

**SECOND AMENDED AND RESTATED BYLAWS
OF
HIGH SIERRA PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I.
RECITALS AND DEFINITIONS**

Section 1.01 Name of Association. The name of this corporation shall be High Sierra Property Owners Association, Inc. and shall be referred to herein as the “Association.”

Section 1.02 Association Is Nonprofit. The Association is a California nonprofit mutual benefit corporation (Corporations Code §§7110–8910) and an association as defined by Civil Code §4080.

Section 1.03 Specific Purpose. The specific and primary purpose of this Association shall be to own, repair, maintain, and manage the Common Area and Common Facilities within the High Sierra Meadows Subdivision (the “Development”) located in the County of Madera, to enforce the Rules and Regulations adopted by the Board of Directors, from time to time, and the terms and conditions of the Declaration, and to otherwise enhance and promote the use and enjoyment of the Development.

Section 1.04 Definitions.

- (a) County. “County” means the County of Madera, State of California.
- (b) Davis-Stirling Act. “Davis-Stirling Act” or “Act” means the Davis-Stirling Common Interest Development Act, found at Civil Code §§4000–6150.
- (c) Declaration. “Declaration” means the Amended and Restated Declaration of Covenants, Conditions and Restrictions for High Sierra Property Owners Association recorded on July 14, 2009, as Document No. 2009023031 of the Official Records of Madera County, as such Declaration may be supplemented or modified by a duly Recorded subsequent Declaration, or amendment thereto.
- (d) General Notice and General Delivery. “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 §4045(b));
 - (ii) Inclusion of the notice in a newsletter, online 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 for the purpose of distributing information on Association business, that site can be used for General Notices. [New updated]

(e) Individual Notice or Individual Delivery. If a provision of these Bylaws requires the Association to deliver a document by “individual notice” or “individual delivery,” the document must be delivered to the Members by one of the following methods:

(1) 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);

(2) Email, facsimile, or other electronic means if 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; or

(3) 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). [New Updated]

(f) Voting Power. “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.

(g) Other Definitions Incorporated by Reference. The terms defined in the Declaration shall have the same meaning, when used herein, unless the context clearly indicates a contrary intention.

ARTICLE II LOCATION OF PRINCIPAL OFFICE

The principal office of the Association will be located at such place as the Board may designate from time to time by resolution.

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 any Lot.

Section 3.02 Term of Membership. Each Owner shall remain a Member until he/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 a Lot. Ownership of a Lot shall give rise to the membership votes as allocated to the Lot owned in the Association under section 4.02 below. Accordingly, if more than one person owns a Lot, all of said persons shall be deemed to be one Member for voting purposes and shall not be allowed to split the number of votes allocated to the Lot owned, although all such Owners shall have equal rights as Members to use and enjoy the Common Area. Any one of the multiple Owners shall be entitled to vote the Lot membership votes, unless the secretary of the Association is notified in writing of the Owner designated by his/her co-Owners as having the sole right to vote the membership Lot on their behalf. If such notification does not occur and more than one of the multiple Owners votes a membership Lot vote, the majority of such votes shall be the vote pertaining to said Lot. If there is not a majority of such votes, the vote of such membership Lot shall not be considered as either in favor of or opposed to the issue or issues which are the subject of the vote, but the membership Lot vote shall be considered for purposes of determining whether the quorum requirements applicable to the vote or meeting have been met.

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 in writing that he/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 certified copy of a recorded grant deed or a currently-effective policy of title insurance, indicating that the person is the Owner of a Lot within the Development. 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.

Section 3.5. Ownership of Multiple Lots. If a person owns more than one Lot in the Development, that Owner shall have one membership and voting rights with respect to each Lot owned.

ARTICLE IV MEMBERSHIP VOTING

Section 4.01 Single Class of Membership. The Association shall have one class of voting membership consisting of the Owners of Lots within the Development.

Section 4.02 Member Voting Rights. On each matter submitted to a vote of the Members, each Member shall be entitled to cast one vote for each Lot owned by such Member. Single memberships in which two or more persons have an indivisible interest shall be voted as provided in Section 3.03, above.

Section 4.03 Eligibility to Vote. In accordance with Civil Code §5105(g)(1), all Members on the Record Date shall be entitled to vote at any membership meeting or written

ballot. [DELETE FOLLOWING-“In order to be in good standing, a Member must be current in the payment of all assessments levied against the Member’s Lot(s) and not be subject to any suspension of voting privileges as a result of any disciplinary proceeding conducted in accordance with the Declaration. 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 §1363(h), 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.”] [Per changes SB323]

Section 4.04 Rules for Election Procedure. The Association shall adopt rules, in accordance with the procedures prescribed by Article 4 [commencing with Civil Code §4340 of Chapter 2 of the Davis-Stirling Common Interest Development Act (Civil Code §§4000, et seq.)], that meet all the requirements as may be applicable under Civil Code §§5100 et seq., or any replacement statute.

