subject to any suspension of privileges as a result of disciplinary proceedings conducted in accordance with the Governing Documents.~~

ARTICLE 3

MEMBERSHIP

Section 3.1. Automatic Membership and Voting Power. Every person or entity who is an Owner of a Lot shall be a Member of LAKE RANCHO VIEJO OWNERS' ASSOCIATION, INC. as provided in the Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Lot which gives rise to such membership in the Association.

Section 3.2. Term of Membership. Each Owner who is a Member shall remain a Member until he or she no longer qualifies as such under Section 3.1, above. Upon the sale, conveyance or other transfer of an Owner's interest in a Lot, the Owner's membership interest appurtenant to the Lot shall automatically transfer to the Lot's new Owner(s).

Section 3.3. Suspension of Member's Rights. As more specifically set forth in Article 15 of the Declaration, the membership rights and privileges, ~~together with the voting rights~~ of any Member of the Association, may be suspended by the Board for any period of time during which such Member is determined by the Board to be delinquent in the payment of Assessments or other charges (e.g., fines, late fees, etc.), in violation of the Governing Documents, or not in compliance with the obligations imposed by the Governing Documents.

Section 3.4. Multiple Ownership of Lots. Ownership of a Lot shall give rise to a single membership vote in the Association. Accordingly, if more than one (1) person owns a Lot, all of those persons shall be deemed to be one (1) Member for voting purposes. All such Members shall have equal rights to use and enjoy the Common Area and Common Facilities, unless such rights have been suspended as set forth in Section 3.3. ~~(B)~~ of this Article. The ballot received from any Member of record shall be deemed to be the ballot attributable to the Lot in question. If multiple ballots are received for the same Lot, the inspectors of election may refuse to count any ballot pertaining to that Lot.

ARTICLE 4

MEMBERSHIP VOTING

Section 4.1. Single Class of Membership. The Association shall have one (1) class of voting membership.

Section 4.2. Member Voting Rights. On each matter submitted to a vote of the Members, each Member shall be entitled to cast one (1) vote for each Lot owned by such Member. In the election of Directors, each vacant position constitutes one (1) "matter."

Section 4.3. Eligibility to Vote. ~~Only Members in Good Standing shall be entitled to vote on any issue or matter presented to the Members. A Member who owns more than one Lot shall be ineligible to vote if that Member is not in Good Standing with respect to any such Lot.~~

Section 4.4. Elections to be Conducted by Secret Ballot. Elections required by *Civil Code* Section 5100 to be conducted by secret ballot shall be held pursuant to *Civil Code* Sections 5100 - 5130 and the Election Operating Rules.

Section 4.5. Proxies. The Board may determine whether proxies will be used in any vote or election of the Association. If proxies are to be used, any Member entitled to vote may use a proxy, subject to the provisions of *Civil Code* Section 5130 and the Election Operating Rules. Any proxy shall be for a term not to exceed eleven (11) months from the date of issuance, unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three (3) years from the date of execution. Proxy forms shall be dated to assist in verifying their validity.

(A) Effectiveness of Proxies. Every proxy continues in full force and effect until revoked by the issuing Member prior to the vote. The dates shown on the forms of proxy presumptively determine the order of execution, regardless of the postmarks shown on the envelopes in which they are mailed. Any proxy given shall be valid only if the proxy form sets forth a general description of the nature of the matter to be voted on.

(B) Proxy Rules for Memberships Held by More Than One Person. Where two (2) or more persons constitute a Member, any proxy received shall be conclusively presumed to be the proxy submitted with respect to the vote of such Member, whether or not all Members signed the proxy.

Section 4.6. Cumulative Voting. Cumulative voting is prohibited.

Section 4.7. Majority Vote Required. If a quorum is present, the affirmative vote of at least a majority of the Members represented at the meeting, entitled to vote and voting on any matter (other than the election of Directors) shall be the act of the Members, unless the vote of a greater number is required by California law or by the Governing Documents. In the case of Director elections, the candidates receiving the highest number of votes for the number of vacant positions to be filled, shall be elected to the vacant Director positions.

ARTICLE 5

MEETINGS OF MEMBERS

Section 5.1. Place of Meeting. All membership meetings shall be held on the Development or such other location in San Diego County, State of California, in reasonable proximity to the Development as may be designated in the notice of meeting.

Section 5.2. Annual Meetings of Members. The annual meeting of Members shall be held once a year on a date, time and place as determined by the Board.

Section 5.3. Special Meetings of Members.

(A) Calling by the Board. Special meetings of Members may be called at any time by the President or by a majority of a quorum of the Board. Additionally, the Board may call a special meeting of Members upon receipt of a written request for a special meeting for authorized purposes. Any such written request shall be signed by Members representing at least five percent (5%) or more of the Voting Power of the Association.

