

**SECOND AMENDED AND RESTATED BYLAWS**  
**OF**  
**ROCKY RIDGE PROPERTIES OWNERS ASSOCIATION**

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**SECOND AMENDED AND RESTATED BYLAWS  
OF  
ROCKY RIDGE PROPERTIES OWNERS ASSOCIATION**

**ARTICLE I  
RECITALS AND DEFINITIONS**

Section 1.01. Name of Association. The name of this corporation is Rocky Ridge Properties Owners Association and shall be referred to herein as the "**Association**."

Section 1.02. Association Is Nonprofit. The Association is a California nonprofit mutual benefit corporation and an "association" as defined by California Civil Code section 4080.

Section 1.03. Specific Purpose. The specific and primary purpose of this Association shall be to own, repair, maintain and manage the Common Areas and Common Facilities within the Rocky Ridge common interest development located in the Tahoe City community of Placer County, State of California (the "**Development**") to maintain individual Lots and the Residences within the Rocky Ridge development to the extent and in the manner more particularly described in Article VII of the Declaration, to enforce the Rules and Regulations adopted by the Board of Directors, from time to time, as well as the terms and covenants, conditions and restrictions set forth in of the Declaration, and to otherwise enhance and promote the use and enjoyment of the Common Areas and Common Facilities of the Development by the Owners and residents of Rocky Ridge in common.

Section 1.04. Definitions.

(a) "**Absolute Majority**" shall mean a majority of the Total Voting Power of the Association.

(b) "**Annual Budget Report**" means and refers to the compilation of documents that the Association must provide to its Members on an annual basis (thirty (30) to ninety (90) days prior to the end of the fiscal year) pursuant to Civil Code section 5300 (see Section 12.05, below).

(c) "**Annual Policy Statement**" means and refers to the information, statements and notices that the Association must provide to its Members on an annual basis (thirty (30) to ninety (90) days prior to the end of the fiscal year) pursuant to Civil Code section 5310 (see Section 13.01, below).

(d) "**Articles**" shall mean the Articles of Incorporation of Rocky Ridge Properties Owners Association as they may be amended from time to time, and as filed with the Office of the Secretary of State of California.

(e) "**Association Capital Replacement Projects**" means and refers to any project undertaken by the Association for the major repair or replacement of any Major Capital Improvements within the Development which are included in the Association's Reserve Study and funded by Member contributions to the Association's Reserve Accounts.

(f) "**Board of Directors**" "Board of Directors" or "Board" shall mean the governing body of the Association.

(g) "**Bylaws**" shall mean these Amended and Restated Bylaws of the Association as they shall be adopted by the Board of Directors and Members and any duly-adopted amendments thereof.

(h) "**Capital Improvement**" shall mean the original construction of an improvement that did not previously exist, as distinguished from the repair, upgrading, or replacing of an existing improvement.

(i) "**Common Area**" shall mean all real property referred to in the Covenants, Conditions and Restrictions owned by the Association for the common use and enjoyment of the Owners and Residents of the Development.

(j) "**Contract Purchaser**" and "**Contract Seller**" shall mean the purchaser and the seller, respectively, under an installment land contract in which title to the property is transferred after the final installment payment of the purchase price is made.

(k) "**County**" means the County of Placer, State of California.

(l) "**Davis-Stirling Act**" or "**Act**" means and refers to the Davis-Stirling Common Interest Development Act which is found at Civil Code sections 4000 through 6150.

(m) "**Declaration**" means the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Rocky Ridge Properties Owners Association, recorded in the Official Records of Placer County, California on \_\_\_\_\_, 2017, as Instrument No. \_\_\_\_\_, as such Declaration may be supplemented, amended or modified by a duly recorded subsequent Declaration, or amendment thereto.

(n) "**Development**" shall mean all the real property described in the Declaration comprising the Rocky Ridge planned development.

(o) "**Emergency Meeting**" means and refers to a meeting of the Board of Directors that meets the criteria set forth in Civil Code section 4923 and Section 8.05(e), below.

(p) "**General Notice**" and "**General Delivery**" are used in these Bylaws when notice can be provided to the Members by any of the following methods:

(i) Any method of delivery that constitutes "Individual Notice" (if a particular Member requests to receive General Notices in that manner, then Individual Notice must be used; Civil Code section 4045(b));

- (ii) Inclusion of the notice in a newsletter, website, or similar Association document;
- (iii) Posting a copy of the printed document in a prominent location that is accessible to all Members, so long as the location has been designated for the posting of General Notices by the Association in its Annual Policy Statement; and
- (iv) If the Association has a broadcast television program site or website for the purpose of distributing information on Association business, that site can be used for General Notices.

(q) "**Good Standing**" is a term that is used in these Bylaws and in the Declaration to determine those Members who constitute part of the Voting Power of the Association and are therefore eligible to vote in the election of directors or with respect to any other matter or action that requires the consent or approval of the Members. In order to be in Good Standing, a Member must be current in the payment of all Assessments levied against the Member's Lot and not be subject to any suspension of voting privileges as a result of any disciplinary proceeding conducted in accordance with the due process and disciplinary hearing procedures set forth in Sections 11.05 through 11.08 of the Declaration and Civil Code sections 5900 et seq. Good Standing shall also be a prerequisite for being a candidate for election to the Board of Directors and for continued service on the Board, once elected to office (See Sections 7.04(b) and 7.07(c)(iv), below). An incumbent director who is a party to a Board approved payment plan to retire delinquent Assessments in accordance with Civil Code section 5665 and who is in compliance with the terms of that plan shall be deemed to be in Good Standing for purposes of continued Board service unless the terms of the payment plan call for the director to resign from office.

(r) "**Governing Documents**" shall mean the Articles, Bylaws, Declaration, and Rules, and the policies and resolutions adopted by the Board and distributed to the Members.

(s) If a provision of these Bylaws requires that the Association deliver a document by "**Individual Notice**" or "**Individual Delivery**" then the document must be delivered to the Members by one of the following methods:

(i) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier (addressed to the Member at his or her address appearing on the Association's records);

(ii) E-mail, facsimile or other electronic means so long as the recipient has consented to receiving notice in that fashion. That consent may be revoked in a writing delivered to an officer of the Association or to the Association's manager or management company;

(iii) If a Member has identified a secondary address for delivery of documents included in the Annual Budget Report or notices pertaining to Assessments or Assessment collections, the Association must deliver an additional copy of those notices to the secondary address that is identified (as well as to the primary address provided by the Member).

(t) "**Inspector(s) of Election**" means and refers to the person or persons appointed by the Board of Directors to tabulate ballots and report on the outcome of any election and to discharge the other duties and responsibilities stated in Civil Code section 5110(c) and Section 7.05(d), below. In accordance with Civil Code section 5110(a), there shall be either one or three Inspectors of Election, however the person(s) designated as such may appoint and oversee additional persons to verify signatures and to count and tabulate votes so long as those other designees are independent third parties. Although selection of the Inspector or Inspectors of Election remains in the discretion of the Board, the following individuals are eligible to serve as the Association's Inspector of Election: (i) an independent third party such as a volunteer poll worker with the County registrar of voters, a licensee of the California Board of Accountancy, a notary public, or the Association's legal counsel; (ii) Members of the Association who are not members of the Board of Directors or candidates for election to the Board; and (iii) the Association's General Manager. With the exception of the General Manager or the Association's independent auditor no person or business entity that is currently employed by, or under contract with, the Association may serve as an Inspector of Election.

(u) "**Lot**" means and refers to each residential Lot as shown on the Subdivision Maps for the Development.

(v) "**Major Capital Improvements**" means and refers to any major component of the Development for which the Association has the maintenance, repair, and replacement responsibility under the Declaration. If a Major Capital Improvement has a useful life of thirty (30) years or less, it must be included in the Association's Reserve Study (see Section 12.08, below and Section 4.09(d)(i) of the Declaration).

(w) "**Majority of a Quorum**" means the vote of a majority of the votes cast at a meeting or by written or secret ballot when the number of Members attending the membership meeting in person or by proxy, or the number of ballots cast by ballot equals or exceeds the quorum requirement specified in Section 5.05, below. Any Member who is unable to attend a membership meeting in person may be represented at the meeting by a designated proxy (see Section 4.05, below). For purposes of any Member vote to approve increases in the Regular Assessment that require Member approval or Special Assessments that require Member approval pursuant to Civil Code section 5605, the minimum quorum for valid Member action is more than fifty percent (50%) of the Members (See Section 5.05(a)(i), below).

(x) "**Member**" shall mean an Owner of a Lot in the Development; provided, however, that for purposes of voting on any matter that requires the consent or approval of the Members, including the election of directors, there shall only be one Member for each Lot regardless of how title to a Lot may be held and regardless of the number of persons who are owners of record of the Lot.

(y) "**Operating Rule**" shall be as defined in Section 13.02(a), below, and Section 3.07(c) of the Declaration. A "**Rule Change**" is also defined those Sections of these Bylaws and the Declaration.



(z) "**Owner**" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Development, including Contract Sellers, but excluding Contract Purchasers and excluding those persons having such interest merely as security for the performance of an obligation.

(aa) "**Reserves**" and "**Reserve Accounts**" mean and refer to those funds that the Board of Directors of the Association has identified and set aside for use to defray the future repair or replacement of, or additions to, the Major Capital Improvements within the Development that the Association is obligated to maintain, repair and eventually replace in one or more Reserve Accounts. Funds that are accumulated in Reserve Accounts pursuant to Section 4.09 of the Declaration and California Civil Code sections 5550 through 5570 shall be a Common Expense of the Association. The amounts required to properly fund Reserves (the "**Reserve Funds**") shall be determined annually by the Board in accordance with the standards prescribed by maintenance cost guidelines prepared in accordance with California Civil Code section 5550 and prudent property management practices generally applied in "common interest developments" in the geographic region in which the Development is located. Among other elements, the Reserve planning process set forth in Civil Code section 5550 requires the Board to conduct periodic studies of Reserve Account requirements (each a "**Reserve Study**") which must include a "**Reserve Funding Plan**" that indicates how the Association intends to fund the contributions to Reserve Accounts required to meet the Association's maintenance, repair and replacement obligations. See Section 12.08, below, and Section 4.09(d)(i) of the Declaration).

(bb) "**Residence**" shall mean a residential structure located upon a Lot within the Development.

(cc) "**Resident**" shall mean any person who resides in a Residence within the Development whether or not such person is an Owner as defined in subparagraph (z), above.

(dd) "**Rules**" shall mean the rules and regulations governing the use, occupancy, management, administration, and operation of the Development or any part thereof as adopted and published by the Board of Directors from time to time.

(ee) "**Simple Majority**" shall mean a majority of the votes represented and voting at a meeting at which a quorum is present, or by written ballot in conformity with Corporations Code section 7513, or by secret ballot in conformity with Civil Code sections 5100 and in which the number of votes cast equals or exceeds the number required to establish a quorum.

(ff) "**Voting Power**" means those Members who are eligible to vote for the election of directors or with respect to any other matter, issue or proposal properly presented to the Members for approval at the time any determination of Voting Power is made. To be part of the Voting Power a Member must be in Good Standing

(gg) Other Definitions Incorporated by Reference. Any other capitalized terms in these Bylaws that are not defined in this Article I, shall have the meanings given to those capitalized terms in the Declaration when used herein, unless the context clearly indicates a contrary intention.

**ARTICLE II  
LOCATION OF PRINCIPAL OFFICE**

The principal office of the Association shall be located in Placer County, California or at such other place that is reasonably convenient to the Development as the Board of Directors may from time to time establish.

**ARTICLE III  
MEMBERSHIP**

Section 3.01. Members of the Association. Every Owner of a Lot within the Development is a Member of the Association. Membership in the Association is appurtenant to, and may not be separated from, ownership of a Lot in the Development.

Section 3.02. Term of Membership. Each Owner shall remain a Member until he or she no longer qualifies as such under Section 3.01, 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 3.03. Multiple Ownership of Lots. Ownership of a Lot in the Development shall give rise to a single membership in the Association and each membership held by an Owner shall entitle the Member to one vote on matters requiring the consent or approval of the Members. Accordingly, if more than one person owns a Lot or if title to a Lot is held in the name of a corporation, partnership, limited partnership or trust, all of the co-Owners (regardless of how title is held) shall be deemed to be one Member for voting purposes, although all such Owners shall have equal rights as Members to use and enjoy the Common Areas and Common Facilities of the Development. Any one of the multiple Owners shall be entitled to vote the membership, unless the Secretary of the Association is notified in writing of the Owner designated by his or her co-Owners as having the sole right to vote the membership on their behalf.

If such notification does not occur and more than one of the multiple Owners of a Lot attempts to vote the membership that is appurtenant to that Lot, the Inspector of Elections that has been appointed pursuant to Section 7.05(d), below, shall be empowered to disqualify the vote of that membership. However, the membership shall be considered for purposes of determining whether the quorum requirements applicable to the vote or meeting have been met. If a person owns more than one Lot in the Development, that Owner shall have one membership and membership voting rights with respect to each Lot owned.

Section 3.04. Furnishing Evidence of Membership. A person shall not be entitled to exercise the rights of a Member until such person has advised the Secretary of the Association in writing that he or she is qualified to be a Member under Section 3.01, above, and, if requested by the Secretary, has provided the Secretary with evidence of such qualification in the form of a duly recorded grant deed to the Lot that gave rise to the membership or a currently effective policy of title insurance for that Lot. Exercise of membership rights shall be further subject to the rules regarding record dates for notice, voting and actions by written ballot and eligibility for voting set forth in Section 5.08, below.