Section 4.05 Majority Vote of Members Represented at Meeting Required for Valid Action. At a meeting, the affirmative vote of a Majority of a Quorum of the Members who are entitled to vote and voting on any matter (other than the election of directors), shall be the act of the Members, unless the vote of a greater number is required by the California by the Declaration. In the case of director elections, the candidates receiving the highest number of votes, up to the number of directors to be elected, shall be elected to the vacant director positions.

Section 4.06 Proxy Voting. Proxy voting shall not be permitted on any matter put to a vote by the Members.

Section 4.07 Cumulative Voting. Cumulative voting shall not be allowed in the election of directors.

Section 4.08 Secret Ballot Voting Requirements (Civil Code §5100). Under Civil Code §5100, the following actions requiring the vote or approval of the Members of the Association must be conducted by use of a secret ballot, with the vote conducted in accordance with the requirements of that section: (1) any vote of the Members to approve an increase in the Regular Assessment or imposition of a Special Assessment when Member approval is required under Civil Code §5605; (2) any vote for the election or removal of directors; (3) any vote to approve amendments to the Governing Documents; or (4) any vote authorizing the granting of exclusive use of Common Area property under Civil Code §4600. Except for a meeting convened to count the secret mailed ballots, a vote or election that is subject to the secret ballot voting requirements may be conducted entirely by mail. All other actions requiring the vote or approval of the Members may be conducted in accordance with the requirements of the California Nonprofit Mutual Benefit Corporation Law (Corporations Code §§7110–8910) and Article V below, including, without limitation, a vote of the Members to reverse a change of an operating rule by the Board of Directors under Civil Code §4340 et seq., or any replacement statute. [New Updated]

Section 4.09 Conduct of Informational Meetings. Use of the written ballot procedures set forth in this Section shall not preclude the Association from also conducting informational meetings of the Members to provide information or a forum during the prescribed voting period

or from scheduling a Board or membership meeting to coincide with the culmination of the prescribed balloting period.

ARTICLE V
MEMBERSHIP MEETINGS

Section 5.01 Place of Meeting. The meetings of the Members shall be at such reasonable place (within the County) and at such time as may be designated by the Board.

Section 5.02 Annual Meeting. The Board shall designate the date for the annual meeting of the Members. The date, time, and location of the meeting shall be set forth in the notice of meeting sent to the Members, in accordance with Section 5.04, below.

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Preliminary

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 a special meeting 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 called by Members other than 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, any vice president, or the secretary of the Association. The officer receiving the request shall cause notice to be promptly given to the Members entitled to vote, in accordance with the provisions of Section 5.04, below, that a meeting will be held, and the date, time, and purpose for such meeting, which date shall be not less than thirty-five (35), nor more than ninety (90) days, following the receipt of the request. If the notice is not given within the twenty (20) days after receipt of the request, the persons requesting the meeting may give the notice. Nothing contained in this subsection 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.

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 writing, 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. The notice of membership meetings shall be given in the manner specified in subparagraph (e) of this section, not less than ten (10) days, 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.

(c) Minimum Requirements Regarding Content of Notice. The notice of any membership meeting shall specify the place, date, and hour of the meeting and: (1) 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 (2) in the case of a regular meeting, those matters which 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 at the time the notice is given to the Members.

(d) Specification of Certain Significant Actions. If action is proposed to be taken at any membership meeting for approval of any of the following matters, the vote shall be held by secret ballot in accordance with the procedures set forth in **Civil Code §§5100 et seq. [as amended by SB 323]** or any replacement statute:

(i) To vote on approval of regular or special assessments, as required under Civil Code §5605;

(ii) Election of Directors (Except as otherwise provided in Civil Code §§5100(a)(2), if, at the conclusion of the nominating process, the number of candidates is less than or equal to the number of open seats, the candidates nominated may be elected by acclamation and no balloting shall be required, provided that the Association has complied with all statutory notice and procedural requirements prior to the date when ballots must be sent out.

(iii) Amendments to the Governing Documents [except as provided in Civil Code §§4225 and/or 4230]; and

(iv) A grant of exclusive use of Common Areas under Civil Code §4600 [except as provided in Civil Code §4600(b)].

(e) Manner of Service. Notice of any meeting of Members shall be given either personally, by first-class mail, electronic transmissions, telegraphic or other written communication, charges prepaid, addressed to each Member either at the address of that Member appearing on the books of the Association or the address given by the Member to the Association for the purpose of notice. 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: (1) notice is sent to that Member by first-class mail or telegraphic or other written communication to the Association's principal office; or (2) 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 the notice is delivered to the Member personally or deposited in the mail (postage prepaid) or sent by telegram or other means of written or electronic communication to the Member as specified above.