(B) Calling by the Members. If a special meeting is called by Members other than the Board, the request shall be submitted by such Members in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered to the Association in accordance with the procedures set forth in the Annual Policy Statement or *Civil Code* Section 4035. Within twenty (20) days of receiving the request, the Board shall cause notice to be promptly given to the Members ~~entitled to vote~~, that a meeting will be held, and the date, time and purpose for such meeting, which date shall be not less than thirty-five (35) days nor more than ninety (90) days following the receipt of the request.

If notice of the meeting is not given within twenty (20) days after receipt of the request, the persons requesting the meeting may give the notice. Nothing contained in this subsection (B) shall be construed as limiting, fixing, or affecting the time when a meeting of Members may be held when the meeting is called by action of the Board.

Section 5.4. Notice of Members' Meetings. Notice of all regular and special meetings of the Members shall be provided by Individual Delivery to each Member ~~who is eligible to vote at the meeting as of the record date established by the Board~~. Notices shall be given not less than ten (10) days and not more than ninety (90) days before the date of the meeting. Notwithstanding the foregoing, the time to provide notice of membership meetings set forth in this Section 5.4 is independent of the time frame within which ballots must be delivered to the Members for elections conducted pursuant to the Election Operating Rules, as more particularly set forth in Article 4, Section 4.4 of these Bylaws. The Association is not precluded from delivering the notice required in this Section 5.4 with the election materials required by the Election Operating Rules.

Section 5.5. Quorum.

(A) **Annual Meeting Quorum.** The presence in person or by ballot of at least one-third (1/3) of the Voting Power entitled to vote at the annual meeting of Members shall constitute a quorum for the transaction of business at the annual meeting. The Members present at a duly called or held annual meeting at which a quorum is present may continue to do business until adjournment. Once a quorum is established, the meeting may proceed regardless of whether there is a withdrawal of Voting Power which leaves less than a full quorum. In the event the annual meeting cannot be held because a quorum is not present, either in person, by ballot when allowed by law or by proxy, the meeting may be adjourned for a time not less than five (5) days nor more than thirty (30) days following the time the original meeting was called, at which meeting the quorum requirement shall be reduced to twenty-five percent (25%) of the Voting Power of the membership.

Where a meeting is conducted with a quorum of less than one-third (1/3) of the Voting Power of the membership, the only matters that may be voted upon are those matters included in the original meeting notice published prior to the adjourned meeting.

(B) **Quorum for Other Membership Meetings.** The presence in person, ballot or proxy of at least a majority of the Voting Power entitled to vote at any other meeting of Members shall constitute a quorum for the transaction of business at the meeting. The Members present at a duly called or held membership meeting at which a quorum is present may continue to do business until adjournment. Once a quorum is established, the meeting may proceed regardless of whether there is a withdrawal of Voting Power which leaves less than a full quorum.

Section 5.6. Adjourned Meeting. Any membership meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the Voting Power present, but, in the absence of a quorum, no other business may be transacted at any such meeting. When any membership meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. If adjourned for less than thirty (30) days, it shall not

be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting other than by an announcement at the meeting at which adjournment is taken.

Section 5.7. Consent of Absentees. The transactions of any membership or Board meeting, however called and noticed, shall be as valid as though it had taken place at a meeting duly held after regular call and notice if a quorum be present, either in person or by proxy and if, either before or after the meeting, each of the Members entitled to vote, not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes. All such waivers, consents or approvals shall be filed in the corporate records or made a part of the minutes of the meeting.

Section 5.8. Minutes, Presumption of Notice. Minutes or a similar record of the proceedings of meetings of Members, when signed by the President or the Secretary, shall be presumed truthfully to evidence the matters set forth in such minutes or record. A recitation in the minutes of any such meeting that notice was properly given shall be *prima facie* evidence that notice was given.

Section 5.9. Action Without a Meeting.

(A) Any action which may be taken by the vote of Members at a regular or special meeting, ~~except the election of Directors where cumulative voting is a requirement~~, may be taken without a meeting if the Association distributes a written ballot to every Member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Association.

(B) Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(C) All solicited ballots shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of Directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.

(D) Unless otherwise provided in the Articles or these Bylaws, a written ballot may not be revoked.

Section 5.10. Record Dates for Member Notice; Voting and Giving Consents.

For any election subject to *Civil Code* Section 5100, et seq., the Board of Directors may determine that only Members of record as of the date that the ballots are mailed/ delivered may vote or cast a ballot.

For any vote or action by written ballot that is not subject to *Civil Code* Section 5100, et seq., the Board may fix, in advance, a “record date,” and only Members of record on the date so fixed are entitled to notice, to vote, or to take any action by written ballot or otherwise, as the case may be,

notwithstanding any transfer of any membership on the books of the Association after the record date, except as otherwise provided in the Articles, by agreement, or in the California Non-Profit Mutual Benefit Corporation Law.