## **ARTICLE IV MEMBERSHIP VOTING**

Section 4.01. Single Class of Membership. The Association shall have a single class of membership comprised of those persons who are Owners of Lots in the Development

Section 4.02. Member Voting Rights. On each matter submitted to a vote of the Members, whether at a meeting of the Members called and held pursuant to the provisions of these Bylaws, or a vote conducted by written ballot in accordance with Section 4.06, below, or a secret ballot conducted in accordance with Section 7.05, subparagraphs (b), (d), (f), (g), and (h), below, each Member who is in Good Standing shall be entitled to have one vote for each Lot that the Member owns. Single memberships in which two or more persons have an indivisible interest shall be voted as provided in Section 3.03, above. If a Lot is owned by a trust, corporation, partnership or other entity, the vote attributable to that Lot must be exercised by the trustee or settlor of the trust or by a duly authorized officer of the entity-Owner.

Section 4.03. Eligibility to Vote. Only Members in Good Standing, as defined in Section 1.04(q), above, shall be entitled to vote with respect to any matter requiring the consent or approval of the Members. A Member's Good Standing shall be determined as of the record date established in accordance with Section 5.08, below. In accordance with Civil Code section 5855, the Association shall be obligated to conduct a hearing in order to suspend a Member's voting privileges on the basis of the nonpayment of Assessments, as set forth in Section 13.06 of the Declaration.

Section 4.04. Manner of Casting Votes.

(a) Voting at Membership Meetings. Voting at any membership meeting may be by voice or by ballot; provided, however, that the voting in any election of directors or any other matter identified in subparagraph (e), below, shall be conducted by secret ballot in accordance with Civil Code sections 5110 through 5135 and Section 7.05 subparagraphs (b), (d), (f), (g) and (h), below. The vote on any other issue properly before a meeting of the Members shall be conducted by secret ballot when determined by the chairman of the meeting, in his or her discretion, or when requested by ten percent (10%) of the Members present at the meeting. In this context, the secret ballot need not comply with the double envelope secret balloting rules set forth in Section 7.05(b), below.

(b) Voting by Written Ballot. In addition to voting in person at a meeting, Members' votes may be solicited by written ballot with respect to any issue including the election of directors in accordance with Sections 4.06 and 7.05, below. As noted in subparagraph (e), below, certain matters requiring the vote or consent of the Members must be conducted by use of a mailed, secret, ballot.

(c) Proxy Voting. Although most matters of any significance must be approved by the Members by use of a secret ballot that is mailed to each Member, Members may be represented by proxy at meetings in accordance with Section 4.05, below.

(d) Cumulative Voting. Cumulative voting shall not be permitted in the election of directors.

(e) Secret Ballot Voting Requirements (Civil Code sections 5100-5135). California Civil Code section 5100(a) requires that the following actions requiring the vote or approval of the Members of the Association must be conducted by use of a secret mailed ballot, with the vote conducted in accordance with the requirements of Section 7.05, subparagraphs (b), (d), (f), (g) and (h), below.

- (i) any vote of the Members to approve an increase in the Regular Assessment or imposition of a Special Assessment where Member approval is required under Civil Code section 5605 and Article IV of the Declaration;
- (ii) any vote for the election or removal of directors;
- (iii) any vote to approve amendments to the Governing Documents; and
- (iv) any vote authorizing the granting of exclusive use of any portion of the Common Area pursuant to Civil Code section 4600.

Except for the meeting conducted pursuant to Section 7.05(f), below (i.e., a meeting convened to tabulate and announce the results of a vote conducted by the use of secret mailed ballots) a vote or election that is subject to the secret ballot voting requirements may be conducted entirely by mail.

Section 4.05. Proxies. At all meetings of the Members, including the Annual Meeting, each Member may vote in person or by proxy, except when the election to be held at the meeting is for those items specified in Section 4.04(e), above, and Civil Code sections 5100(a) and 5110 through 5125, the vote shall be solely by secret mailed ballot. All proxies shall be in writing and shall be filed with the Secretary. Every proxy shall be revocable and no proxy shall be valid after the expiration of eleven (11) months from the date of its execution; provided, however, that a proxy shall automatically cease upon conveyance by the Member of his or her Lot. No proxy shall be valid as to those matters addressed in Corporations Code section 7613(g) unless it sets forth the general nature of the matter to be voted on.

Section 4.06. Action by Written Ballot Without a Meeting.

(a) Definition of Written Ballot. A "written ballot" is a ballot which is mailed or otherwise distributed to every Member entitled to vote on the matter and which complies with the requirements of this Section. The term "written ballot" does not include a ballot distributed to Members at a meeting for purposes of conducting a vote of the Members at such meeting.

(b) Written Ballots, Generally. Any matter or issue requiring the vote of the Members, including the election of directors, may be submitted for vote by written ballot without the necessity of calling a meeting of the Members, so long as the requirements for action by written ballot set forth in this Section are met. The determination to seek Member approval for Association actions in this fashion shall be made by a majority vote of the Board of Directors.

Once the determination is made to seek Member approval by written ballot, the Board shall establish a record date (see Section 5.08(a)(iii), below) and distribute a written ballot to every Member in Good Standing by General Delivery not less than thirty (30) days prior to the deadline for voting.

(c) Content of Written Ballots. Any written ballot distributed to the Members to vote on any issue other than the election of directors shall set forth the proposed action and provide an opportunity to specify approval or disapproval of the proposal. Written ballots distributed for the election of directors shall list all candidates who are candidates for election to the Board as of the date when the written ballots are mailed or delivered to the Members and the written ballots shall comply with the secret ballot voting requirements of California Civil Code sections 5100 through 5135 and Section 7.05(b), below, by being prepared in a form that requires that the ballot, itself, not be signed by the voter or otherwise present any identification of the voter by name, Residence or Lot number or address.

The mailed ballots shall be accompanied by two preaddressed envelopes with instructions on how to return the ballots by a stated deadline in order to be counted. Those instructions shall state, at a minimum, that the ballot itself is not to be signed by the voter, but rather is to be inserted into an envelope that is sealed. That sealed envelope shall then be inserted into a second envelope that is also sealed. In the upper left hand corner of the second envelope, the voter shall be instructed to print and sign his or her name, address, and Residence or Lot number that entitles him or her to vote in the election. This second (outside) envelope shall be addressed to the Inspector(s) of Election and the envelope may be mailed or delivered by hand to a location specified by the Inspector(s) of Election.

(d) Balloting Time Requirements. Written ballots shall be distributed to all eligible Members in Good Standing at least thirty (30) days prior to the final date the written ballots must be received by the Association in order to be counted. All written ballots shall provide a reasonable deadline for the return of written ballots to the Association in order to be counted. The deadline for the return of secret written ballots distributed to conduct an election of directors shall be established to coincide with the date of the annual Board or membership meeting at which the Members' ballots are to be tabulated (although the actual final deadline for the return of election ballots can be stated as being the close of business on the last business day preceding the date of that meeting in order to facilitate the tabulation of ballots and announcement of the results of the balloting at the Annual Meeting).

Except in the case of written ballots distributed in the election of directors in accordance with this Section 4.06 and California Civil Code section 5115, the time fixed for the return of written ballots may only be extended if the Board so notifies the Members on the face of the ballot or in the balloting solicitation materials accompanying the ballot and then for no more than two (2) successive periods of thirty (30) days each. If the right to extend the balloting period has been properly reserved, the Board's decision to extend the deadline for the return of ballots shall be agendaized and acted on at a meeting of the Board that is open to attendance by the Members (see Section 8.06, below).

(e) Requirements for Valid Member Action by Written Ballot. Membership approval by written ballot shall only be valid if: (i) the number of votes cast by ballot within the time established by the Board for the return of ballots equals or exceeds the quorum (as specified in Section 5.05, below), that would have been required to be present at a membership meeting if such a meeting had been convened to vote on the proposal; and (ii) the number of affirmative votes equals or exceeds the number of affirmative votes that would have been required to approve the action at a formal membership meeting. In the case of the election of directors, those candidates who receive the highest number of votes, up to the total number of positions on the Board to be filled, shall be the successful, elected candidates. In accordance with Civil Code section 5115(b), a quorum shall be required only if so stated in the Governing Documents or other provisions of law. If a quorum is required, each ballot received by the Inspector of Elections shall be treated as a Member present at a meeting for purposes of establishing a quorum.

(f) Solicitation Rules. Written ballots shall be solicited in a manner consistent with the requirements of Section 5.04, below, pertaining to issuance of notice of Members' meetings. All solicitations of written ballots shall indicate: (i) the number of responses needed to meet the quorum requirement for valid action; (ii) the time by which the written ballot must be received by the Association in order to be counted; and (iii) the percentage of affirmative votes necessary to approve the measure. Written ballots that are distributed in connection with director elections and other membership votes that are subject to the secret ballot voting procedures that are set forth in Civil Code sections 5110 through 5135 (see Section 4.04(e), above) must also conform with those secret ballot voting requirements.

(g) Additional Balloting Procedures. If deemed necessary by the Board of Directors, the written ballot shall be conducted in accordance with such additional procedures, not inconsistent with the provisions of this Section or applicable State law, as may be prescribed by a firm of public accountants or by the Association's legal counsel, who may also be retained to supervise the secrecy and conduct of the balloting process.

(h) Notification of Results of Balloting Process. Upon tabulation of the written ballots, the Board shall notify the Members of the outcome of the vote within thirty (30) days following the close of the balloting process and tabulation of the ballots. If the number of written ballots cast with respect to any matter prior to conclusion of the stated balloting period is insufficient to satisfy the minimum quorum requirements for valid Member action, the Board shall so notify the Members. Written ballots that are solicited with respect to any matter identified in Section 4.04(e), above, shall be tabulated at a duly noticed meeting of the Board or the Members that is open to attendance by all Members (Civil Code section 5120(a)).

(i) Prohibition of Revocation of Written Ballots. Once cast, a written ballot may not be revoked.

(j) Conduct of Informational Meetings. Use of the written ballot procedures set forth in this Section 4.06 shall not preclude the Association from also conducting informational meetings of the Members to provide information or a forum during the prescribed balloting period or from scheduling a Board or membership meeting to coincide with the culmination of the prescribed balloting period.

Section 4.07. Vote of the Members. If a quorum is present, in person or by proxy, the affirmative vote of a majority of the Voting Power so present and voting on any matter (that is, a Majority of a Quorum, as defined in Section 1.04(t), above) shall constitute the act of the Members, unless the approval of a greater number or proportion of Members is required by any provision of the Governing Documents or of law. Members shall be entitled to the results of membership votes conducted at membership meetings or by secret ballot in accordance with Civil Code section 5120(b) (i.e., within fifteen (15) days following the election or vote). In the case of director elections, the candidates receiving the greatest number of votes, up to the number of directors to be elected, shall be elected to fill the vacant positions on the Board,

## **ARTICLE V MEMBERSHIP MEETINGS**

Section 5.01. Place of Meetings of the Members and the Conduct of Meetings. The meetings of the Members shall be held at the offices of the Association within the Development or at such other reasonable place (within the State) and at such time as may be designated by notice of the Board of the meeting. Unless unusual conditions exist, meetings of the Members shall not be held outside of the County. The Board shall permit any Member to speak at any meeting of the Members of the Association (Civil Code section 5000), although the Board shall be entitled to impose reasonable time limits, applicable to all Members, to speak during membership meetings or other reasonable protocols such as restricting Members to speak on particular agenda items only when that item comes up for discussion on the meeting agenda. All meetings of Members shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Association may adopt.

Section 5.02. Annual Meeting. Unless otherwise determined by the Board of Directors, the Annual Meeting of the Members shall be held on the Saturday before Labor Day at the time and place set by the Board of Directors upon proper written notice to all of the Members.

Section 5.03. Special Meetings.

(a) Persons Entitled to Call Special Meetings. A majority of the Board, the president or five percent (5%) or more of the Members may call special meetings of the Members at any time to consider any lawful business of the Association.

(b) Procedures for Calling Special Meetings Requested by Members. If a special meeting is requested by five percent (5%) or more of the Members, rather than being called by the Board of Directors or the president, 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 personally or sent by first-class, certified or registered mail or by telegraphic or other facsimile transmission to the president, the vice president, or the secretary of the Association. Nothing contained in this subparagraph (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 of Directors or the president.

(c) Effect of Approval of Actions at a Special Membership Meeting for Which Voting by Secret Mailed Ballot is Required. In the event that a special meeting of the Members is called in response to a demand for the meeting received from petitioning Members pursuant to subparagraph (a) above, and a Majority of a Quorum of the Members present at the meeting approve an action that must be presented to the Members by use of a secret ballot in accordance with Section 4.04(e), above, the action taken by the Members at the special meeting to approve the proposed action is merely a directive to the Board of Directors to prepare and distribute a secret written ballot to all Members and to comply with the other secret ballot voting requirements and procedures set forth in Section 7.05, subparagraphs (b), (d), (f), (g) and (h), below, so as to afford all Members the opportunity to vote on the proposal. It is only following the conduct of that mailed secret ballot vote and approval by the prescribed number or percentage of affirmative Member votes that the underlying action or amendment shall be approved and become effective.

Section 5.04. Notice of Members' Meetings.

(a) Requirement That Notice Be Given. Notice of all regular and special meetings of the Members shall be sent or otherwise given (in accordance with subparagraph (e), below) to each Member who is eligible to vote at the meeting as of the record date for notice established in accordance with Section 5.08, below.