(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 or by written ballot in accordance with Article IV, above:

(i) Quorum. In the case of any membership meeting or written ballot called or conducted for the purpose of voting on any purpose, the quorum requirement for valid action on the proposal shall be at least thirty percent (30%) of the Voting Power of the Association (except as to those matters which require a higher percentage vote under the Common Interest Development Act or the Declaration). [Although we discussed eliminating quorum requirements, this change reduces quorum requirements to 30% except for significant actions]

(b) Members Present. Members present at a membership meeting in person or by written secret ballot shall be counted towards satisfaction of the quorum requirements specified herein.

(c) Effect of Departure of Members from Meeting. The Members present in person 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 may vote to adjourn the meeting for lack of a quorum, but no other action may be taken or business transacted.

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 [but not for more than forty-five (45) days] by the vote of the majority of Members present at the meeting either in person. Unless there is an absence of a quorum (in which case no other business other than adjournment may be transacted), the reconvened meeting may take any action which might have been transacted at the original meeting.

(b) 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, a notice of the rescheduled meeting must be given to each Member who on the record date for notice of the meeting is entitled to vote thereat.

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 person entitled to vote who was not present at the meeting (in person) consents to the meeting by signing: (1) a written waiver of notice; (2) a consent to holding the meeting; or (3) 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 such matter(s). 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 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 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 by agreement, or California 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 Lot without Meeting. In the case of determining Members entitled to cast written ballot, the record date shall not be more than sixty (60) days before the day on which the first written 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 without Meeting. The record date for determining those Members entitled to vote by written ballot Lot on proposed Association actions without a meeting shall be the day on which the first written ballot is mailed or solicited.

(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 sixtieth (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 to be 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/her Family who also occupy and/or use a Member’s Lot, shall be entitled to the use and enjoyment of all Common Areas within the Development; provided, however, that the right to use and enjoy any exclusive use Common Area shall be restricted to the Owner(s) of the appurtenant Lot and his or her family, guests, tenants and invitees residing in the Lot.

Section 6.02 Tenants and Lessees.

(a) Delegation of Rights to Tenants and Lessees. Each Member shall have the right to assign his/her rights as a Member (including voting rights assigned by written power of attorney in accordance with Civil Code §5105(g)(2)) to a tenant to occupy and/use a Member’s Lot; provided, however, that all the requirements of Section 2.04 of the Declaration are met, including that such rental or lease shall only be to a single family for Single Family Resort Uses and for a term not less than a full Season as defined in section 1.29 of the Declaration, i.e. April 1 through November 1. Such assignment shall only be effective so long as said tenant is using and/or occupying said Lot 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. [Change per Board request coordinated with amendment to section 1.29 of CC&Rs clarifying full Season]

(b) Requirement of Notice to Secretary. Assignment of an Owner’s right to use the Common Areas to a tenant or lessee shall not be effective until such time as the Owner-Member has given the secretary written notice thereof, setting forth the name of the assignee and the members of his/her family who will be entitled to the use and enjoyment of the Common Areas within the Development by virtue of said assignment.

Section 6.03 Invitees and Guests. The invitees and guests of a Member shall have the right to use and enjoy the Common Areas within the Development. Any such guest or invitee shall be 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 shall, at all times, be subject to the rules, limitations, and restrictions set forth herein, in the Declaration, and in the Association’s published rules and regulations, as promulgated by the Board, from time to time. The validity of rules and the procedures for making rule changes shall be in accordance with the procedures set forth in the Common Interest Development Act (Civil Code §§4340 through 4370). With the exception of the right of use of the Common Areas, the Board shall have the right to impose monetary penalties[**DELETE per SB 323**“, or to temporarily suspend the Member’s voting rights,”] 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/her tenants or guests, pursuant to the Governing Documents; provided, however, that any such monetary penalty [**DELETE PER SB 323** “suspension”] shall only be imposed after such person has been afforded the notice and hearing rights more particularly described in the Declaration.

ARTICLE VII BOARD OF DIRECTORS

Section 7.01 General Association Powers. Subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law (Corporations Code §§7110–8910), the Davis-Stirling Common Interest Development Act (Civil Code §§4000–6150, and any limitations contained in any of the Governing Documents 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 10.01, below, the Board may delegate the management of the activities of the Association to any person or persons, management company, or committee, provided 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.