~~For the purpose of determining which Members are entitled to receive notice of any meeting, vote, act by written ballot without a meeting, or exercise any rights in respect to any other lawful action, the Board of Directors may fix, in advance, a "record date" and only Members of record on the date so fixed are entitled to notice, to vote, or to take any action by written ballot or otherwise, as the case may be, notwithstanding any transfer of any membership on the books of the Association after the record date, except as otherwise provided in the Articles, by agreement, or in the California Non-Profit Mutual Benefit Corporation Law.~~

ARTICLE 6

BOARD OF DIRECTORS

Section 6.1. Number and Qualifications of Directors. The Board shall consist of five (5) Directors until changed by amendment to this Section of these Bylaws.

- (A) Directors must be Members of the Association;
- (B) Directors must be in Good Standing;
- (C) Only one (1) Owner per Lot shall be eligible to serve on the Board at any time.

~~(D) Directors must not have a past criminal conviction that would either prevent the Association from purchasing the fidelity bond coverage required by Civil Code Section 5806 or terminate the Association's existing fidelity bond coverage.~~

Section 6.2. Limitation of Candidacy. ~~To be eligible for nomination and election to the Board, a candidate-Member must meet the qualifications set forth in Section 6.1. The failure to comply with this Section shall in no way invalidate the election of other candidates who were in compliance with this Section.~~

Section 6.3. Election and Term of Office. The terms of Directors shall be term-staggered. In order to preserve the benefits inherent in staggered terms, including promoting continuity of management and guaranteeing the involvement of experienced Directors, in the event the staggered terms of Directors gets off track, the Board may shorten a Director's term in a reasonable manner at the next meeting to re-establish staggered terms.

(A) Each Director shall serve a two (2) year term. Directors appointed to fill a vacancy created under Section 6.5 shall serve the remaining term of the vacant position. Any Director elected pursuant to removal under Section 6.6 shall serve the remaining time left of the prior Director's term.

(B) If any annual meeting is not held or the Directors are not elected thereat, the Board shall arrange for a special meeting of Members held for the purpose of elections.

(C) Each Director shall hold office until his or her term expires, he or she resigns, or until their position is declared vacant under Sections 6.5 or 6.6.

(D) The candidates receiving the highest number of votes shall be deemed elected.

Section 6.43. Nomination Procedures. Nomination for election to the Board of Directors may be made by a Nominating Committee, personal declaration of candidacy or by the nomination of any other Member.

~~(A) Nominating Committee. If the Board chooses to appoint a Nominating Committee, it shall consist of two (2) or more Members appointed by the Board. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of Directors to be elected. Nominations shall also be allowed from the floor at the meeting.~~

~~(B) Limitation of Candidacy. To be eligible for nomination and election to the Board, a candidate Member must be in Good Standing with the Association and is current in the payment of Assessments both at the time his or her name is placed in nomination and as of the election date. The failure to comply with this Section shall in no way invalidate the election of other candidates who were in compliance with this Section.~~

Section 6.54. Election Procedures. The annual election of Directors shall be conducted by secret written ballot as set forth in Article 4, Section 4.4 of these Bylaws. As to Directors elected by Members, reasonable election procedures given the nature, size and operations of the Association shall be available to the Members. The procedures shall include:

(A) A reasonable means of nominating candidates, and the opportunity for a nominee to communicate to the Members the nominee's qualifications and the reasons for the candidacy;

(B) A reasonable opportunity for all nominees to solicit votes; and

(C) A reasonable opportunity for all Members to choose among the nominees.

(D) Association funds shall not be used for campaign purposes in accordance with *Civil Code* Section 5135.

Section 6.65. Vacancies.

(A) Filling Vacant Seats. Except for a vacancy created by the removal of a Director by the Members, vacancies on the Board may be filled by a majority of the remaining Directors, though less than a quorum. Each Director so appointed shall hold office until his or her successor is elected at the end of the former Director's term. The Members may at any time call a meeting to elect Directors to fill any vacancy not filled by the Directors, and may elect the additional Directors at the meeting at which an amendment by these Bylaws is voted increasing the number of Directors.

(B) Resignation. Any Director may resign effective upon giving written notice to the President, the Secretary or the Board. In the event a Director gives any of the above-named parties verbal notice, the Board shall send the Director who gave verbal notice of resignation a letter, by

certified and regular mail, stating that the Board is accepting the Director's verbal resignation fifteen (15) days after the date of the letter. The Board may elect a successor to take office when the resignation becomes effective.

(C) Excessive Absences. A vacancy may be deemed to exist in the case of the absence of a Director from three (3) consecutive regular meetings or four (4) total meetings within a twelve (12) month period.

(D) Directors Delinquent In Assessments. A vacancy shall be deemed to exist in the case of a Director whose Lot(s) is ~~are more than ninety (90) days~~ delinquent in payment of his or her regular and special Assessment(s) ~~obligations~~ to the Association. Prior to declaring a vacancy of a Director, the remaining Board shall send a letter giving such Director fifteen (15) days to bring his or her account(s) current. This letter shall be sent both by certified and regular mail.