(b) Time Requirements for Notice. Except in the case of membership meetings called in response to a valid demand therefore received from five percent (5%) or more of the Members, notice of membership meetings shall be given in the manner specified in subparagraph (e) of this Section, not less than ten (10) nor more than ninety (90) days before the date of the meeting. If notice is given by mail and the notice is not given by first-class, registered or certified mail, the notice shall be given not less than twenty (20) days nor more than ninety (90) days before the meeting. When a special meeting of the Members is called in response to a valid Member demand, the Board shall be obligated to send the Members a notice of the special meeting of the Members within twenty (20) days following receipt of the Members' demand and the meeting must be held on a date which is not less than thirty-five (35) nor more than ninety (90) days following the receipt of the request. If notice of the meeting is not given by the Association's Board within the twenty (20) days after receipt of the request, the Members requesting the meeting may give the notice.

(c) Minimum Requirements Regarding Content of Notice. Notices of meetings of the Members shall specify the place, date, and hour of the meeting and: (i) in the case of a special meeting, the general nature of the business to be transacted, and no other business may in that case be transacted, or (ii) in the case of a regular meeting, those matters that the Board of Directors, at the time of giving the notice, intends to present for action by the Members; but any proper matter may be presented at the meeting for such action so long as a quorum is present. The notice of any meeting at which directors are to be elected shall include the names of all those individuals who are nominees for election to the Board at the time the notice is given to the Members. As stated in the following subparagraph (d), certain significant actions may only be acted upon by the Members when the notice of the meeting has informed the Members that the matter or action is on the agenda for action.



(d) Specification of Certain Significant Actions. If action is proposed to be taken at any membership meeting for approval of any of the following proposals, the notice shall also state the general nature of the proposal. Member action on such items is invalid unless the notice or written waiver of notice or consent states the general nature of the proposal(s):

- (i) Removing a director without cause;
- (ii) Filling vacancies on the Board of Directors under those circumstances where a vote of the Members is required pursuant to Section 7.07(d), below;
- (iii) Amending the Articles of Incorporation of the Association, these Bylaws or the Declaration in any manner requiring approval of the Members;
- (iv) Approving a contract or transaction between the Association and one or more of its directors, or between the Association and any corporation, firm or association in which one or more of its directors has a material financial interest;
- (v) Approving any change in the Association's Assessments in a manner requiring membership approval under the Declaration; or
- (vi) Voting upon any election to voluntarily terminate and dissolve the Association.

(e) Manner of Service. Notice of any meeting of the Members shall be given personally, by electronic transmission by the Association, or by mail or other means of written communication, addressed to a Member at the address of the Member appearing on the books of the Association or given by the Member to the Association for purposes of notice. Notices that are given by electronic transmission (meaning by facsimile telecommunication or electronic mail) by the Association are only valid if the transmission complies with Corporations Code section 20 which generally provides that the Member-recipient has provided the Association with an unrevoked consent to the receipt of notices by electronic transmission and the method of transmission is capable of creating a copy in legible tangible form. Furthermore, even when a proper Member consent to receipt of notices electronically has been provided, the Association shall use some other authorized means of notice if the electronic transmission is rejected consecutively on two occasions or if the person issuing the notice on behalf of the Association becomes aware of the inability to transmit the notice electronically.

If no address appears on the Association's books and no other has been given, notice shall be deemed to have been given if either: (i) notice is sent to that Member by first-class mail or telegraphic or other written communication to the Association's principal office, or (ii) notice is published at least once in a newspaper of general circulation in the County. Notice shall be deemed to have been given at the time when the notice is delivered personally or deposited in the mail (postage prepaid) or sent by telegram or other means of written or electronic communication to the recipient.

(f) Affidavit of Mailing. An affidavit of the mailing or other means of giving any notice of any Members' meeting may be executed by the secretary or the assistant secretary of the Association, and if so executed, shall be filed and maintained in the minute book of the Association. Such affidavit shall constitute prima facie evidence that proper notice was given.

Section 5.05. Quorum Requirements.

(a) Quorum Requirements Generally. The following quorum requirements must be satisfied in order to take valid action at any meeting of the Members, by written ballot in accordance with Section 4.06, above, or by secret ballot in accordance with Section 7.05(b), below.

(i) Quorum for Votes on Assessment Increases; Special Assessments; Certain Significant Board Actions. In the case of any secret ballot called or conducted for the purpose of voting on Assessment increases requiring membership approval (see Article IV of the Declaration), or a vote of the Members to approve those matters requiring Member consent pursuant to Section 9.02, below, the quorum requirement for valid action on the proposal shall be the affirmative vote of a Majority of a Quorum of the Members, with the minimum quorum percentage being fifty percent (50%) of the Members, (Civil Code section 5605). Accordingly, by way of example, if an association had 100 members, all in Good Standing and qualified to vote on an Assessment increase, if exactly fifty (50) Members voted in the election, the minimum quorum would be met. Of those fifty Members, if twenty-six (26) of the votes cast were in favor of the increase, the measure would pass.

(ii) Quorum for Valid Action on Other Matters. In the case of a membership meeting or any other action requiring the consent or approval of the Members for which a minimum quorum percentage is not stated or required by law, the presence at any meeting, in person or by proxy, of Members entitled to cast at least fifty percent (50%) plus one of the Voting Power of the Members shall constitute a quorum for the transaction of any business, except as otherwise provided in the Governing Documents. If, however, such quorum shall not be present or represented at any meeting, the Members otherwise entitled to vote at that meeting shall have power to adjourn the meeting from time to time, to be reconvened on a date not less than five (5) days, nor more than thirty (30) days from the date of the adjourned meeting, without notice other than announcement at the meeting, until a quorum shall be present or represented.

(b) Members Represented by Proxy. Members present at a membership meeting in person or by proxy shall be counted towards satisfaction of the quorum requirements specified in this Section 5.05.

(c) Effect of Departure of Members From Meeting. The Members present at a duly called or duly held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum. If a quorum is never established for the meeting, a majority of those Members who are present at the meeting may vote to adjourn the meeting for lack of a quorum but no other action may be taken or business transacted.

(d) Application of Quorum Requirements to Votes Conducted by Secret Ballot. In any vote or election that is required to be conducted by use of a secret ballot meeting the requirements of Civil Code sections 5110 through 5135(see Sections 4.04(e), above, and Section 7.05(b), below) and any other membership vote that is conducted by use of the written balloting process described in Section 4.06, above, each ballot received by the Inspector(s) of Election from Members in Good Standing on or before the deadline established for the return of ballots shall be treated as a Member present at a meeting for purposes of establishing a quorum.

Section 5.06. Adjourned Meeting.

(a) Adjournment, Generally. Any Members' meeting, annual or special, whether or not a quorum is present, may be adjourned to another time and/or place by the vote of the majority of Members present at the meeting. Unless there is an absence of a quorum (in which case no business other than adjournment may be transacted), at the reconvened meeting the Members may take any action that might have been transacted at the original meeting.

(b) Time Limitations for Reconvening an Adjourned Meeting. No meeting may be adjourned for more than forty-five (45) days. In addition, when adjournment is for lack of a quorum, the meeting shall be adjourned to a date that is not less than five (5) or more than thirty (30) days from the original meeting date.

(c) Notice Requirements for Adjourned Meetings. When a Members' meeting is adjourned to another time or place, notice need not be given of the new meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. Notwithstanding the foregoing, if after adjournment a new record date is fixed for notice or voting or a new date for the adjourned meeting is, for any reason, established after adjournment, a notice of the time and place of the adjournment meeting must be given to each Member who on the record date for notice of the meeting is in Good Standing and thus entitled to vote at the meeting.

Section 5.07. Waiver of Notice or Consent by Absent Members.

(a) Waivers and Consents, Generally. If decisions are made or action is otherwise taken by the Members at a meeting where a quorum is present, but for which proper notice was not given to all Members for whatever reason, the decisions or actions made at that meeting will be valid if, either before or after the meeting, each Member entitled to vote who was not present at the meeting (in person or by proxy) consents to the meeting by signing: (i) a written waiver of notice, (ii) a consent to holding the meeting, or (iii) an approval of the minutes. The waiver of notice or consent need not specify the purpose or general nature of business to be transacted at such meeting unless action was taken or is proposed to be taken with respect to any matters specified in Section 5.04(d), above, in which case, the waiver of notice or consent must state the general nature of the matter. All such waivers, consents or approvals shall be filed with the Association records or be made part of the minutes of the meeting.

(b) Effect of a Member's Attendance at a Meeting. Attendance by a Member or his proxy holder at a meeting shall also constitute a waiver of any objections such person may have with respect to notice of that meeting, except when the Member or proxy holder attends the

meeting for the sole purpose of objecting at the beginning of the meeting to the transaction of any business due to the inadequacy or illegality of the notice. Attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting which are required to be described therein pursuant to Section 5.04(d), above, if that objection is expressly made at the meeting.

Section 5.08. Record Dates for Member Notice, Voting and Giving Consents.

(a) Record Dates Established By the Board of Directors. 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 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 of Incorporation, by agreement, or in the California Nonprofit Mutual Benefit Corporation Law. The record dates established by the Board pursuant to this Section must be in accordance with the following requirements:

(i) Record Date for Notice of Meetings. In the case of determining those Members entitled to notice of a meeting, the record date shall not be more than ninety (90) days nor less than ten (10) days before the date of the meeting;

(ii) Record Date for Voting. In the case of determining those Members entitled to vote at a meeting, the record date shall not be more than sixty (60) days before the date of the meeting;

(iii) Record Date for Action By Written Ballot or Mailed Secret Ballot Without Meeting. In the case of determining Members entitled to cast written ballots or secret ballots the record date shall not be more than sixty (60) days before the day on which the first written or secret ballot is mailed or solicited; and

(iv) Record Date for Other Lawful Action. In the case of determining Members entitled to exercise any rights in respect to other lawful action requiring Member approval, the record date shall not be more than sixty (60) days prior to the date of such other action.

(b) Failure of Board to Fix a Record Date. If the Board, for any reason, fails to establish a record date, the following rules shall apply:

(i) Record Date for Notice of Meetings. The record date for determining those Members entitled to receive notice of a meeting of Members, shall be the business day preceding the day on which notice is given, or, if notice is waived, the business day preceding the day on which the meeting is held.

(ii) Record Date for Voting. The record date for determining those Members entitled to vote at a meeting of Members shall be the day of the meeting, or in the case of an adjourned meeting, the day of the adjourned meeting.

(iii) Record Date for Action by Written Ballot or Mailed Secret Ballot Without Meeting. The record date for determining those Members entitled to vote by written ballot or by mailed secret ballot on proposed Association actions without a meeting, when no prior action by the Board has been taken, shall be the day on which the first written or secret ballot is mailed or solicited. When prior action of the Board has been taken, it shall be the day on which the Board adopts the resolution relating to that action.

(iv) Record Date for Other Lawful Action. The record date for determining those Members entitled to exercise any rights in respect to any other lawful action shall be Members at the close of business on the day on which the Board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later.

(v) "Record Date" Means as of Close of Business. For purposes of this subparagraph (b) a person holding a membership as of the close of business on the record date shall be deemed the Member of record.

## **ARTICLE VI MEMBERSHIP RIGHTS**

Subject to the provisions hereof and the provisions of the Declaration, the Members shall have the following rights:

Section 6.01. Use and Enjoyment of Common Areas by Members and Family. Each Member and the members of his or her Family who also reside in the Member's Residence shall be entitled to the use and enjoyment of all roads and other Common Areas and Common Facilities within the Development.

Section 6.02. Assignment of Rights to Tenants and Lessees. Each Owner of a Lot in the Development shall have the right to assign his or her rights as a Member (other than voting rights) to a tenant or lessee residing within the Member's Residence. Such assignment shall only be effective so long as the tenant or lessee 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. At all times the Owner shall remain responsible for compliance by Owner's lessee or tenant with the provisions of the Governing Documents.

Section 6.03. Invitees and Guests. The invitees and guests of a Member shall have the right to use and enjoy the roads and other Common Areas and Common Facilities within the Development, subject to the same obligations imposed on the Owner to observe the rules, restrictions and regulations of the Association as set forth in the Governing Documents.

Section 6.04. Association Rules and Regulations. The right of any person to use and enjoy the Common Areas and Common Facilities within the Development shall at all times be subject to the rules, limitations, and restrictions set forth in these Bylaws, in the Declaration and in the Association Rules, as promulgated by the Board from time to time in accordance with Section 3.07 of the Declaration and Civil Code sections 4340 through 4370 and 4765(a)(1). With the exception of the right of use of any roads within the Development, the Board shall have

the right to impose monetary penalties or to temporarily suspend the use and enjoyment of any recreational Common Facilities for the failure of a Member to pay any Assessments when due under the Declaration, or to comply with any other rule or regulation imposed upon such Member, his or her tenants or guests, pursuant to the Governing Documents; provided, however, that any such suspension shall only be imposed after such person has been afforded the notice and hearing rights more particularly described in Section 13.06 of the Declaration. The adoption of certain Operating Rules, as defined in Section 13.02, below, are subject to statutory obligations to first publish the proposed rules or rule changes to the Members by General Notice, all as more particularly provided in Section 3.07 of the Declaration and Civil Code section 4360(a).

## **ARTICLE VII BOARD OF DIRECTORS**

Section 7.01. General Association Powers. Subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law (California Corporations Code section 7110 et seq.), the Davis-Stirling Common Interest Development Act (California Civil Code section 4000, et seq.) and any limitations contained in any of the Governing Documents of the Association relating to action required to be approved by the Members, the business and affairs of the Association shall be vested in and exercised by, the Association's Board of Directors. Subject to the limitations expressed in Section 10.03, below, the Board may delegate the management of the activities of the Association to any person or persons, management company or committee, provided, however, that notwithstanding any such delegation the activities and affairs of the Association shall continue to be managed and all Association powers shall continue to be exercised under the ultimate direction of the Board (California Corporations Code section 7210).