Section 7.02 Section 7.02 Number and Qualification of Directors. The Board of Directors shall consist of five (5) individuals who shall be Owners of Lots. **The Association may disqualify a person from nomination as a candidate for a director position and/or remove a director and declare his/her office vacant during their board tenure as permissible under Civil Code §5100 et seq. and in accordance with the current Election Rules.[Mirrors SB323 and currently adopted Election Rules]**

Section 7.03 Term of Office—Staggered Terms. The directors shall hold office for a term of two (2) years with three (3) directors elected in the odd-numbered years and two (2) elected in the even numbered years. There shall be no limitation upon the number of consecutive terms to which a director may be reelected. Each director, including a director elected to fill a vacancy or elected at a special meeting of Members, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

Section 7.04 Nomination of Directors. Individuals can become candidates for election to the Board of Directors in any of the following ways:

(a) Candidates Selected by Nominating Committee. At least one-hundred twenty (120) days prior to the date of any election of directors, the president may appoint a nominating committee to select qualified candidates for election to those positions on the Board of Directors held by directors whose terms of office are then expiring. The nominating committee shall consist of three (3) Members of the Association who may, or may not be, Board members. The nominating committee shall make its report at least ninety (90) days before the date of the election; and the secretary shall forward to each Member, with the general notice under Civil Code §5115(b) of the meeting at which the election is scheduled to take place, a list of the nominees that will appear on the ballot. [New under SB323]The nominating committee shall make as many nominations for election to the Board as it shall, in its discretion, determine, but not less than the number of vacancies on the Board to be filled.

(b) Petition Procedure. A person can become a candidate by filing with the secretary a petition nominating himself or herself no later than sixty (60) calendar days prior to the annual election. [Change to accommodate increased timeline per SB323]

Section 7.05 Election of Directors.

(a) Directors Elected by Written Ballot. The annual election of directors, to fill those positions on the Board held by directors whose terms of office are then expiring, shall be conducted by written ballot in accordance with the current rules adopted in accordance with Civil Code §§5100 et seq., or any replacement statute.

(b) Determination of Election Results/Succession to Office. The candidates receiving the highest number of votes 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 coin flip.

Section 7.06 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; or (iii) the failure of the Members, at any meeting of Members at which any director or directors are to be elected, to elect the number of directors to be elected at such meeting.

(b) Resignation of Directors. Except as provided in this subparagraph, 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 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 Disqualify or Remove Directors. The Board of Directors shall have the power and authority to disqualify a candidate for a director position or remove a director and declare his/her office vacant as permissible under Civil Code §5100 et seq. and in accordance with the current Election Rules. [Mirrors SB323 and currently adopted Election Rules]

(d) Authority of Members to Remove Directors. Except as otherwise provided in subparagraphs (c) hereof, a director may only be removed from office prior to expiration of his/her term by the affirmative vote of a Majority of the Voting Power of the Association.

(e) 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. 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 at a duly held meeting of the Members, or written ballot.

(f) Reduction in Number of Directors. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

ARTICLE VIII BOARD MEETINGS

[This Article has been updated to clarify current law regarding notice to members, agendas, meetings by conference telephone, open meeting requirements etc., and executive sessions
Review Carefully]

Section 8.01 Place of Meetings; Meetings by Conference Telephone or Other Electronic Means.

(a) Permitted Locations for Board Meetings. Except as otherwise provided in subparagraph (b), regular and special meetings of the Board of Directors may be held at any place that has been designated from time to time by resolution of the Board or 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.

(b) 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 are satisfied. Participation in a meeting through the use of conference telephone under 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 (other than a conference telephone) constitutes presence in person at the meeting as 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 §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; 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 or a person designated by the Board shall be present at that location.

Any meeting defined as an “emergency meeting”, may be held by conference telephone or similar communication equipment, so long as all directors participating in the meeting can hear one another, and all such directors shall be deemed to be present, in person, at such meeting. Actions taken by the Board, by means of a telephone conference call, shall be communicated to the Members by any means the Board deems appropriate.

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 shall be conducted at least quarterly. If the Board adopts an annual schedule for the conduct of regular meetings (such as a schedule that calls for regular meetings to be held at a specific time and location on the third Thursday of each month), and that schedule is communicated to all directors at the inception of the year, no further notice of a regular meeting shall be required, unless the date, time, or location for a particular regular meeting is changed for any reason, in which case, notice shall be provided to directors 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 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 regular meetings, notice shall be communicated to each Board member not less than 4 days before the date of the meeting, provided, however, that if the meeting qualifies as an Emergency Meeting (as defined in subparagraph (e)) or is a special meeting that can be called in executive session, the time for providing notice is 48 hours before the meeting, unless notice is given by first-class mail, in which case the 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, before 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: first-class mail; personal delivery; telephone, including a voice messaging system or other system or technology designed to record and communicate messages; facsimile; electronic mail; or other electronic means (as 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, purpose, and agenda of the meeting.

(d) Members' Right to Receive Notice of Board Meetings.

(i) Requirement for Delivery of Notice Generally. All Members of the Association shall be given notice of the time and place of all Board meetings, except for Emergency Meetings (as defined in subparagraph (e)), at least 4 days before 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 2 days before the meeting, even though Members may be excluded from attending the executive session under most circumstances.

(ii) Content of Notices to Members and Method of Delivery. 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. Notice may also be given by mail or delivery of the notice to each Lot in the Development or by newsletter or similar means of communication or by electronic means if the recipient Member has consented to receiving such electronic notice, as provided in Civil Code §4040(a)(2).