(E) Egregious Behavior. A vacancy may be deemed to exist if a Director engages in any of the following types of behavior:

(1) Receives any type of monetary gain, or other gain such as services, products, gifts or gratuities of a significant value, which have been provided in relation to a Director's service on the Board, and which is not disclosed. Disclosure must take place at an open Board meeting and be recorded in the minutes. Compensation for services duly approved by the Board and unrelated to duties as a Director or Officer of the Association, or reimbursement of expenses associated with service to the community do not constitute unethical or detrimental behavior and are permissible;

(2) Takes any action considered to be grossly detrimental to the general safety, health and welfare of the community and its Members;

(3) Addresses fellow Directors with abusive language in such a manner that causes distress and emotional harm. Abusive language is any language which causes humiliation or intimidation, or inflicts ridicule, coercion, threats or mental abuse, or other language of a punitive nature, or language which is prejudicial or grossly profane; or

(4) Violates any provision of a code of ethics that has been adopted by the Association relating to conduct of Directors.

(F) Failure to Meet Qualifications. A vacancy shall be deemed to exist in the case of any Director who fails to meet any of the qualifications set forth in Section 6.1 of this Article regardless of whether he or she met those qualifications at the time he or she was elected to the Board.

Section 6.76. Removal of Directors.

(A) Removal by Members. Any Director may be removed from the Board, with or without cause, by the affirmative vote of a majority of the Members represented and voting at an election at which a quorum of the Association is present. ~~However, unless the entire Board is removed from office by the vote of Members, no individual Director shall be removed prior to the expiration of his or her term of office if the number of votes cast against his or her removal or not~~

~~consenting in writing to his or her removal would be sufficient to elect the Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the most recent election of Directors were then being elected.~~

(B) Removal by the Board. The Board of Directors shall have the power and authority to remove a Director and declare his or her office vacant if he or she:

- (1) Has been declared of unsound mind by a final order of the court;
- (2) Has been convicted of a felony; or
- (3) Has been found by a final order or judgment of any court to have breached the duty under *Corporations Code* Sections 7233-7236 (relating to standards of conduct of Directors).

Section 6.87. Action of Individual Directors. Unless authorized by the Board, individual Directors have absolutely no authority to take action outside of Board meetings. Individual Directors have no authority to direct management, vendors, committees or take any action whatsoever on behalf of the Association, unless authorized by the Board.

Section 6.98. Limitation on Compensation. Neither the Directors nor the Officers of the Association shall receive any monetary compensation for their services performed in the conduct of the business of the Association. Notwithstanding the foregoing, the Board of Directors shall have the power to reimburse any Director, Officer or Member of the Association for expenses incurred in carrying on the business of the Association.

ARTICLE 7

BOARD MEETINGS

Section 7.1. Place of Meetings. Regular and special meetings of Board of Directors may be held at any place within the Development or at any place within reasonable proximity to the Development that has been designated from time to time by resolution of the Board and stated in the notice of the meeting. In the absence of such designation, regular meetings shall be held at the principal office of the Association. Notwithstanding the above provisions, a regular or special meeting of the Board may be held at any place consented to in writing by all the Directors either before or after the meeting. If consents are given, they shall be filed with the minutes of the meeting.

Section 7.2. Regular Meetings. Regular meetings of the Board shall be held at least every month, or more or less frequently, as business dictates and shall be held at a location within a reasonable proximity to the Development. If the predetermined meeting date should fall upon a legal holiday, then the meeting shall be held at a time and date to be determined by the Board and the membership shall be notified in advance of the meeting date and location.

Section 7.3. Special Meetings. Special meetings of the Board for any purpose may be called at any time by the President or by any two (2) Directors.

Section 7.4. Organization Meetings. As soon as reasonably practical, following each annual meeting of Members, the Board shall hold a meeting for the purpose of organization, election of Officers and the transaction of other business.

Section 7.5. Notice to Directors.

(A) **Regular Meetings.** If the specific date, time and place of regular Board meetings are fixed in advance by the Board, no notice need be given to Directors. If the specific date, time and place of regular Board meetings are not so fixed, then Directors shall receive four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally, by telephone (including a voice messaging system) or by electronic transmission. Notice given to Directors hereunder need not specify the purpose of the regular Board meeting.

(B) **Special Meetings.** Directors shall receive four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally, by telephone (including a voice messaging system) or by electronic transmission. Notice given to Directors hereunder shall specify the purpose of the special Board meeting; however, any lawful business may be conducted at such meeting whether or not specified in the notice.

(C) **Waiver of Notice.** The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though they had been at a meeting duly held after regular call and notice if a quorum be present and if, either before or after the meeting, each of the Directors not present signs a written waiver of notice or a consent to holding such meeting or an approval of the minutes. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 7.6. Notice to Members.