Section 7.02. Number and Qualification of Directors. The Board of Directors shall be comprised of seven (7) Members who shall be Owners of Lots in the Development whose memberships are in Good Standing (as defined in Section 1.04(q), above).

Section 7.03. Term of Office. The Members shall, in alternate years, elect four (4) Directors and three (3) Directors, respectively, for terms of two (2) years each. Each Director shall serve until the expiration of his or her term and thereafter until a successor is elected, or until the earlier disqualifications, death, resignation, or removal of such Director.

Section 7.04. Nomination of Directors; Qualifications for Candidacy.

(a) Right of Self-Nomination. In accordance with Civil Code section 5105(a)(3), any individual who is a Member in Good Standing shall have the right to place his or her name in nomination for election to the Board of Directors so long as the Member tenders written notice to the Board of Directors of his or her desire to run for election at least sixty (60) days prior to the date of the election.

(b) Qualifications for Service on the Board. In order to be eligible for nomination and election to the Board, the Association secretary must certify that the candidate-Member is in Good Standing with the Association as defined in Section 1.04(q), above. Remaining current in Good Standing shall also be a continuing qualification for a sitting director's continued service on the Board of Directors (see Section 7.07(c)(iv), below). Only one Owner of a Lot can serve on the Board at any time.

(c) Nominating Committee. Although Members in Good Standing have a right of self-nomination under the Civil Code, the Board of Directors shall nevertheless have the discretion to appoint a Nominating Committee to assist the Board in its efforts to advertise an upcoming election, educate interested Members regarding the duties, obligations and standards for service as a director, advise the Board as to improvements or alterations in election procedures; and to assist in identifying as many interested and qualified candidates as possible. The Association Rules may include rules for the Nominating Committee, consistent with Civil Code section 5105(a).

Section 7.05. Election of Directors; Ballot Tabulation and Retention Requirements. The following procedures shall be followed in the election of directors and in the conduct of other Member votes that must be conducted by use of a double envelope, mailed secret ballot (see Section 4.04 (e), above). Under the limited circumstances described in subparagraph (i), below, in which at the close of nominations there are no more qualified candidates than positions on the Board to be filled in the election, the Inspector(s) of Election can affirm the candidates as the duly elected directors by acclamation and without necessity of conducting a vote by secret mailed ballot.

(a) Coordination of Director Elections to Coincide with Date of the Annual Meeting. In accordance with Civil Code section 5115 the annual election of directors must be conducted using a double envelope balloting process that is described in subparagraph (b), below, however the results of the balloting and thus the deadline for voting shall be scheduled to coincide with the annual meeting of the Members. In order to be in compliance with the Civil Code secret balloting procedures, the secret ballots shall be mailed to every Member at least thirty (30) days prior to the date of the annual Membership meeting. However, if for any reason an annual meeting of the Members is not held or the directors are not elected in a secret balloting process that is scheduled to coincide with the date of the annual membership meeting, the directors may be elected using the same secret balloting procedures with the results of the election being tabulated at a special meeting called for that purpose (see subparagraph (f), below). The minimum quorum requirement for valid Member action (Section 5.05(a)(ii), above) shall be satisfied if secret ballots are returned prior to the deadline established for voting from at least fifty percent (50%) plus one of the Members.

(b) Use of Secret Ballots and Ballot Completion Requirements. In accordance with Civil Code section 5115, secret ballots shall be used in the election of directors and with respect to other matters requiring the approval of the Members which are identified in Section 4.04(e), above. The secret ballots, together with two pre-addressed envelopes with instructions on how to return ballots, shall be mailed by first-class mail or delivered by the Association to every Member not less than thirty (30) days prior to the deadline for voting. In order to preserve the confidentiality of the voter, the voter may not be identified by name, address, or Residence or

Lot number on the ballot. The unsigned ballot shall be inserted into an envelope that is sealed and this sealed envelope is, itself, inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, a space or lines shall be presented where the voter can print and sign his or her name, address and Lot number. The second envelope shall be addressed to the Inspector(s) of Election who shall tally the votes. The envelope containing the ballot may be mailed or delivered by hand to the location specified by the Inspector(s) of Election (that location shall be stated in the balloting materials that are mailed to the Members). Any Member may request a receipt from the Inspector of Election to confirm delivery of his or her ballot. Once a secret ballot is received by the Inspector(s) of Election, it shall be irrevocable. The Inspector(s) of Election or the Inspector(s)' designee may verify the Member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated.

(c) Determination of Election Results/Succession to Office. So long as the minimum quorum requirement for valid action has been met, the candidates receiving the highest number of votes, up to the number of vacancies to be filled in the election, shall be elected as directors and shall take office immediately following their election. In the event there is a tie vote between those candidates who receive the lowest number of votes necessary to qualify the candidate for election, the tie shall be broken by random drawing.

(d) Supervision of Election Process; Appointment of Inspector(s) of Election. In order to insure secrecy of ballots and fairness in the conduct of director elections, the Board of Directors shall select an independent third party or parties to serve as the Inspector(s) of Election. The number of Inspectors shall be one or three (see Section 1.04(t), above). This Association has authorized employees of the management company and/or the Association's outside auditors to serve as Inspectors of Election. The person or persons appointed to serve as Inspectors of Election shall have the full powers of an inspector of elections appointed by the Board pursuant to Corporations Code section 7614. Without limiting the foregoing, and in accordance with Civil Code section 5110(c), the Inspector(s) of Election shall do all of the following:

- (i) Determine the number of memberships that are in Good Standing and therefore entitled to vote and the Voting Power of each.
- (ii) Determine the authenticity, validity, and effect of proxies, if any.
- (iii) Determine the existence of a quorum for conduct of the election (each ballot received by the Inspector(s) of Election from Members in Good Standing shall be treated as a Member present at a meeting for purposes of establishing a quorum). Even if a ballot is rejected by the Inspector(s) of Election for voting purposes due to some irregularity or ambiguity relating to the manner in which the Member has marked the ballot to express his or her voting intentions, the ballot may be counted for quorum purposes if the Inspectors, in their discretion, have determined that the ballot was received, completed, and cast by a Member in Good Standing.



- (iv) The Inspector(s) of Election shall be the designated recipient(s) of all Member ballots. Sealed ballots shall at all times be in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) until after the tabulation of the vote and expiration of the time for challenging the election pursuant to Corporations Code section 7527, at which time custody of the ballots shall be transferred to the Association to be stored in a secure place for no less than one year after the date of the election.
- (v) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
- (vi) Count and tabulate all votes.
- (vii) Determine when the polls close.
- (viii) Determine the tabulated results of the election.
- (ix) Perform any acts as may be proper to the conduct of the election with fairness to all Members and in accordance with the Association Rules pertaining to the conduct of elections and sections 5100 through 5135 of the Civil Code.

Inspector(s) of Election shall perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical. If there are three Inspectors of Election, the decision or act of a majority of the Inspectors shall be effective in all respects as the decision or act of all. Any report made by the Inspector(s) of Election is prima facie evidence of the facts stated in the report.

(e) Limitations on Association Election Activities. In accordance with Section 9.02(a)(v), below, the Association shall be prohibited from using Association funds for campaign purposes, as defined in this Section, although this prohibition shall not apply to communications disseminated pursuant to an Association Rule that is intended to comply with the requirement imposed by Civil Code section 5105(a)(1) that all candidates have equal access to Association media to communicate points of view that are reasonably related to the election. As used in this subparagraph (e), "campaign purposes" means the use of Association funds to advocate the election or defeat of any candidate or the inclusion of a candidate's photograph or the prominent presentation of a candidate's name in any communication from the Association or the Board within thirty (30) days of the election (excepting the ballot and the balloting materials or communications that are made to comply with the equal access requirements for all candidates pursuant to Civil Code section 5105(a)(1).

(f) Requirements for the Counting and Tabulation of Ballots. In accordance with Civil Code section 5120(a), the designated Inspector(s) of Election or the Inspector(s)' independent designee must count and tabulate the votes in public at a properly noticed open meeting of the Board of Directors or the Members. This tabulation can take place at the Annual Meeting or at a duly convened Board or membership meeting conducted promptly thereafter which is open to attendance by the Members. Any candidate or other Member of the Association

may witness the counting and tabulation of the votes. No person, including a Member of the Association or an employee of the Association's management company, if any, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated by the Inspector(s) of Election. Nevertheless, to facilitate the timely conduct of the election, the Inspector(s) of Election or the Inspector(s)' duly appointed independent designees may verify the Member's information and signature on the outer envelope of the secret ballot prior to the meeting at which ballots are tabulated. Once a secret ballot is received by the Inspector(s) of Election it shall be irrevocable.

(g) Announcement of the Results of the Election. The tabulated results of the election shall be promptly reported by the Inspector(s) of Election to the Board of Directors of the Association and shall be recorded in the minutes of the next meeting of the Board and shall be available for review by Members of the Association. Within fifteen (15) days of the election, the Board shall give General Notice to all Members of the tabulated results of the election (Civil Code section 5120 (b)).

(h) Retention of Ballots. After tabulation the ballots shall remain in the custody of the Inspector(s) of Election until such time as the period for challenging the election pursuant to Corporations Code section 7527 has expired, whereupon the Inspector(s) shall deliver the ballots to the Association to be stored in a secure place for no less than one year after the date of the election. In the event of a recount or other challenge to the election process, the Association shall, upon written request, make the ballots available for inspection and review by Association Members or their authorized representatives. In order to ensure that ballots are not tampered with or removed, entirely, the Inspector(s) of Election shall be entitled to be in attendance at any such inspection. In the event that a recount of the ballots is required, the recount shall be conducted in a manner that shall preserve the confidentiality of each Member's vote.

(i) Election by Acclamation. If in any election of directors the number of candidates nominated (by the nominating committee or by self-nomination) on the date set for the close of nominations for open seats on the Board equals the number of director seats then up for election, then the Inspector(s) of Election may declare that the nominees have been elected by acclamation and dispense with the requirement and expense of mailing, counting and tabulating the ballots cast for the election, as contemplated by Civil Code sections 5115 through 5125 and subparagraphs (b) and (f), above. Such election by acclamation shall be deemed to satisfy the obligations and requirements of Civil Code section 5100 through 5110 and conducting an election by the use of secret ballots shall not be required in that situation. The authority conferred by this subparagraph (i) shall not affect the Association's obligation to adopt reasonable nomination and election procedures as required by Civil Code section 5105, including the adoption of qualifications for candidates, fair procedures for nomination (including self-nomination) and the selection of one or three Inspectors of Election to perform the duties and responsibilities stated in subparagraphs (d) through (h), above, to the extent that they apply to an election by acclamation.

Section 7.06. Conflicts of Interest. The provisions of Corporations Code sections 7233 and 7234 (relating to the manner in which transactions involving the Association in which a director(s) have a material financial interest must be approved either by a disinterested vote of the Board or by a disinterested vote of the Members) shall apply to any contract or other transaction authorized, approved, or ratified by the Board of Directors or a committee of the Board. Furthermore, a director or member of a committee shall not vote on any of the following matters:

- (a) Discipline of the director or committee member;
- (b) An Assessment against the director or committee member for damage to the Common Area or Common Facilities;
- (c) A request, by the director or committee member, for a payment plan for overdue Assessments;
- (d) A decision whether to foreclose on a lien on the Lot and Residence of the director or committee member;
- (e) Review of a proposed physical change to the Lot and Residence of the director or committee member, pursuant to Article V of the Declaration; and
- (f) A grant of Exclusive Use Common Area to the director or committee member.

Nothing in this Section 7.06 limits any other provision of law or the Governing Documents that govern a decision in which a director may have an interest and the Association Rules may include a Directors' Conflict of Interest Code that supplements or expands on this statutory list of what constitutes a conflict of interest or interested director transaction.

Section 7.07. Vacancies on Board of Directors.

(a) Vacancies, Generally. A vacancy or vacancies in the Board of Directors shall be deemed to exist on the occurrence of any of the following: (i) the death, resignation or removal of a director pursuant to subparagraphs (c) and (d) hereof; (ii) an increase of the authorized number of directors; (iii) the failure of the Members, in any election of directors, to elect the number of directors required to fill all vacancies in that election; or (iv) when a sitting director ceases to own any Lot in the Development.

(b) Resignation of Directors. Except as provided in this subparagraph (b), any director may resign, which resignation shall be effective on giving written notice to the president, the secretary, or the Board of Directors, unless the notice specifies a later time for the resignation to become effective. If the resignation of a director is stated (in the resignation document) to be effective at a future time, the Board of Directors may elect a successor to take office when the resignation becomes effective.

(c) Authority of Board to Remove Directors. Subject to the qualifications set forth in this subparagraph (c), 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:

- (i) has been declared of unsound mind by a final order of court;
- (ii) has been convicted of a felony;
- (iii) fails to attend three (3) regular meetings of the Board of Directors which have been duly noticed in accordance with California Law and these Bylaws; or
- (iv) fails to remain in Good Standing with the Association, as defined in Section 1.04(h), above.

In exercising its discretion to remove a director for his or her failure to attend duly noticed meetings, the Board may consider in mitigation such matters as: medical hardship, business travel, financial hardships, or other factors, being mindful, however, to the benefits that accrue to the Members, as a whole, from the active and regular participation of the full Board of Directors.