(iii) Special Notice Requirements for Members Who Are Subject to Possible Disciplinary Action. In addition to the foregoing General Notice requirements for Members, if one or more particular Members are scheduled for possible disciplinary action on the agenda for a Board meeting, the Board must notify each subject Member in writing, by either personal delivery or Individual Delivery, at least 10 days before 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 is being considered for disciplinary action, and a statement that the Member has 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 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 §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, that require immediate attention and possible action by the Board, and that of necessity make it impracticable to provide prior notice to the Members as required by the Open Meeting Act. Notice of Emergency Meetings must still be provided to each director (unless the director signs a waiver of notice at least 4 days before the meeting if the notice is given by mail and at least 48 hours before the meeting when notice is delivered to a director by one of the other means stated in subparagraph (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 (Civil Code §4900-4955):

(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)), any Member

of the Association may attend meetings of the Board of Directors. For purposes of the Open Meeting Act, the term “meeting” includes (1) any congregation of a majority of the members of the Board at the same time and place to hear, discuss, or deliberate on any item of business that is within the authority of the Board, except those matters that may be discussed in executive session; and (2) a teleconference in which a majority of the members of the Board, in different locations, are connected by electronic means, whether audio or video or both (Civil Code §4090). The Board may not take action on any item of business outside of a meeting, as so defined, and using a series of electronic transmissions (including e-mails) to conduct a meeting is not permitted except as a means of conducting an Emergency Meeting, 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 §7211(b) to take action by unanimous written consent is not authorized under the 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 8.1(b), 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 and this Section, 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 §4155). Accordingly, if any number of directors congregates 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 if the topics of discussion are not pending or scheduled as intended or possible action items for the Association, the congregation is not a “meeting” subject to the open meeting requirements of this Section. 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 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 held in executive session under subparagraph (e). The Board or the chairperson of the meeting may impose reasonable time limitations on presentations or statements by Members. In the case of Board meetings, the agenda for the meeting may designate a specific time for Member statements and comments. See Civil Code §4925(b).

(c) Meeting Agendas; General Restriction of Action to Items on the Agenda. As required by Civil Code §4920(d), any notice of a Board meeting 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 clauses (1) through (5) of this subparagraph or in subparagraph (d), 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 §4930(a)).

(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 §4930(d)):

(i) On 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) On a determination made 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.

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

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

(e) Executive Sessions.

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

(ii) Manner in Which Executive Sessions 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 independently of any open meeting of the Board (Civil Code §4923).

(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. If a Member who has received a Notice of Delinquent Assessment from the Association under Civil Code §5660 requests a meeting before the Board in executive session to discuss a payment plan, the Board shall meet with the Member within 45 days after receipt of the Member's request.

(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 §4935(e)). Although the phrase "generally noted in the minutes" is not further defined in Civil Code §4935(e), any description of the actions or topics that are appropriately discussed or acted on 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 to 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 30 days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any Member on request and on 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 under Civil Code §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 8.7 Quorum Requirements. A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law, especially those provisions relating to (a) approval of contracts or transactions in which a director has a direct or indirect material financial interest; (b) appointment of committees; and (c) 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 8.8. 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 8.9. 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 24 hours, notice of adjournment to any other time or place shall be given before the time of the adjourned meeting to the directors who are not present at the time of the adjournment. Except as provided in the preceding sentence, notice of adjournment need not be given.

Section 8.10. Compensation. 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 8.07 Specific Powers. Without prejudice to the general powers of the Board of Directors, set forth in Section 7.01, above, the directors shall have the power to:

(a) Exercise all powers vested in the Board, under the Governing Documents and under the laws of the State of California.

(b) Appoint and remove all officers of the Association, the General Manager of the Association, if any (subject to any contractual commitments which may exist), and other Association employees; prescribe any powers and duties for such persons that are consistent with law, the Articles of Association, if any, and these Bylaws; and fix their compensation.

(c) Appoint such agents and employ such other employees, including attorneys and accountants, as it sees fit to assist in the operation of the Association, and to fix their duties, and to establish their compensation.

(d) Adopt and establish rules and regulations, subject to the provisions of the Declaration, governing the use of the Common Areas within the Development, and the personal conduct of the Members and their guests thereon, and take such steps, as it deems necessary, for the enforcement of such rules and regulations, including the imposition of monetary penalties [~~“and/or the suspension of voting rights”-Delete per SB 323~~]; provided notice and a hearing are provided, as required by California law. Rules and regulations adopted by the Board may contain reasonable variations and distinctions as between Owners and tenants.

(e) Enforce all applicable provisions of the Governing Documents relating to the control, management, and use of the Lots and Common Areas within the Development.

(f) Contract for and pay premiums for fire, casualty, liability, and other insurance and bonds (including indemnity bonds), which may be required, from time to time, by the Association.