(A) **Notice of Open Meetings.** Notice of the time and place of open meetings of the Board shall be communicated to the Directors, and given by General Delivery to the Members in writing at least four (4) days before the meeting. In case of an emergency, the Association may conduct a meeting with less than four (4) days' notice, however, it shall be the burden of the person(s) calling the "emergency" special meeting to justify reduction of the required notice time. The notice shall contain the agenda for the meeting in accordance with *Civil Code* Section 4920. Notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to the holding of the meeting.

(B) **Notice of Executive Session Meetings.** Notice of the time and place of executive session meetings of the Board shall be communicated to the Directors, and given by General Delivery to the Members not less than two (2) days before the meeting. Pursuant to *Civil Code* Section 4935, executive session meetings are Board meetings to consider litigation, matters relating to the formation of contracts with third parties, Member discipline, personnel matters, or to meet with a Member, upon the Member's request, regarding the member's payment of Assessments. In case of an emergency, the Association may conduct an executive session meeting with less than two (2) days' notice, however, it shall be the burden of the person(s) calling the "emergency" special meeting to justify reduction of the required notice time. The notice shall contain the agenda for the

meeting in accordance with *Civil Code* Section 4920. Notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to the holding of the meeting.

Section 7.7. Telephonic Attendance. Any Board meeting, open or executive session, may be held by conference telephone or similar communication equipment, so long as all Directors participating in the meeting can hear one another, and all such Directors shall be deemed to be present in person at such meeting. Members of the Association shall be entitled to attend the portion of a teleconference meeting that is open to Members, and that portion of the meeting shall be audible to the Members in a location specified in the notice of the meeting with at least one (1) Director or a person designated by the Board physically present at that location.

Section 7.8. Quorum. A majority of the Directors shall be necessary to constitute a quorum for the transaction of business, except to adjourn. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board. However, the Rules and Regulations may be amended only by a majority of the full Board.

Section 7.9. Notice of Adjournment. Unless a meeting is adjourned for more than twenty-four (24) hours, notice of adjournment of any Directors meeting need not be given to absent Directors if the time and place are fixed at the meeting adjourned.

Section 7.10. Adjournment. A majority of a quorum of the Directors may adjourn any Directors' meeting to meet again at a stated date and hour. In the absence of a quorum, a majority of the Directors present at the Directors' meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board.

Section 7.11. Attendance at Meetings and Executive Sessions. Regular and special meetings of the Board shall be open to all Members of the Association. The Board may, upon the vote of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, the formation of contracts, and member discipline. Only Directors, and any other persons authorized by the Board, shall be entitled to attend executive sessions. In general terms, the nature of any and all business to be considered in executive session shall first be announced in open session or at the next regularly scheduled Board meeting. Nothing provided in this subsection shall be construed to obligate the Board to first call an open meeting before meeting in executive session with respect to the matters described above.

Section 7.12. Board Action Without Meeting. Subject to the provisions of *Civil Code* Section 4910, any emergency action required to be taken by the Board may be taken without a meeting if all Members of the Board, individually or collectively, consent in writing to that action. Action by unanimous written consent or by written ballot shall have the same force and effect as a properly noticed and voted Board of Director's motion. Such unanimous written consent or written ballot shall be filed with the minutes of the proceedings of the Board. If allowed by law, the Board may take non-emergency actions without a meeting if all Members of the Board, individually or collectively, consent in writing to that action.

ARTICLE 8

OFFICERS

Section 8.1. Officers. The Officers of the Association shall include a President, Vice President, Secretary and Treasurer who must be Directors. The Association may also have, at the discretion of the Board, such other officers as may be appointed in accordance with the provisions of Section 8.3. All Officers, including subordinate Officers, shall be Members of the Association and in Good Standing.

Section 8.2. Election and Term. The Officers of the Association, except such Officers as may be appointed in accordance with the provisions of Section 8.3 of this Article, shall be chosen annually, for a term of one (1) year, by the Board, and each shall hold his or her office until he or she shall resign, or shall be removed or otherwise disqualified to serve, his or her term ends, or his or her successor be elected and qualified.

Section 8.3. Subordinate Officers. The Board may appoint such other Officers as the business of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as the Board may from time to time determine. Subordinate Officers do not need to be Directors.

Section 8.4. Removal and Resignation From Office. Any Officer may be removed, with or without cause, by a majority of the Directors at any meeting of the Board. Any Officer may resign at any time by giving written notice to the Board or the President, or to the Secretary of the Association. Any such resignation shall take effect on the date of the receipt of such notice or at any later time specified in the resignation. Unless otherwise specified in the resignation, the acceptance of the resignation is not required to make it effective.

Section 8.5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in the Bylaws for regular appointment to such office.