In the event that the basis for removal of an incumbent director is the director's failure to remain current in the payment of Assessment obligations to the Association, the Board shall take no action to declare the delinquent director's seat to be vacated unless and until the director has received the Pre-Lien Delinquency Notice prescribed in Section 4.10(b)(i) of the Declaration and Civil Code section 5660 and a period of at least thirty (30) days has elapsed following delivery of that Notice to the Director without payment in full of all delinquent Assessments and other duly levied fees, interest, and reasonable costs of collection. An incumbent director who is a party to a Board-approved payment plan to retire delinquent assessments in accordance with Civil Code section 5665 and who is in compliance with the terms of that plan shall be deemed to be in Good Standing for purposes of continued Board service unless the terms of the payment plan call for the director to resign from office.

(d) Authority of Members to Remove Directors. Except as otherwise provided in subparagraphs (c), (e), (f), and (g) of this Section 7.07, a director may only be removed from office prior to expiration of his or her term by the affirmative vote of a Majority of a Quorum of the Members conducted in accordance with the secret ballot voting requirements set forth in Section 7.05, subparagraphs (b), (d), (f), (g) and (h), above.

(e) Removal by Court Action. The Placer County Superior Court may, in response to a suit filed by any director or the lesser of twenty (20) Members or five (5%) percent of the Members, remove any director determined to be guilty of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the Association. The Association shall be made a party to any such action.

(f) Filling of Vacancies. Vacancies on the Board of Directors shall be filled by a majority vote of the remaining directors though less than a quorum, or by a sole remaining director unless the vacancy is created through removal of a director by action of the Members in which case the vacancy shall be filled by a vote of the Members conducted by secret ballot in accordance with Section 7.05, subparagraphs (b) (d), (f), (g), and (h), above. Furthermore, the Members may elect a director or directors at any time to fill any vacancy or vacancies not filled by the directors by an election conducted in accordance with Section 7.05, above.

(g) Reduction in the Number of Directors. No reduction of the authorized number of directors shall have the effect of removing any director from office prior to expiration of that director's stated term.

## **ARTICLE VIII MEETINGS OF THE BOARD OF DIRECTORS**

### Section 8.01. Place of Meetings; Meetings by Conference Telephone.

(a) Permitted Locations for Board Meetings. Except as otherwise provided in subparagraph (b), below, regular and special meetings of the Board of Directors may be held at any place within the State of California 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. It has been the custom and practice of the Association to hold Board meetings (particularly in the fall and winter months) at a suitable location in the San Francisco Bay Area because many of the directors have a principal residence in that region of the State.

(b) Requirements for Conducting Board Meetings by Conference Telephone or Other Electronic Means. A regular or special meeting of the Board may be held by conference telephone, electronic video screen communications, or other communications equipment so long as the requirements of this subparagraph (b) are satisfied. Participation in a meeting through the use of conference telephone pursuant to this Section constitutes presence in person at the meeting as long as all directors, Members and other permitted meeting participants, if any, participating in the meeting are able to hear one another. Participation in a meeting through the use of electronic video screen communication or other communications equipment constitutes presence in person at the meeting so long as each director participating in the meeting can communicate with all of the other directors concurrently and each director is given the means of participating in all matters coming before the Board. In accordance with Civil Code section 4090(b) a telephone conference meeting of the Board shall be conducted in a manner that protects the rights of Members to attend the meeting (or the portion of a telephone conference meeting that is open to attendance by the Members pursuant to Section 8.06(a), below), and that meeting or portion of the meeting shall be audible to the Members in at least one physical location that is specified in the notice of the teleconference Board meeting and at least one director shall be present at that location.

Section 8.02. Annual Meeting of Directors. Immediately following each annual meeting of Members, the Board of Directors shall hold a regular meeting for the purpose of organization, election of officers, and the transaction of other business. Notice of this meeting shall not be required.

Section 8.03. Other Regular Meetings. Ordinarily, regular meetings of the Board of Directors shall be conducted at least monthly; provided, however, that regular meetings can be held as infrequently as every quarter if the Board's business does not justify more frequent meetings. In order to comply with Civil Code section 5500 (the obligation of the Board to review actual fiscal performance of the Association to budgeted projections of fiscal performance that had been provided to the Members as part of the Annual Budget Report) in no event shall the Board meet on less than a quarterly basis, although one or more of those meetings may be conducted by a use of conference phone technology. The calendar of regular meetings shall be distributed to the Members annually. If the date, time or location for a particular regular meeting is changed for any reason, in which case, notice shall be provided to all directors and to the Members in accordance with Section 8.05, below.

Section 8.04. Special Meetings of the Board. Special meetings of the Board of Directors for any purpose may be called at any time by the President or any two (2) directors.

Section 8.05. Notice of Board Meetings.

(a) Minimum Time Requirements for Giving Notice to Directors. In the case of any special meeting of the Board, and if the Board has not fixed the time and location for regular meetings and provided each director with the schedule for the conduct of regular meetings, notice shall be communicated to each Board member not less than four (4) days prior to the date of the meeting; provided, however, that if the meeting qualifies as an Emergency Meeting (as defined in subparagraph (e), below) or is a special meeting that can be called in executive session (Section 8.06(e), below) the time for providing notice is forty-eight (48) hours prior to the meeting, unless notice is given by first-class mail in which case the four (4) day notice requirement remains in effect. Notice of a meeting of the Board need not be given to any director who has signed a waiver of notice or a written consent to the conduct of the meeting or an approval of the minutes of the meeting (whether before or after the meeting) or who attends the meeting without protesting, prior thereto or at the commencement of the meeting, the lack of notice to that director.

(b) Manner of Giving Notice to Directors. Each director shall be entitled to receive notice of meetings by any one of the following means: by first-class mail, by personal delivery, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, by facsimile, electronic mail, or other electronic means (so long as the director has provided his or her consent to the receipt of notices by electronic transmission).

(c) Notice Contents. The notice of any meeting of the Board shall state the time, place, and purpose of, and the agenda for, the meeting.

(d) Members' Right to Receive Notice of Board Meetings. All Members of the Association shall be given notice of the time and place of all Board meetings (as defined in Section 8.06(a), below), except for "Emergency Meetings" (as defined in subparagraph (e), below), at least four (4) days prior to the date of the meeting. Unless an executive session meeting of the Board is called as an Emergency Meeting, Members are entitled to receive notice of executive session meetings at least two (2) days prior to the meeting, even though the Members may be excluded from attending the executive session under most circumstances (see Section 8.06(e)(iii), below, for Members' limited right of attendance). Notices of Board meetings shall include the agenda for the meeting and shall be given by any method of delivery constituting General Notice, unless a particular Member has notified the Association that he or she desires to have notices of Board meetings sent by some form of Individual Delivery. So long as a Member has consented to receipt of notices by email or other electronic transmission, notice of Board meetings may also be given to that consenting Member by electronic means (Civil Code section 4040(a)(2)).

In addition to the foregoing General Notice requirements for Members, Civil Code section 5855(a) provides that if a particular Member or Members are scheduled for possible disciplinary action on the agenda for a Board meeting, the Board must notify the subject Member(s) in writing, by either personal delivery or Individual Delivery at least ten (10) days prior to the date of the meeting. Any such special notice of possible disciplinary action must contain, at a minimum, the date, time and location of the meeting, the nature of the alleged violation for which the Member(s) is/are being considered for disciplinary action, and a statement that the Member(s) has/ have a right to attend the meeting and address the Board concerning the disciplinary matter. The Board shall meet in executive session if requested by the Member who is the subject of the possible disciplinary action.

(e) Definition of an Emergency Meeting. For purposes of the Member notification requirements set forth in subparagraph (d), above, an "**Emergency Meeting**" of the Board is defined in Civil Code section 4923 to mean a meeting called by the President or by any two members of the Board (other than the President) under circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board and which of necessity make it impracticable to provide prior notice to the Members as required by the Open Meeting Act (see Section 8.06, below). Notice of Emergency Meetings must still be provided to each director (unless the director signs a waiver of notice, in accordance with Section 8.08, below) at least four days in advance of the meeting if the notice is given by mail and at least forty-eight (48) hours prior to the meeting when notice is delivered to a director by one of the other means stated in Section 8.05(b), above.

Section 8.06. Attendance by Members; Common Interest Development Open Meeting Act Provisions. The following provisions reflect the California Common Interest Development Open Meeting Act (California Civil Code section 4900 through 4950):

(a) Meetings Generally Open to Members; Definition of What Constitutes a "Meeting." With the exception of executive session meetings of the Board (see subparagraph (e), below), any Member of the Association may attend meetings of the Board of Directors. For purposes of the Open Meeting Act, the term "meeting" includes (i) any congregation of a majority of the members of the Board at the same time and place to hear, discuss, or deliberate

upon any item of business that is within the authority of the Board, except those matters that may be discussed in executive session; and (ii) a teleconference in which a majority of the members of the Board, in different locations, are connected by electronic means, through audio or video or both (Civil Code section 4090). The Board may not take action on any item of business, as so defined, outside of a meeting, as so defined and use of a series of electronic transmissions (including emails) to conduct a meeting is not permitted except as a means of conducting an Emergency Meeting as defined in Section 8.05(e), above, if all members of the Board individually or collectively consent in writing to that form of Emergency Meeting. Written consent to conduct an Emergency Meeting may be transmitted electronically by the directors. In other respects, the authority that is generally conferred on nonprofit boards by California Corporations Code section 7211(b) to take action by unanimous written consent is not authorized under the Common Interest Development Open Meeting Act.

A Member of the Association shall be entitled to attend a teleconference meeting of the Board that is conducted in accordance with Section 8.01(b), above, or the portion of a teleconference meeting that is open to attendance by the Members, and that meeting or portion of the meeting shall be audible to the Members in a location specified in the notice of the meeting.

The phrase "item of business," as used in the Open Meeting Act means any action within the authority of the Board, except those actions that the Board has validly delegated to any other person or persons, managing agent, officer of the association, or committee of the Board comprising less than a majority of the directors (Civil Code section 4155). Accordingly, if any number of directors congregate for the purpose of generally discussing or receiving advice or instruction on matters of general interest to the Members and/or the Development or matters related to laws or regulations governing common interest developments or nonprofit mutual benefit corporations, and the topics of discussion are not pending or scheduled as intended or possible action items for the Association, the congregation is not a "meeting" that is subject to the open meeting requirements of this Section 8.06. In the event that the decision is made to delegate authority to take certain actions to persons who are not directors or to a committee of the Board comprised of less than a majority of directors, the resolution authorizing that delegation shall clearly state the purpose of the delegation and the scope of authority that is being delegated.

(b) Right of Members to Speak at Meetings. The Board of Directors shall permit any Member to speak at any meeting of the Members or of the Board of Directors, except for Board meetings that are held in executive session pursuant to subparagraph (e), below. Reasonable time limitations can be imposed by the Board or the chairman of the meeting on presentations or statements by Members and, in the case of Board meetings, the agenda for the meeting can designate a specific time for Member statements and comments. Civil Code section 4925(b).

(c) Meeting Agendas; General Restriction of Action to Items on the Agenda. As required by Civil Code section 4920(d) any notice of Board meetings that is required by law to be distributed or made available to the Members must include an agenda for the meeting. Except as provided in subparagraphs (i) through (iv) of this subparagraph (c) or subparagraph (d), below, the Board of Directors may not discuss or take action on any item at a non-Emergency Meeting of the Board unless the item was placed on the agenda that was included in



the notice given to the Members. Members who are not on the Board may, however, speak on issues that are not on the agenda (Civil Code section 4930(a)). Notwithstanding the general rule that Board actions must be restricted to items shown on the meeting agenda, a member of the Board of Directors, a managing agent or other agent of the Board, or a member of the staff of the Board of Directors may do any of the following (Civil Code section 4930(b)):

(i) Directors, managing agents and other agents or staff members of the Board may briefly respond to statements made or question posed by a person speaking at an open Board meeting;

(ii) Directors, managing agents and other agents or staff members of the Board may ask a question for clarification, make a brief announcement, or make a brief report on the director's own activities, whether in response to a question posed by a Member or passed on the director's own initiative;

(iii) The Board or any director may provide reference to, or provide other resources for factual information to, the Board's managing agent or other agents or staff;

(iv) The Board or any director may request the managing agent of the Association or other agents or staff to report back to the Board at a subsequent meeting concerning any matter, or take action to direct the managing agent, other agents or staff to place a matter of business on a future agenda;

(d) Authority to Take Action On Certain Items Not on the Published Agenda. Notwithstanding the general rule that Board actions must be restricted to items shown on the Board meeting agenda, the Board of Directors may take action on any item of business not appearing on the posted meeting agenda under any of the following conditions (Civil Code section 4930(d)):

(i) Upon a determination made by a majority of the Board of Directors present at the meeting that an emergency situation exists. An Emergency Situation exists if there are circumstances that could not have been reasonably foreseen by the Board, that require immediate attention and possible action by the Board, and that, of necessity, make it impracticable to provide notice.

(ii) Upon a determination made by the Board by a vote of two-thirds of the members of the Board who are present at the meeting, or, if less than two-thirds of total membership of the Board is present at the meeting, by a unanimous vote of the Board Members present, that there is a need to take immediate action and that the need for action came to the attention of the Board after the agenda for the meeting was posted and distributed to the Members; or

(iii) The item appeared on an agenda that was posted and distributed pursuant to the Members for a prior meeting of the Board of Directors that occurred not more than thirty (30) calendar days before the date that action is taken on the item and, at the prior meeting, action on the item was continued to the meeting at which the action is taken.

Before discussing any item pursuant to this subparagraph (d), the Board of Directors shall openly identify the item to the Members in attendance at the meeting.

(e) Executive Session Board Meetings.