(g) Contract for and pay for maintenance, landscaping, utilities, materials, supplies, labor, and services that may be required, from time to time, in relation to the Development.

(h) Pay all taxes, special assessments and other assessments and charges which are or would become a lien on any portion of the Development.

(i) Contract for and pay for construction or reconstruction of any portion or portions of the Common Areas which have been damaged, or destroyed, and which are to be rebuilt.

(j) Delegate its duties and powers hereunder to the officers of the Association, or to committees established by the Board, subject to the limitations expressed in Section 10.01, below.

(k) Levy and collect Assessments from the Members of the Association in accordance with the Declaration and establish and collect reasonable use charges for any or all recreational Common Facilities as the Board may deem necessary or desirable from time to time for the purpose of equitably allocating among the users the cost of maintenance and operation thereof.

(l) Perform all acts required of the Board under the Declaration.

(m) Prepare budgets and maintain a full set of books and records showing the financial condition of the affairs of the Association in a manner consistent with generally accepted accounting principles; and, at no greater than annual intervals, prepare an annual financial report, a copy of which shall be delivered to each Member as provided in Section 12.05, below.

(n) Appoint a nominating committee for the nomination of persons to be elected to the Board; and prescribe rules under which said nominating committee is to act, all as more particularly described in Section 7.04, above.

(o) Appoint such other committees as it deems necessary, from time to time, in connection with the affairs of the Association, in accordance with Article X, below.

(p) Fill vacancies on the Board of Directors or in any committee, except for a vacancy created by the removal of a Board member.

(q) Open bank accounts and borrow money on behalf of the Association, and designate the signatories to such bank accounts.

(r) Bring and defend actions on behalf of the Members in common or the Association, to protect the interests of the Members in common or the Association, as such, so long as the action is pertinent to the operations of the Association; and assess the Members for the cost of such litigation. Without limiting the foregoing, the Association has standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without necessity of joining its individual Members in matters pertaining to (1) enforcement of the Governing Documents; (2) damage to any portion of the

Common Area; (3) damage to a Lot or Residence that involves portions of the separate interest that the Association is obligated to maintain or repair, if any; and (4) damage to a Lot or Residence that arises out of, or is integrally related to, damage to the Common Area or any portion of a Lot or Residence that the Association is obligated to maintain or repair (Civil Code §5980).

(s) Enter any Lots, as necessary, subject to the notice requirements of the Declaration, in connection with construction, maintenance, or emergency repairs for the Common Areas for the benefit of the Owners.

Section 8.08 Limitations on Powers of the Board.

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

(i) Except as otherwise provided in law, an 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/her Lot, or by restricting access through the Common Areas to the Owner's Lot;

(ii) 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; or

(iii) Adopt an Association Rule or regulation that arbitrarily or unreasonably restricts an Owner's ability to market the Owner's Lot.

(b) Board Actions Requiring Member Approval. The Board shall not take any of the following actions except with the consent, by vote at a meeting of the Association's Members or by a Member vote conducted by written ballot without a meeting under the California Nonprofit Mutual Benefit Corporation Law, specifically Corporations Code §7513 or any successor statute, of a simple Majority of a Quorum of the Members other than Declarant:

(i) Enter into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than 1 year with the following exceptions:

(A) A management contract, the terms of which have been approved by the Federal Housing Administration or the Veterans Administration, provided, however, the term of the initial management agreement between the Association and Declarant, or any subsidiary or affiliate of Declarant, may be for an initial term of 2 years, and may be renewed annually thereafter by the Board (for an additional 1 year period) unless, within 60 days before

such renewal date, a majority of the Voting Power of the Association residing in Members other than Declarant shall have voted against any further such automatic renewals.

(B) A contract with a public utility company if 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 and/or liability insurance policies not to exceed 3 years duration provided that the policy permits short rate cancellation by the insured.

(ii) Incur aggregate expenditures for capital improvements to the Common Areas in any fiscal year in excess of 5 percent 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 5 percent 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) Enter into a Lot in a non-emergency situation unless the Owner is furnished with at least 24 hours' written notice, except in the case of an emergency.

ARTICLE IX COMMITTEES

Section 9.01 Committees of Directors. In addition to the nominating committee appointed and constituted pursuant to Section 7.04(a), the Board may, by resolution adopted by a majority of the directors then in office, designate one, or more, committees, each consisting of two, or more, Members (who may also be directors), to serve at the pleasure of the Board. Committees shall have all the authority of the Board, with respect to matters within their area of assigned responsibility, except that no committee, regardless of Board resolution, may:

(a) Take any final action on any matter, which, under the provisions of the California law including the law applicable to Non Profit-Mutual Benefit Corporations referred to herein, requires approval of the Members.

(b) Fill vacancies on the Board of Directors, or on any committee, which has been delegated any authority of the Board.