Section 8.6. President. The President shall be the chief executive Officer of the Association and shall, subject to the control of the Board, have general supervision, direction and control of the business and Officers of the Association. The President shall preside at all meetings of the Members and at all meetings of the Board. The President, by virtue of his or her office, shall be an ex-officio member of all standing committees, including the Executive Committee, if any, and shall have the general powers and duties of management usually vested in the office of President of a corporation, and shall have such other powers and duties as may be prescribed by the Board or by these Bylaws. The President, at his or her sole discretion, may make motions and vote on such motions or refrain from voting on an issue. Notwithstanding the foregoing, the President shall vote in the case of a tie.

Nothing in this Section shall be construed to limit the President from making or seconding motions, in the absence of such motions by other Directors.

Section 8.7. Vice President. In the absence or disability of the President, the Vice President shall perform all the duties of the President, and when so acting shall have all powers of and be subject to all the restrictions upon the President. The Vice President shall have such other powers and perform such other duties as from time to time may be prescribed for him or her by the Board or these Bylaws.

Section 8.8. Secretary. The Secretary shall keep, or cause to be kept, a book of the minutes at the principal office or such other place as the Board may order of all meetings of Directors and Members, with the time and place of the meeting, whether regular or special, and if special how authorized, the notice given, the names of those present at the Directors' meetings, the number of Members present or represented at Members' meetings and the proceedings of the meeting.

The Secretary shall give or cause to be given, notice of all the meetings of the Members and of the Board required by these Bylaws or by law to be given, and shall keep other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

Section 8.9. Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital and surplus. The books of account shall at all times be open to inspection by any Director.

The Treasurer shall deposit, or cause to be deposited, all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. The Treasurer shall disburse the funds of the Association as may be ordered by the Board, shall render to the President and Directors, whenever requested, an account of all of his or her transactions as Chief Financial Officer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

Section 8.10. Delegation of Duties. The Association, acting by and through the Board, may delegate the duties of any of its Officers to committees or employees, including a professional managing agent.

ARTICLE 9

COMMITTEES

Section 9.1. Executive Committee. The Board of Directors shall have the power to appoint an Executive Committee and to delegate to such Committee any of the powers and authorities of the Board in the management of the business and affairs of the Association, except the power to adopt, amend or repeal Bylaws. The Executive Committee shall be composed of three (3) or more Directors, one (1) of whom shall also be the President.

Section 9.2. Other Committees. Any "Committee of the Board" (that is, a committee consisting only of Directors, as referred to in *Corporations Code* Section 7212) shall consist of two (2) or more

Directors and shall have such powers and duties as the Board shall determine, subject to the limitations of *Corporations Code* Section 7212. The Board may, by resolution of a majority of the Directors then in office, designate one (1) or more advisory committees, to serve at the pleasure of the Board.

Section 9.3. Advisory Committees. The Board may, by resolution of a majority of the Directors then in office, designate one (1) or more advisory committees, to serve at the pleasure of the Board. Advisory committees shall consist of at least two (2) Members (who may also be Directors) and shall have no authority to take any independent action.

Section 9.4. Meetings and Actions of Committees of the Board. Meetings and actions of Committees of the Board shall be governed by, and held and taken in accordance with, the provisions of Article 7 of these Bylaws, concerning meetings of Directors, with such changes in the context as are necessary. The time for regular meetings of Committees of the Board may be determined either by resolution of the Board or by resolution of the Committee of the Board. Special meetings of Committees of the Board may also be called by resolution of the Board. Notice of special meetings of Committees of the Board shall be given to all Committee members. Minutes shall be kept of each meeting of any Committee of the Board and shall be filed with the Association records. The Board may adopt rules not inconsistent with the provisions of these Bylaws for the governance of any Committee of the Board.

Section 9.5. Effect of Advisory Committee Actions. Unless otherwise expressly provided in the Governing Documents or in the Board resolution authorizing and empowering an advisory committee, all actions of any advisory committee shall be considered advisory to the Board and shall be scheduled on the agenda of the next Board meeting following the advisory committee's action or decision for affirmation, rescission, or modification, as the Board in its discretion deems appropriate.

Section 9.6. Compensation of Committee Members. No person shall receive compensation for any service he or she may render to the Association as a member of a Committee of the Board or as a member of an advisory committee. However, upon approval by the Board, any such person may be reimbursed for his or her reasonable expenses actually incurred in the performance of his or her duties.

Section 9.7. Architectural Committee. The Architectural Committee established pursuant to Article 7 of the Declaration is not a Committee of the Board or an advisory committee, because (1) the Architectural Committee does not exercise powers of the Board but instead has its own independent power to review and approve/ disapprove certain proposed architectural changes within the Development and (2) the Architectural Committee does not operate under the supervision of or at the direction of the Board (however, decisions of the Architectural Committee are appealable to the Board under some circumstances under *Civil Code* Section 4765(a)(5) and Section 7.10 of the Declaration).