(i) Definition of What Constitutes an Executive Session. An executive session meeting of the Board is a meeting that is conducted by the Board of Directors that is not open to attendance by all Members and which is convened to consider and potentially to act upon one or more of the following matters only (Civil Code section 4935(a)): (i) litigation in which the Association is or may become a party; (ii) matters relating to the formation of contracts with third parties; (iii) Member discipline; (iv) personnel matters, or (v) to meet with a Member, upon the Member's request, regarding the Member's payment of Assessments pursuant to a payment plan, as specified in n Civil Code section 4935(c).

(ii) Manner in Which Executive Session Meetings May be Called. The Board can adjourn for purposes of meeting in an executive session, on the affirmative vote of a majority of the directors present at a meeting that is open to attendance by the Members at which a quorum has been established or an executive session meeting can be called independent from any open meeting of the Board (Civil Code section 4935(a)).

(iii) Executive Sessions to Address Member Disciplinary Matters. The Board must meet in executive session if requested by a Member who may be subject to a fine, penalty, or other form of discipline and the Member who is the subject of the disciplinary proceeding shall be entitled to attend the executive session.

(iv) Executive Sessions Called to Meet With a Delinquent Member. In the event that a Member who has received a Pre-Lien Notice from the Association pursuant to Civil Code section 5660 (regarding an Assessment delinquency) requests a meeting before the Board in executive session to discuss a payment plan, the Board shall meet with the Member within forty-five (45) days following receipt of the Member's request, so long as the request is mailed within fifteen (15) days of the postmark of the Pre-Lien Notice.

(v) Reporting of Executive Session Meetings in the Minutes. Any matter discussed in executive session shall be generally noted in the minutes of the immediately following Board meeting that is open to the entire membership (Civil Code section 4935(e)). Although the phrase "generally noted in the minutes" is not further defined in Civil Code section 4935(e), any description of the actions or topics that are appropriately discussed or acted upon in an executive session meeting should be described in a manner that is consistent with the purpose and intent of the executive session, namely to preserve the confidentiality of what was discussed and the opinions that were expressed during the meeting.

(f) Board Meeting Minutes; Right of Members of Obtain Minutes. The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board of Directors, other than minutes of an executive session, shall be available to the Members within thirty (30) days of the meeting (Civil Code section 4950(a)). The minutes, proposed minutes, or summary minutes shall be distributed to any Member upon request and upon reimbursement of the Association's costs in making that

distribution. Members of the Association shall be notified in the Association's Annual Policy Statement distributed to the Members pursuant to Civil Code section 5310 of their right to have copies of the minutes of meetings of the Board of Directors, and how and where those minutes may be obtained.

Section 8.07. Quorum Requirements. A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 8.09, below. 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 of Directors, subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law, especially those provisions relating to: (i) approval of contracts or transactions in which a director has a direct or indirect material financial interest, (ii) appointment of committees, and (iii) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors below a quorum, if any action taken is approved by at least a majority of the required quorum for that meeting, or such greater number as is required by these Bylaws, the Articles or by law.

Section 8.08. Waiver of Notice. The transaction of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if: (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present, individually or collectively, signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents, and approvals shall be filed with the Association records or made a part of the minutes of the meeting and shall have the same force and effect as a unanimous vote of the Board. The requirement of notice of a meeting shall also be deemed to have been waived by any director who attends the meeting without protesting the lack of proper notice either before or at the inception of the meeting.

Section 8.09. Adjournment. A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of adjournment to any other time or place shall be given prior to the time of the adjourned meeting to the directors who are not present at the time of the adjournment. Except as provided above, notice of adjournment need not be given.

Section 8.10. Compensation of Directors, Officers, and Committee Members. Directors, officers and members of committees shall not be entitled to compensation for their services as such, although they may be reimbursed for such actual expenses as may be determined by resolution of the Board of Directors to be just and reasonable. Expenses for which reimbursement is sought shall be supported by a proper receipt or invoice.

**ARTICLE IX  
DUTIES AND POWERS OF THE BOARD**

Section 9.01. Specific Powers and Duties.

(a) Board Powers. Powers. In addition to such other powers as may be expressly set forth in the Governing Documents or provided by law, the Board of Directors shall have the power to:

(i) Rules and Regulations. Adopt, publish, amend, repeal, and enforce rules and regulations governing the administration, management, operation, use, and occupancy of the Development, including the use of the Common Area and facilities, the personal conduct of the Members and their tenants and guests within the Development, and any other matter which is within the jurisdiction of the Association;

(ii) Contracts. Authorize any officer or officers to enter into any contract in the name of, or on behalf of, the Association. Unless expressly authorized by resolution of the Board, no officer shall have any power or authority to bind the Association or to render the Association liable for any purpose or on any account.

(iii) Determination of Good Standing. Determine, after notice to the Member and an opportunity for a hearing by the Board, that a Member is not in Good Standing. A Member found by the Board to be not a Member in Good Standing shall continue in that status until the Board shall make a determination, either upon the Board's own ' initiative or upon the request of the Member, that such Member is, once again, a Member in Good Standing of the Association;

(iv) Hearings; Continuing Violations. Establish and impose monetary penalties (fines) for the infraction of any provision of the Governing Documents, in accordance with a schedule of monetary penalties adopted by the Board and distributed to all Members and suspend the voting or other membership rights and privileges of a Member, including the right to use the recreational facilities during any period in which such Member shall be in default in the payment of any assessment, fine, or other charge levied by the Association, and/or for any infraction of the Governing Documents;

When the Board is to meet to consider or impose discipline upon a Member, the Board shall notify the Member in writing, by either personal delivery or first-class mail, at least ten (10) days prior to the meeting. The notification shall contain, at a minimum, the date, time, and place of the meeting, the nature of the alleged violation for which a member may be disciplined, and a statement that the member has a right to attend and may address the Board at the meeting. The Board shall meet in executive session if requested by the Member being disciplined. If the Board imposes discipline on a member, the Board shall provide the member a written notification of the disciplinary action, by either personal delivery or first-class mail, within fifteen (15) days following the action. A disciplinary action shall not be effective against a Member unless the Board has fulfilled the foregoing requirements.

(v) Manager Engage the services of a manager or management company as either an employee or an independent contractor, and engage such other employees or independent contractors as the Board may deem necessary, and to prescribe their duties;

(vi) Professional Advisors. Consult with, seek the advice of, and reasonably rely on the advice of attorneys, accountants, and other professionals in carrying out its authority and responsibility under the Governing Documents and the law, and to pay for such professional services;

(vii) Mergers. To the extent permitted by law, participate in mergers and consolidations with other nonprofit organizations organized for the same purposes as this Association, provided that any such merger or consolidation shall be approved by the affirmative vote or written consent of at least two-thirds (2/3) of the Total Voting Power of the Association; and

(viii) Other Powers and Duties. Exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the Members by other provisions of the Governing Documents, and undertake any action on behalf of the Association as the Board shall deem necessary or proper in furtherance of the purposes and powers of the Association and/or the interests of the Association and its Members.

(b) Duties of the Board. . It shall be the duty of the Board of Directors to:

(i) Records and Minutes. Cause to be kept a complete record of all its acts and the corporate affairs, including an accurate and current record of the Members setting forth their names and addresses, adequate and correct books and records of account, and minutes of the proceedings of the Members, the Board, and committees of the Board;

(ii) Pro Forma Budget. Prepare and distribute to the Members annually a pro forma operating budget as required by Civil Code section 5300 and Section 12.05, below.

(iii) Reserve Study. In accordance with Civil Code sections 5550 through 5580 and Section 12.06, below, at least once every three (3) years, the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components which the Association is obligated to repair, replace, restore or maintain as part of a study of the Reserve Account requirements of the Association.

(iv) Investment of Reserve Funds. Manage and invest Association reserve funds in a prudent manner designed to achieve the primary objective of preserving principal while realizing a reasonable return and to assure the availability of funds as they are needed based upon the most recent Reserve Fund study obtained by the Board as provided in these Bylaws and by law;

(v) Review of Annual Financial Statement. In accordance with Section 12.05(b), below, For any fiscal year in which the gross income to the Association exceeds Seventy-five Thousand Dollars (\$75,000.00), distribute to all Members of the Association within one hundred twenty (120) days after the close of such fiscal year a review of the financial

statements of the Association prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy;.

(vi) Notification Regarding Insurance Coverage. Make all insurance coverage disclosures to members required by Civil Code section 5810 and Article X of the Declaration.

(vii) Annual Disclosures to Members. Annually distribute to the Members the Annual Budget Report and the Annual Policy Statement and other disclosures required by law’.

(viii) Enforcement of Governing Documents. Enforce the provisions of the Governing Documents, as more particularly set forth in the Declaration, and perform all acts required of the Board under the Governing Documents or required by law.

Section 9.02. Limitations on Powers of the Board.

(a) Prohibited Actions. The Association is prohibited from taking any of the following actions:

(i) Denial of Access to Residences and Lots. Except as otherwise provided in law, or order of the court, or an order pursuant to a final and binding arbitration decision, the Association shall not deny an Owner or occupant physical access to his or her Residence or Lot either by restricting access through the Common Areas to the Owner’s Residence or by restricting access solely to the Owner’s Residence and Lot;

(ii) Assignments or Pledges of Future Assessment Obligations. The Association may not voluntarily assign or pledge the Association’s right to collect payments or Assessments or to enforce or foreclose a lien to a third party except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or State law when acting within the scope of that charter or license as security for a loan obtained by the Association; however, the foregoing provision may not restrict the right or ability of the Association to assign any unpaid obligations of a former Member to a third party for purposes of collection;

(iii) Rules Unreasonably Restricting Sales. The Association shall not adopt a Rule or regulation that arbitrarily or unreasonably restricts an Owner’s ability to market the Owner’s Residence and Lot;

(iv) Exclusive Broker Relationships. The Association shall not establish an exclusive relationship with a real estate broker through which the sale or marketing of Residences or Lots is required to occur; or

(v) Use of Association Funds for Campaign Purposes. The Association shall be prohibited from using any Association funds for campaign purposes in connection with the election of directors. Funds of the Association may be used for campaign purposes in connection with any other Association election to the extent necessary to comply with duties of the Association that are imposed by law. For purposes of these limitations, "campaign purposes"

include, but are not limited to: (A) expressly advocating the election or defeat of any candidate that is on the election ballot; and (B) inclusion of the photograph or prominently featuring the name of any candidate on a communication from the Association or its Board of Directors, excepting the ballot and ballot materials, within thirty (30) days of an election. This restriction shall not apply to any communication that is made in as part of an Association's efforts to ensure that all candidates are provided with access to Association media, newsletter, or Internet Web sites during a campaign, for purposes that are reasonably related to that election.

(b) Board Actions Requiring Member Approval. The Board of Directors shall not take any of the following actions without the consent of a simple majority of the Members constituting a quorum of more than fifty percent (50%) of the Voting Power of the Members of the Association:

(i) Enter into a contract with a third party for the furnishing of goods or services to the Common Areas or the Association for a term longer than one year. This restriction shall not apply to:

(A) FHA or VA approved management contracts;

(B) public utility contracts where the rates charged for materials or services are regulated by the Public Utilities Commission; provided, however that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(C) prepaid casualty or liability insurance policies not to exceed three years, provided the policies provide for short rate cancellation by the insured;

(D) agreements for cable television services and equipment or satellite dish television services and equipment of not to exceed five (5) years duration; and

(E) any contract that is for a term not to exceed three years so long as the contract is terminable by the Association after no longer than one year without cause, penalty or other obligation upon ninety (90) days prior written notice of termination to the other party.

(ii) Incur aggregate expenditures for capital improvements to the Common Areas in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that year.

(iii) Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(iv) Pay compensation to members of the Board of Directors or the officers of the Association; provided, however, that directors and officers can be reimbursed for reasonable out-of-pocket expenses, verified in writing, incurred in carrying on the business of the Association.

(v) Fill any vacancy on the Board of Directors created by the removal of a director by election of the Members.

## **ARTICLE X COMMITTEES**

Section 10.01. Appointment of Committees, Generally. The Board may appoint an Architectural Control Committee, as provided in Article V of the Declaration, and a Nominating Committee, as provided in Section 7.04(c), above, and may appoint such other committees as it deems appropriate in carrying out the powers and purposes of the Association. Any "committees of the Board" (that is, a committee consisting only of Directors, as referred to in Corporations Code section 7212) shall consist of at least two (2) Directors and shall have such powers and duties as the Board shall determine, subject to the limitations of section 7212. The Board shall appoint all of the members of any committee created by the Board.

Section 10.02. Powers of Committees. Committees appointed by the Board shall not have the authority of the Board of Directors with respect to matters that are identified by the Board, in its resolution forming the committee, as being within the committee's area of assigned and delegated responsibility. Instead, committees appointed by the Board shall serve in an advisory capacity to the Board of Directors for the purpose of facilitating and expediting the Board's review and decision-making process as to matters that are within the initial purview of the committee, as established and described in the Board's resolution establishing the committee.

Section 10.03. Meetings and Actions of Committees. Duly appointed committees of the Association shall meet with such frequency as is considered necessary or appropriate to accomplish the tasks and to perform the duties that have been delegated to the committee. All members of a committee shall receive at least forty-eight (48) hours' prior notice of meetings. Notices may be given in writing, electronically, or in person or by telephone (so long as committee member responds to the call or a voice mail message is left). Special meetings of committees may also be called by resolution of the Board of Directors.

## **ARTICLE XI OFFICERS**

Section 11.01. Officers. The officers of the Association shall be a President, a Vice President, a Secretary and a Chief Financial Officer. The Association may also have, at the discretion of the Board, one (1) or more assistant Secretaries, one (1) or more assistant Treasurers, and such other officers as may be appointed in accordance with the provisions of Section 11.03, below. Any person may hold two (2) or more offices, except that neither the Secretary nor the Chief Financial Officer may serve concurrently as President.