(c) Amend or repeal Bylaws, or adopt new Bylaws.

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

(e) Appoint any other committees of the Board of Directors, or designate the members of those committees.

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

Section 10.02 Meetings and Actions of Committees. Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article VIII, above, concerning meetings of directors, with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee. Special meetings of committees may also be called by resolution of the Board of Directors. Notice of special meetings of committees shall also be given to any and all alternate members, who shall have the right to attend all meetings of the committee. Unless otherwise provided in the Board resolution establishing the committee, minutes shall be kept of each meeting of any committee and shall be filed with the Association records. The Board of Directors may adopt additional rules, not inconsistent with the provisions these Bylaws, for the governance of any committee.

ARTICLE X OFFICERS

Section 10.01 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 or more assistant secretaries, one 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, or more, offices; except that neither the secretary, nor the chief financial officer, may serve concurrently as president.

Section 10.02 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/her office until he/she shall resign or shall be removed or otherwise disqualified to serve, or his/her successor shall be elected and qualified.

Section 10.03 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 10.04 Removal of Officers. Any officer may be removed, either with or without cause, by the Board at any regular or special meeting.

Section 10.05 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 10.06 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 10.07 President. The president shall be elected by the Board from among the directors. He/she 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. He/she 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 non-profit mutual benefit corporation, together, with such other powers and duties as may be prescribed by the Board or the Bylaws.

Section 10.08 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. He/she shall have such other powers and perform such other duties as, from time to time, may be prescribed by the Board or by the Bylaws.

Section 10.09 Secretary. The secretary shall be elected by the Board from among the directors. The secretary shall keep, or cause to be kept at the principal office or such other place as the Board may order, 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 at Members' meetings, and the proceedings thereof. The secretary shall keep, or cause to be kept, appropriate current records showing the Members of the Association, together with their addresses. He/she shall give, or cause to be given, notice of all meetings of the Board required by the Bylaws or by law to be given; and he/she shall keep the seal of the Association in safe custody, and shall have such other powers, and perform such other duties, as may be prescribed by the Board or by the Bylaws.

Section 10.10 Chief Financial Officer. The chief financial officer shall be elected by the Board from among the directors. The chief financial officer, who shall be known as the treasurer, shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements. The books and records shall, at all reasonable times, be open to inspection by any director or Member. The treasurer shall 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. He/she shall disburse the funds of the

Association as may be ordered by the Board, shall render to the president and directors whenever they request it, an account of all of his/her transactions as treasurer and of the financial condition of the Association; and shall have such other powers and perform such other duties as may be prescribed by the Board by or the Bylaws. 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/her office, and for restoration to the Association of all its books, papers, vouchers, money, and other Development of every kind in his/her possession or under his/her control on his/her death, resignation, retirement, or removal from office.

ARTICLE XI

MEMBER ASSESSMENT OBLIGATIONS AND ASSOCIATION FINANCES

Section 11.01 Description of Assessments to Which Owners Are Subject. Owners of Lots within the Development are subject to Regular, Special and Special Individual Assessments as more particularly described in Article IV of the Declaration.

Section 11.02 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 may from time to time designate. Notwithstanding the foregoing, 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 11.03 Operating Account. There shall be established and maintained 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.

Section 11.04 Other Accounts. The Board shall maintain any other accounts it shall deem necessary to carry out its purposes, including and in accordance with Civil Code §4177, or its successor statute, reserve accounts for (a) replacement of capital improvements as more particularly set forth in the Declaration; or (b) funds received and not yet expended or disposed from either a compensatory damage award or settlement for injury to real or personal property as a result of any construction or design defects. All Association books of account shall be maintained in accordance with generally accepted accounting principles.

Section 11.05 Budgets and Financial Statements. The following financial statements and related information for the Association shall be regularly prepared and copies thereof shall be distributed to each Member of the Association:

(a) **Budget.** A pro forma operating budget meeting the requirements of this subparagraph (a) shall be distributed to Members not less than thirty (30) days, nor more than ninety (90) days, before the beginning of the fiscal year. The budget shall include at least the following information:

- (i) The Association's estimated revenue and expenses on an accrual basis;

(ii) A summary of the Association’s reserves based on the most recent review or study conducted under Section 12.06, and Civil Code §5550, based only on assets held in cash or cash equivalents, which shall be printed in boldface type and include all of the following:

(A) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component of the Development that the Association is obligated to repair, replace, restore, or maintain (collectively “Association Capital Developments”);

(B) As of the end of the fiscal year for which the reserve study is prepared, the current estimate of the amount of cash reserves necessary for Association Capital Developments and the current amount of accumulated cash reserves actually set aside for the repair, replacement, restoration, or maintenance of Association Capital Developments;

(C) The percentage that the amount of accumulated cash reserves is of the estimated amount of necessary cash reserves calculated under subparagraph (B), above; and

(D) If applicable, the amount of funds received from either a compensatory damage award or settlement to the Association from any person or entity for injuries to real or personal property arising out of construction or design defects and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. Such amounts shall be reported, at the end of the fiscal year for which the study is prepared, as separate line items under cash reserves, under subparagraph (B), above.