Section 9.8. Limitation on Authority. No committee, regardless of Board resolution, may:

(A) Take any final action on any matter that, under the California Nonprofit Mutual Benefit Corporation law, also requires approval of the Members.

(B) Fill vacancies on the Board of Directors or on any committee that has been delegated any authority of the Board.

(C) Amend or repeal Bylaws or adopt new Bylaws.

(D) Amend or repeal any resolution of the Board of Directors that by its express terms is not so amendable or repealable.

(E) Appoint any other committees of the Board of Directors or the Members of those committees.

(F) Approve any transaction: (1) to which the Association is a party and one or more Directors have a material financial interest; or (2) between the Association and one or more of its Directors or between the Association or any person in which one or more of its Directors have a material financial interest.

ARTICLE 10

ASSOCIATION RECORDS AND DOCUMENTS

Section 10.1. Members' Right to Inspect Books and Records The Association shall keep in its principal office for the transaction of business or at such other place within the County as the Board shall prescribe, all records of the Association required under *Civil Code* Section 5200 which shall be made available for inspection and copying by any Member of the Association, by any Member's duly-appointed representative, and by all first Mortgagees, at any reasonable time and for a purpose reasonably related to its interest as a Member or Mortgagee subject to the conditions set forth in *Civil Code* Sections 5200 - 5230. In addition, any petition submitted to the Association by any Member may be provided to a requesting Member at the Board's discretion. The Board shall establish reasonable rules with respect to:

(A) Notice to be given to the custodian of the records by the Member or Mortgagee desiring to make the inspection;

(B) Hours and days of the week when such an inspection may be made; and

(C) Payment of the costs of reproducing copies of documents requested.

Section 10.2. Directors' Right to Inspect Books and Records. Except as otherwise limited by law, every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association. The right of inspection by a Director shall include the right at the Director's expense to make extracts and copies of documents.

Section 10.3. Annual Reports. An Annual Budget Report, financial statement review, and Annual Policy Statement shall be prepared annually by the Association as follows:

(A) Annual Budget Report. The Association shall prepare an Annual Budget Report at least thirty (30) to ninety (90) days before the end of its fiscal year. The Annual Budget Report shall contain the information required by *Civil Code* Section 5300.

(B) Assessment and Reserve Funding Disclosure Summary. The Assessment and reserve funding disclosure summary form prepared pursuant to *Civil Code* Section 5570 shall accompany the Annual Budget Report.

(C) Review of Financial Statement. Pursuant to *Civil Code* Section 5305, a review of the financial statement shall be prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy and distributed by Individual Delivery to each Member of the Association within one hundred twenty (120) days after the close of the Association's fiscal year.

(D) Annual Policy Statement. Within thirty (30) to ninety (90) days before the end of the Association's fiscal year, the Association shall prepare an Annual Policy Statement which shall include all of the following information required by *Civil Code* Section 5310.

Section 10.4. Delivery of Annual Budget Report and Annual Policy Statement. When the Annual Budget Report and Annual Policy Statement are prepared, the Association shall deliver one (1) of the following documents to all Members by Individual Delivery within thirty (30) to ninety (90) days before the end of the Association's fiscal year:

(A) The full Annual Budget Report and Annual Policy Statement; or

(B) A summary of the Annual Budget Report and Annual Policy Statement. The summary shall include a general description of the content of the Annual Budget Report and Annual Policy Statement. Instructions on how to request a complete copy of the Annual Budget Report and Annual Policy Statements at no cost to the Member shall be printed in at least 10-point boldface type on the first page of the summary.

Notwithstanding the foregoing, if a Member has requested to receive the Annual Budget Report and Annual Policy Statement in full, the association shall deliver the full documents to that Member, rather than a summary.

Section 10.5. Documents Provided to Prospective Purchaser.

(A) Each Member shall, as soon as practicable before transfer of title of a Lot, provide to the prospective purchaser the documents and information required by *Civil Code* Section 4525.

(B) Upon written request, the Association shall, within ten (10) days of the mailing or delivery of the request, provide the Member, or any other recipient authorized by the Member, with a copy of these requested items. Upon receipt of a written request, the Association shall provide, on the form described in *Civil Code* Section 4528, a written or electronic estimate of the fees that will be assessed for providing the requested documents. The Association may collect a reasonable fee based upon the Association's actual cost for the procurement, preparation, reproduction, and delivery of the documents requested pursuant to the provisions of this Section.

(C) A cancellation fee for documents specified in subdivision (A) shall not be collected if either of the following applies:

(1) The request was canceled in writing by the same party that placed the order and work had not yet been performed on the order; or

(2) The request was canceled in writing and any work that had been performed on the order was compensated.

(D) The Association shall refund all fees collected pursuant to paragraph (B) if the request was canceled in writing and work had not yet been performed on the order.