Section 11.02. Election of Officers. The officers of the Association, except such officers as may be appointed in accordance with the provisions of Sections 11.03 and 11.06, below, shall be chosen annually by majority vote of the Board at its first regular meeting following the annual



meeting of the Members or the election of directors, and each shall hold his or her office until he or she shall resign or shall be removed or otherwise disqualified to serve, or his or her successor shall be elected and qualified.

Section 11.03. Subordinate Officers. The Board may appoint, and may empower the President to appoint, such other officers as the affairs 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 the Bylaws and as the Board may from time to time determine.

Section 11.04. Removal of Officers. Any officer may be removed, either with or without cause, by the Board at any regular or special meeting.

Section 11.05. Resignation of Officers. Any officer may resign at any time by giving written notice to the Board or to the President or to the Secretary. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Association under any contract to which the officer is a party.

Section 11.06. 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 appointments to such office.

Section 11.07. President. The President shall be elected by the Board from among the directors. 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 affairs and officers of the Association. The President shall preside at all meetings of the Board, and shall have the general power and duties of management usually vested in the office of President of a corporation, together with such other powers and duties as may be prescribed by the Board or the Bylaws.

Section 11.08. Vice President. The Vice President shall be elected by the Board from among the directors. 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 the 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 by the Board or the Bylaws.

Section 11.09. Secretary. The Secretary shall be elected by the Board from among the directors. The Secretary shall have the following duties: (a) maintaining or causing to be maintained at the principal office of the Association a book of minutes of all meetings of directors and Members, with the time and place of holding same, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at directors' meetings, the number of Members present in person or by proxy at Members' meetings and the proceedings thereof; (b) maintaining or causing to be maintained appropriate current records showing the Members of the Association, (c) notice of all meetings of the Board and the Members that are required by these Bylaws or by law to be given; and (d) the Secretary shall

have such other powers and preform such other duties as may be prescribed by the Board or by these Bylaws.

Section 11.10. Chief Financial Officer. The Chief Financial Officer, who shall be known as the Treasurer, shall be elected by the Board from among the directors. The Treasurer shall: (a) 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, retained earnings and other matters customarily included in financial statements; (b) deposit 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; (c) disburse the funds of the Association as may be ordered by the Board; (d) render to the President and directors whenever they request it, an account of all of his or her transactions as Treasurer and of the financial condition of the Association; and (e) shall have such other powers and perform such other duties as may be prescribed by the Board or by these Bylaws. The books and records of the Association shall at all reasonable times be open to inspection by any director or Member. If required by the Board, the treasurer shall give the Association a bond in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of his or her office and for restoration to the Association of all its books, papers, vouchers, money, and other property of every kind in his or her possession or under his or her control on his or her death, resignation, retirement, or removal from office.

## **ARTICLE XII MEMBER ASSESSMENT OBLIGATIONS AND ASSOCIATION FINANCES**

Section 12.01. Description of Assessments to Which Owners Are Subject. Owners of Lots within the Development are subject to Annual, Special, Emergency, and Reimbursement Assessments as more particularly described in Article IV of the Declaration.

Section 12.02. Checks. All checks or demands for money and notes of the Association shall be signed by the president and treasurer or by such other officer or officers or such other person or persons as the Board of Directors may from time to time designate. Notwithstanding the foregoing, in accordance with Civil Code section 5510(a), any withdrawal of funds from Association Reserve Accounts shall require the signature of two directors or an officer (who is not also a director) and a director.

Section 12.03. Operating Account.

(a) The Association shall establish and maintain a cash deposit account to be known as the "***Operating Account***" into which shall be deposited the operating portion of all Regular and Special Assessments as fixed and determined for all Members. Disbursements from such account shall be for the general need of the operation including, but not limited to, wages, repairs, betterments, maintenance, and other operating expenses of the Development.

(b) Reserve Accounts. The Association shall also maintain one or more Reserve Accounts which shall be the repository of funds (***Reserve Funds***) that the Association has set aside for Association Capital Replacement Projects, as defined in Section 1.04(d), above.

(c) Maintenance of Other Accounts. The Association shall have the authority and the discretion to maintain any other accounts it shall deem necessary to carry out its purposes under the Act and the Governing Documents.

Section 12.04. Use of Generally Accepted Accounting Principles in the Maintenance of Accounts. All Association books of account shall be maintained in accordance with generally accepted accounting principles.

Section 12.05. The Association's Annual Budget Report. Not less than thirty (30) days nor more than ninety (90) days before the end of the Association's fiscal year the Association shall distribute an Annual Budget Report to its Members.

(a) Required Content of the Annual Budget Report. The Annual Budget Report must include the following information:

(i) Pro-Forma Operating Budget. The Annual Budget Report shall include a pro forma operating budget, showing the estimated revenue and expenses on an accrual basis.

(ii) A Summary of the Association's Reserves. The Annual Budget Report shall include a summary of the Association's Reserves, based on the most recent Reserve Study conducted pursuant to Civil Code section 5550, prepared pursuant to Civil Code section 5565 and Section 12.08, below.

(iii) A Summary of the Association's Reserve Funding Plan. The Annual Budget Report shall include a summary of the Reserve Funding Plan adopted by the Board, as specified in Civil Code section 5550(b)(5). The summary shall include notice to Members that the full Reserve Funding Plan is available upon request, and the Association shall provide the full Reserve Funding Plan to any Member upon request.

(iv) Disclosure of Decisions to Defer Major Repairs or Replacements. If the Board has decided not to undertake needed repairs or replacements of Major Capital Improvements for which the Association is responsible, the Annual Budget Report shall include a disclosure of that decision, including a justification for the deferral or decision not to undertake the repairs or replacement.

(v) Disclosure of Any Special Assessment(s) that is/are Needed to Abide by the Reserve Funding Plan. The Annual Budget Report shall include a statement as to whether the Board, consistent with the Reserve Funding Plan adopted pursuant to Civil Code section 5560 and Section 12.08, below, has determined or anticipates that the levy of one or more Special Assessments will be required to repair, replace, or restore any Major Capital Improvements or to provide adequate Reserves therefor. If so, the statement shall also set out the estimated amount, commencement date, and duration of the Special Assessment.

(vi) Statement of Anticipated Funding Methods. The Annual Budget Report shall include a statement as to the mechanism or mechanisms by which the Board will fund Reserves to repair or replace Major Capital Improvements, including the levy or increase in Assessments, borrowing, the use of other assets, deferral of selected replacement or repair projects, or alternative mechanisms.

(vii) A Statement of How Reserve Funding Requirements Have Been Calculated. The Annual Budget Report shall include a general statement addressing the procedures used for the calculation and establishment of those Reserves to defray the future repair, replacement, or additions to Major Capital Improvements within the Development. The statement shall include, but need not be limited to, Reserve calculations made using the formula described in Civil Code section 5570(b)(4), and may not assume a rate of return on cash Reserves in excess of two percent (2%) above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made. NOTE: Subparagraph (c), below requires the Annual Budget Report to also include the Assessment and Reserve Funding Disclosure Summary form, prepared pursuant to Civil Code section 5570.

(viii) Disclosure Regarding the Basic Terms of any Long-Term Loan Obligations. The Annual Budget Report shall include a statement as to whether the Association has any outstanding loans with an original term of more than one year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.

(ix) Summary of Association-Maintained Insurance. Finally, the Annual Budget Report shall include a summary of the Insurance Policies that the Association is maintaining, including policies for property insurance, general liability insurance, earthquake, flood, and fidelity insurance. For each policy, the summary shall include the name of the insurer, the type of insurance, the policy limit, and the amount of the deductible, if any. To the extent that any of the required information is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it with the Annual Budget Report. The summary distributed pursuant to this subparagraph (ix) shall contain, in at least 10-point boldface type, the following statement:

This summary of the Association's policies of insurance provides only certain information, as required by Section 5300 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association Member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or real property improvements to or around your Lot or Residence, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association Members should consult with their individual insurance broker or agent for appropriate additional coverage."

(b) Manner of Distributing the Annual Budget Report. The Annual Budget Report shall be made available to the Members by some form of Individual Delivery. Furthermore, if a Member requests full copies of the reports, full copies must be provided to that Member.

(c) Inclusion of Civil Code Assessment and Reserve Disclosure Summary Form. The Assessment and Reserve Funding Disclosure Summary form, prepared pursuant to Section 5570, must accompany each Annual Budget Report or summary of the Annual Budget Report that is delivered pursuant to this Section. Although subparagraphs (a) (i) through (a)(ix) of this Section 12.05 often speak of a summary of various reports or documents being included in the Annual Budget Report, the Association may deliver copies of the full report or document and if a summary is provided, the summary shall include instructions on how to request a complete copy of the report at no cost to the Member shall be printed in at least 10-point boldface type on the first page of the summary and if a particular Member has requested that all reports be sent in full, the Association must deliver the full report to that Member, rather than a summary of the report.

Section 12.06. Year-End Review of the Association's Financial Statement. Within one hundred twenty (120) days after the close of the fiscal year, the Association shall distribute to its Members, by Individual Delivery a review of the financial statement of the Association, prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy, for any fiscal year in which the gross income to the Association exceeds seventy-five thousand dollars (\$75,000).

Section 12.07. Review of Accounts. On no less than a quarterly basis, the Board of Directors shall:

- (a) Review a current reconciliation of the Association's operating accounts;
- (b) Review a current reconciliation of the Association's Reserve Accounts;
- (c) Review the current year's actual Reserve revenues and expenses compared to the current year's budget;
- (d) Review the Association's latest account statements prepared by the financial institution(s) with whom the operating and Reserve Accounts are lodged; and
- (e) Review the Association's income and expense statement for the Operating and Reserve Accounts.

Section 12.08. Required Reserve Studies. At least once every three (3) years, the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the Major Capital Improvements within the Development for which the Association is responsible and which have a remaining useful life of thirty (30) years or less as part of a study of the Association's Reserve Account requirements if the current replacement value of the Major Capital Improvements for which the Association is responsible is equal to or greater than one-half of the gross budget of the Association, excluding the Association's Reserve

Accounts for that period. The Board shall review this Reserve Study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the Board's analysis of the Reserve Account requirements for the Association Capital Replacement Projects as a result of that review.

The Reserve Study required by this Section 12.08 shall at a minimum include the following information:

(a) Identification of each of the Major Capital Improvements that are an Association responsibility to repair, maintain, or replace;

(b) Identification of the probable remaining useful life of the Major Capital Improvements identified in subparagraph (a) as of the date of the Reserve Study;

(c) An estimate of the cost of repair, replacement, restoration, or maintenance of the Major Capital Improvements identified in subparagraph (a).

(d) An estimate of the total annual contribution necessary to defray the cost the Association Capital Replacement Projects identified in subparagraph (a) during and at the end of the useful life of the Major Capital Improvements, after subtracting total Reserve Funds as of the date of the study.

(e) A Reserve Funding Plan that indicates how the Association plans to fund the contribution identified in subparagraph (d) to meet the Association's obligation for the repair and replacement of the Major Capital Improvements which have an expected remaining life of thirty (30) years or less, not including those components that the Board has determined will not be replaced or repaired. This Reserve Funding Plan shall also include a schedule of the date and amount of any change in Regular or Special Assessments that would be needed to sufficiently fund the Reserve Funding Plan. The Reserve Funding Plan shall be adopted by the Board of Directors at a meeting that is open to attendance to the Members.

If the Board determines that an Assessment increase is necessary to fund the Reserve Funding Plan, any increase shall be approved in a separate action of the Board that is consistent with the procedure described in Civil Code section 5605 (which requires Member approval for certain substantial Assessment increases or certain Special Assessments).

Section 12.09. Statutory Assessment and Reserve Funding Disclosure Summary. The disclosures required by the Association pursuant to this Article XII shall also be presented to the Members in summary form using the form that is set forth in Civil Code section 5570. The form required by the Civil Code may be supplemented so long as the minimum information set out in the statute is provided. For the purpose of the report and summary of the Association's Assessment and Reserve disclosures, the amount of Reserves needed to be accumulated for **Major Capital Improvements** at a given time shall be computed as the current cost of replacement or repair multiplied by the number of years the component has been in service divided by the useful life of the component. Nevertheless, this disclosure, which is mandated by law, shall not be construed to require the Board of Directors to fund Reserves in accordance with the calculation that is required to be disclosed pursuant to Civil Code section 5565(d).

**ARTICLE XIII**  
**OTHER REQUIRED REPORTS AND DISCLOSURES TO MEMBERS**

In addition to the documents that the Association is required to distribute to the Members pursuant to Article XII, above, various statutes applicable to common interest developments and owner associations require that the following disclosures and information be provided to the Members of the Association as provided below.

Section 13.01. Annual Policy Statement. Within thirty (30) to ninety (90) days before the end of the Association's fiscal year, the Board of Directors shall distribute to the Members, by Individual Delivery, an Annual Policy Statement that provides the Members with information about Association policies. The Annual Policy Statement shall include all of the following information (Civil Code section 5310):

(a) The name and address of the person designated to receive official communications to the Association, pursuant to Civil Code section 4035 (i.e., documents that the law or the Governing Documents require Members to deliver to the Association).

(b) A statement explaining that a Member may submit a request to have certain notices sent to up to two different specified addresses, pursuant to Civil Code section 4040(b).

(c) The location, if any, designated for posting of a General Notice (in a prominent location in the Development that is accessible to all Members and designated for the posting of General Notices), pursuant to Civil Code section 4045(a)(3).

(d) Notice of a Member's option to receive General Notices by Individual Delivery, pursuant to Civil Code section 4045(b).