(E) If the request was canceled in writing, the Association shall refund the share of fees collected pursuant to paragraph (B) that represents the portion of the work not performed on the order.

(F) The Association shall not impose or collect any Assessment, penalty or fee in connection with a transfer of title or any other interest except the Association's reasonable estimated costs involved with such transfer of title.

Section 10.6. Checks, Drafts, Etc. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed by such person or persons and in such manner as from time to time shall be determined by the Board. All checks must be signed by at least two (2) Directors. However, this check signing authority may be delegated to the Association's property manager or any third party as determined by a majority of the entire Board. Reserve withdrawals shall be signed by at least two (2) Directors.

Section 10.7. Execution of Contracts. The Board, except as in these Bylaws or otherwise provided, may authorize any Officer or Officers, agent or agents to enter into any contract or execute any instrument in the name and on behalf of the Association. Such contract or instrument shall be signed by any two (2) Directors. Such authority may be general or confined to specific instances as may be determined by the Board. Unless so authorized by the Board, no Officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount.

Section 10.8. Fiscal Year. The fiscal year of the Association shall begin on the first (1st) day of January of each year and end on the thirty-first (31st) day of December of each year. The fiscal year of the Association is subject to change from time to time as the Board shall determine.

ARTICLE 11

INDEMNIFICATION

Section 11.1. Indemnification. Every Director, Officer and committee member, past or present, of the Association shall be indemnified by the Association against expenses and liabilities, including

reasonable attorney's fees, incurred or imposed upon him or her in connection with any proceeding in which he or she may be a party, or in which he may become involved, by reason of his or her being, or having been, a Director or an Officer of the Association, or any settlement of such proceedings, except in such cases in which the Director or Officer is adjudged guilty of gross negligence or malfeasance in the performance of his or her duties. Indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

Section 11.2. Member Responsibility to Association and Other Members. Each Member shall be liable to the Association for any damage to the Development caused by the negligence or willful misconduct of the Member or his or her family members, guests, tenants or employees. Each Member shall indemnify, hold harmless, and pay any costs of defense of each other Member from claims for personal injury or property damage occurring within any Lot owned by the indemnitor, provided that this protection shall not extend to any indemnitee whose negligence or willful misconduct caused or contributed to the injury or damage. It is further provided that this Article is not intended to be for the benefit of any insurer and shall not affect nor limit the duty of any insurer to pay any claim which would be payable by the insurer but for this Article.

Section 11.3. No Personal Liability. No member of the Board, or of any committee of the Association, or any Officer of the Association shall be personally liable to any Member, or to any other party, including the Association, for any error or omission of the Association, the Board, its authorized agents or employees, if such person has acted in good faith without willful or intentional misconduct.

ARTICLE 12

AMENDMENTS

Section 12.1. Approval by Members. These Bylaws may be amended only by the affirmative vote (in person, by ballot or by proxy) or by written consent of Members representing a majority of the Voting Power of the Association. So long as required by California law, the vote will be conducted by a secret ballot. The initial deadline may be extended if an insufficient number of ballots, as determined by the Board, has not been received. Thereafter, the deadline to return ballots may be extended for such periods of time as the Board may set. Any amendment shall become effective upon the execution of a Certificate of Amendment by the President and Secretary of the Association that certifies the Amendment was approved in accordance with the terms of these Bylaws.

ARTICLE 13

GENERAL PROVISIONS

Section 13.1. Parliamentary Procedure. In the event of a dispute concerning the procedural aspects of any meetings which cannot be resolved by reference to these Bylaws or applicable law, the matter shall be resolved by reference to an established parliamentary procedure publication as determined by the Board.

Section 13.2. Construction. Unless the context requires otherwise or a term is specifically defined in the Governing Documents, the general provisions, rules of construction, and definitions in the California Nonprofit Mutual Benefit Corporation Law shall govern the construction of these Bylaws.

Without limiting the generality of the above, the masculine gender includes the feminine and neuter, and singular number includes the plural and the plural number includes the singular. All captions and titles used in these Bylaws are intended solely for the reader's convenience of reference and shall not affect the interpretation or application of any of the terms or provisions contained in these Bylaws.

Section 13.3. Conflicts.

(A) To the extent of any conflict between the Governing Documents and the law, the law controls.

(B) To the extent of any conflict between the Articles and the Declaration, the Declaration controls.

(C) To the extent of any conflict between the Bylaws and the Articles or Declaration, the Articles or Declaration control.

(D) To the extent of any conflict between the Rules and Regulations and the Bylaws, Articles, or Declaration, the Bylaws, Articles, or Declaration control.

Section 13.4. References to Code Sections. In the event any of the statutes or laws referenced in the Governing Documents are amended, modified, re-numbered or otherwise changed, the references shall be deemed to refer to the statutes or laws as amended, modified re-numbered or otherwise changed. If a statute or law is repealed deleted, any reference herein shall be deemed to refer to any successor statute or law.