(e) Notice of a Member's right to receive copies of meeting minutes, draft minutes or a summary of the minutes within thirty (30) days of the meeting, pursuant to Civil Code section 4950(b).

(f) The notice, in at least 12-point type, entitled "NOTICE OF ASSESSMENTS AND FORECLOSURE" that the Association is required to deliver to its Members as part of the Annual Policy Statement, in the form set forth in Civil Code section 5730.

(g) A statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in the payment of Assessments.

(h) A statement describing the Association's discipline policy, if any, including any schedule of penalties for violations of the Governing Documents as required by Civil Code section 5850.

(i) A summary of the Association's dispute resolution procedures (ADR and IDR) adopted by the Board pursuant and distributed to the Members in accordance with Civil Code sections 5920 and 5965. This notice must specifically reference Article 3 of Chapter 10 of the Davis-Stirling Common Interest Development Act and must include this statement:

"Failure by any Member of the Association to comply with the pre-filing requirements of Civil Code section 5930 may result in the loss of your rights to sue the Association or another Member of the Association regarding enforcement of the Governing Documents or the applicable law."

(j) A summary of any requirements for approval of Improvement projects by the Architectural Committee pursuant to Article V of the Declaration (Civil Code section 4765).

(k) The mailing address for overnight payment of Assessments which the Association must provide as convenience to its Members pursuant to Civil Code section 5655.

(l) Any other information that is required by law or the Governing Documents or that the Board determines to be appropriate for inclusion in the Annual Policy Statement.

Although subparagraphs (a) through (l) of this Section 13.01 often speak of a summary of various reports being included in the Annual Policy Statement, the Association may deliver copies of the full report and if a summary is provided, the summary shall include instructions on how to request a complete copy of the report at no cost to the Member shall be printed in at least 10-point boldface type on the first page of the summary and if a particular Member has requested that all reports be sent in full, the Association must deliver the full report to that Member, rather than a summary of the report (Civil Code section 5320).

#### Section 13.02. Notification to the Members of Rule Changes.

(a) Rule Changes Requiring Notification to Members. For purposes of this Section 13.02, a "**Rule Change**" is defined as any proposed action by the Board of Directors to adopt, amend, or repeal an **Operating Rule** (i.e., any regulation adopted by the Board that applies generally to the management and operation of the Development or the conduct of the business and affairs of the Association). See Civil Code section 4340. An Operating Rule is one that pertains to one of the following subjects: (i) use of the Association Common Areas of the Development; (ii) use of a Lot or Residence (including, without limitation, the adoption or amendment of any Architectural Review Guidelines); (iii) Rule Changes relating to Member discipline, including any action to adopt or amend a fine schedule or procedures for the imposition of penalties; (iv) any standards for delinquent Assessment payment plans; (v) any procedures adopted by the Association for resolution of disputes; (vi) any procedures for reviewing and approving or disapproving a proposed physical change to a Member's Unit pursuant to Article V of the Declaration; and (vii) procedures for the conduct of elections.

Specifically excluded from the definition of a Rule Change or an Operating Rule are the following: (i) a decision regarding maintenance of the Common Area; (ii) decisions on specific matters that are not intended to apply generally; (iii) decisions setting the amount of the Regular Assessment or Special Assessment; (iv) Rule Changes that are required by law if the Board has



no discretion with respect to the substantive effect of the Rule Change; and (v) issuance of a document that merely repeats existing law or the Governing Documents.

(b) Required Notice to Members. Civil Code section 4360 requires the Board of Directors to provide notice pursuant to Civil Code section 4045 ("General Delivery") of a proposed Rule Change, as defined in subparagraph (a), above, to the Members at least thirty (30) days prior to making any Rule Change. The notice must include the text of the proposed Rule Change and a description of the purpose and effect of the proposed Rule Change. Notice is not required under this subparagraph (b) if the Board determines that an immediate Rule Change is necessary to address an imminent threat to public health, or safety or imminent risk of substantial economic loss to the Association. The decision on any Rule Change that is subject to these notice requirements shall be made by the Board at a duly noticed meeting that is open to the Members, after consideration of any comments made by the Members. As soon as possible after making a Rule Change (but in no event later than fifteen (15) days thereafter), the Board shall deliver notice of the Rule Change to every Member by General Notice. If the Rule Change was an emergency Rule Change, the notice shall include the text of the Rule Change, a description of the purpose and effect of the Rule Change and the date that the Rule Change expires (emergency rules cannot remain in effect for more than one hundred and twenty (120) days). The Member notification requirements for the preceding five categories of Operating Rules are intended to afford Members the right to demand that the Board conduct a special vote to rescind the proposed Rule Change in accordance with Civil Code section 4365 (which section sets forth procedures for a Member-initiated plebiscite to challenge the proposed Rule Change).

## **ARTICLE XIV MISCELLANEOUS**

### Section 14.01. Inspection of Books and Records.

(a) Member Inspection Rights.

(i) Scope of Inspection Rights of Members. All accounting books and records, minutes of proceedings of the Members, the Board and committees of the Board, the membership list of the Association, and other documents that are defined as "association records" or "enhanced association records" shall at all times, during reasonable business hours, be subject to the inspection of any Member in accordance with the requirements and restrictions set forth in Civil Code sections 5200 through 5240. The Member who desires to inspect those documents must submit a written request for inspection to the Association and that request must state a reason for the requested inspection that reasonably related to the Member's interests in the Association. The accounting books and records and the minutes of proceedings of an Association, and any information contained in those records may not be used or sold for a commercial purposes or used for any other purpose that is not reasonably related to a Member's interests as a Member. Prohibited uses of the Association's membership list are set forth in Corporations Code section 8338 (see also Civil Code section 5230) and the Association shall have the right, pursuant to Corporations Code section 8330 to offer a Member who is seeking access to the membership list an alternative method of achieving the Member's stated purpose

without providing access to or a copy of the list, itself, so long as the Association presents its alternative method within ten (10) days following receipt of the Member's request.

(ii) Association's Right to Withhold Information. The Association has the right to withhold or redact information from the accounting books and records and the minutes of proceedings for any of the following reasons: (A) the release of the information is reasonably likely to lead to identity theft (i.e., the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money or property); (B) the release of the information is reasonably likely to lead to fraud in connection with the Association; or (C) the information is privileged by law. However, except as provided by the attorney-client privilege, the Association may not withhold or redact information concerning the compensation paid to employees, vendors or contractors. Compensation information for individual employees shall be presented only by job classification or title, and not by use of the employee's name, social security number or other personal information.

(iii) Designation of Agent for Purposes of Inspection. A Member may inspect and copy those records that are open to Member inspection either in person or through his or her duly appointed representative. If a Member designates another person to inspect and/or copy Association records that are open to Member inspection, that designation must be in writing.

(iv) Where Inspection Rights May be Exercised. The Association shall make the accounting books and records and the minutes of proceedings available for inspection and copying in the Association's business office within the Development or if there is no such office at a mutually agreeable location as established by the Association and the Member who requests the inspection (Civil Code section 5205, subparagraphs (c) and (d)). If the Association and the requesting Member cannot agree upon a place for inspection and copying pursuant to this subparagraph or if the requesting Member submits a written request directly to the Association for copies of specifically identified records, the Association may satisfy the requirement to make the Association records available for inspection and copying by delivering copies of the specifically identified records to the Member by Individual Delivery within the timeframes set forth in Civil Code section 5210(b).

(v) Cost of Copies. The Association may bill the requesting Member for its direct and actual cost of copying and mailing requested documents so long as the Association informs the Member of the amount of the copying and mailing costs before sending the requested documents (Civil Code section 5205(f)). Except as otherwise provided in subparagraph (iii), above and in sections 4525 through 4535 of the Civil Code (which obligate associations to provide certain information to requesting Members), nothing in this subparagraph (v) shall be construed to obligate the Association to make copies of requested documents or to organize or compile specific information or categories of information sought by a requesting Member under circumstances where the Association has made the information available for inspection and copying by the Member or his or her agent.

(vi) Electronic Delivery of Information. Requesting parties shall have the option of receiving specifically identified records by electronic transmission or machine-readable storage media as long as those records can be transmitted in a redacted format that does

not allow the records to be altered. Under such circumstances, the cost of duplication for purposes of subparagraph (v), above, shall be limited to the direct cost of producing the copy of a record in that electronic format. The Association may deliver specifically identified records by electronic transmission or machine-readable storage media as long as those records can be transmitted in a redacted format that prevents the records from being altered. Civil Code section 5205(h).

(b) Director Inspection Rights. Every director shall have an absolute right at any reasonable time to inspect all books, records, documents and minutes of the Association and the physical properties owned by the Association. The right of inspection by a director includes the right to make extracts and copies of documents. All Directors should consider their fiduciary obligations to act in good faith and in a manner the director believes to be in the best interests of the Association in determining what use and/or dissemination is to be made of information obtained in the director's exercise of his or her inspection rights.

(c) Adoption of Reasonable Inspection Rules. The Board of Directors may establish reasonable rules with respect to: (i) notice of inspection, (ii) hours and days of the week when inspection may be made, and (iii) payment of the cost of reproducing copies of documents requested by the Member.

Section 14.02. Property Manager. The Board of Directors may, from time to time, employ the services of a manager or property management company to manage the affairs of the Association and, to the extent not inconsistent with the laws of the State of California, and upon such conditions as are otherwise deemed advisable by the Board, the Board may delegate to the manager or management company any of its day-to-day management and maintenance duties and powers under these Bylaws and the Declaration, provided that the manager or management company shall at all times remain subject to the general control of the Board.

Section 14.03. Corporate Seal. The Association shall have a seal in circular form having within its circumference the words Rocky Ridge Properties Owners Association, Incorporated April 20, 1970, State of California."

Section 14.04. Roberts Rules of Order. In the event of a question or 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 Robert's Rules of Order.

Section 14.05. Amendment or Repeal of Bylaws. These Bylaws may be amended or revoked in any respect by the affirmative vote of a Simple Majority of the Members. Notwithstanding the foregoing, the percentage of the Voting Power necessary to amend a specific clause or provision of these Bylaws shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. Any vote to amend these Bylaws shall be conducted in accordance with the secret ballot voting procedures set forth in Section 7.05, subparagraphs (b), (d), (f), (g), and (h), above.

Section 14.06. Notice Requirements. Any notice or other document permitted or required to be delivered as provided herein may be delivered in either the manner or form of delivery mandated by the Davis-Stirling Act or by Individual Delivery or General Delivery. If a document

is delivered by mail, delivery is deemed to be complete on deposit into the United States mail. If a document is delivered by electronic means, delivery is complete at the time of transmission. If the Association or a Member has consented to receive information by electronic delivery, and a provision of the Davis-Stirling Act requires that the information be in writing, that requirement is satisfied if the information is provided in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

#### Section 14.07. Indemnification of Agents.

(a) Indemnification by Association of Directors, Officers, Employees and Other Agents. To the fullest extent permitted by law, the Association shall indemnify its directors, officers, employees, and other agents described in Corporations Code section 7237, including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding" as that term is used in that section of the Code and including an action by or in the right of the Association, by reason of the fact that such person is or was a person described by that section. "Expenses," as used in this Section, shall have the same meaning as in Corporations Code section 7237(a).

(b) Approval of Indemnity by Association. On written request to the Board by any person seeking indemnification hereunder, the Board shall promptly determine in accordance with Corporations Code section 7237(e) whether the applicable standard of conduct set forth in section 7237(b) or section 7237(c) has been met and, if it has, the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to the proceeding, the Board shall promptly call a meeting of Members. At that meeting, the Members shall determine under Corporations Code section 7237(e) whether the applicable standard of conduct set forth in section 7237(b) or section 7237(c) has been met and, if it has, the Members present at the meeting shall authorize indemnification.

(c) Advancement of Expenses. To the fullest extent permitted by law and except as is otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under paragraphs (a) and (b) of this Section in defending any proceeding covered by those sections shall be advanced by the Association before final disposition of the proceeding, on receipt by the Association of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Association for those expenses.

(d) Insurance. The Association shall have the power to purchase and maintain insurance on behalf of its directors, officers, employees and other agents against other liability asserted against or incurred by any director, officer, employee or agent in such capacity or arising out of the director's, officer's, employee's or agent's status as such.

Section 14.08. Construction of the Provisions of these Bylaws. Unless the context requires otherwise or a term is specifically defined herein, 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 herein.

Section 14.09. Reconciling Conflicts Among Documents. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

### **CERTIFICATE OF THE SECRETARY**

The undersigned Secretary of the Rocky Ridge Properties Owners Association hereby certifies that the above and foregoing Second Amended and Restated Bylaws, consisting of forty-nine (49) pages, were duly adopted by the affirmative vote of a Simple Majority of the Members of the Association in accordance with Article 12 of the Amended and Restated Bylaws and by a secret ballot vote that ended on \_\_\_\_\_, 2018, and that they now constitute the Bylaws of the Association.

**ROCKY RIDGE PROPERTIES OWNERS ASSOCIATION,**  
a California nonprofit mutual benefit corporation

By: \_\_\_\_\_  
Secretary

(d) Insurance. The Association shall have the power to purchase and maintain insurance on behalf of its directors, officers, employees and other agents against other liability asserted against or incurred by any director, officer, employee or agent in such capacity or arising out of the director's, officer's, employee's or agent's status as such.

Section 14.08. Construction of the Provisions of these Bylaws. Unless the context requires otherwise or a term is specifically defined herein, 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 herein.

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**ROCKY RIDGE PROPERTIES OWNERS ASSOCIATION,**  
a California nonprofit mutual benefit corporation

By:   
Secretary

Bruce P. Shepherd