(E) The current deficiency in reserve funding (if any) expressed on a per Lot basis, calculated in the manner set forth in Civil Code §5565.

(iii) A statement as to all of the following:

(A) Whether the Board has decided to defer or not undertake repairs or replacement of any Major Component having a remaining life of thirty (30) years, or less, including a justification for the deferral or decision not to undertake the repair or replacement;

(B) Whether the Board, consistent with the reserve funding plan adopted under Civil Code §5550, has determined or anticipates that the levy of one (1) or more Special Assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor. If so, the statement shall also disclose the estimated amount, commencement date, and duration of the assessment;

(C) The mechanism or mechanisms by which the Board will fund reserves to repair or replace major components of the Development for which the Association is responsible, including assessments, borrowing, use of other assets, deferral of selected replacement or repairs, or alternative mechanisms; and

(D) Whether the Association has any outstanding loans with an original term of more than one (1) year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.

(iv) A general statement setting forth the procedures used by the Board in calculating and establishing reserves to defray the future costs of repair, replacement, or additions to major components of the Development that the Association is obligated to maintain. This report shall include, but need not be limited to, reserve calculations made using the formula described in Civil Code §5550, and may not assume a rate of return on cash reserves in excess of two percent (2%) above the rediscount rate published by the Federal Reserve Bank of San Francisco at the time the calculation is made.

(v) A summary of the reserve funding plan adopted by the Board under Civil Code §5565. That summary shall include a notice to the Members that the full reserve study plan is available from the Association on request by any Member. In lieu of distributing the complete pro forma operating budget as specified above, the Board may elect to distribute a summary of the budget to the Members (within the time limits provided above), together with a notice that the complete budget is available at the Association's principal office and that copies will be furnished, on request, to any Member at the Association's expense. This notice shall be presented on the front page of the budget summary in at least 10-point bold type. If a Member requests a copy of the complete budget, the Association shall mail the material, via first class mail and at the Association's expense, within five (5) days.

(b) Year-End Report. Within one hundred twenty (120) days after the close of the fiscal year, a copy of the Association's year-end report consisting of at least the following shall be distributed to Members:

- (i) A balance sheet as of the end of the fiscal year;
- (ii) An operating (income) statement for the fiscal year;
- (iii) A statement of cash flows for the fiscal year;
- (iv) A statement advising Members of the place where the names and addresses of the current Members are located; and

(v) Any information required to be reported under the provisions of the California law including the law applicable to Non Profit-Mutual Benefit Corporations referred to herein requiring the disclosure of certain transactions in excess of fifty thousand dollars (\$50,000) per year between the Association and any director or officer of the Association and indemnifications and advances to officers or directors in excess of ten thousand dollars (\$10,000) per year.

The annual report shall be prepared in accordance with generally accepted accounting principles by a licensee of the State Board of Accountancy for any fiscal year in which the gross income of the Association exceeds seventy-five thousand dollars (\$75,000). If the annual report is not prepared by such a licensee, it shall be accompanied by the certificate of an authorized officer

of the Association that the statement was prepared without an audit from the books and records of the Association.

- (c) Review of Accounts. On no less than a quarterly basis, the Board shall:
- (i) Review a current reconciliation of the Association's operating accounts;
 - (ii) Review a current reconciliation of the Association's reserve accounts;
 - (iii) Review the current year's actual reserve revenues and expenses compared to the current year's budget;
 - (iv) Review the Association's latest account statements prepared by the financial institution(s) with whom the operating and reserve accounts are lodged; and
 - (v) Review the Association's income and expense statement for the operating and reserve accounts.

Section 11.06 Required Reserve Studies. At least once every three (3) years, the Board shall cause a study of the reserve account requirements of the Development to be conducted if the current replacement value of the major components that the Association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half of the gross budget of the Association for any fiscal year. The Board shall also review any reserve study required hereunder on an annual basis and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review. The reserve study required hereunder shall include the minimum requirements specified in Civil Code §5550 or comparable successor statute.

Section 11.07 Required Statutory Assessment and Reserve Funding Disclosure Summary. The disclosures required by the Association under this Article XII shall also be presented to the Members in summary form using the form that is set forth in Civil Code §5565.

ARTICLE XII

OTHER REQUIRED REPORTS, NOTICES, AND DISCLOSURES TO MEMBERS

In addition to the documents that the Association is required to distribute to the Members under Article XII, 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 on an annual or other periodic basis or in response for a request for the information by a Member:

Section 12.01 Annual Statement Regarding Association Assessments; Collection of Delinquent Assessments; Assessment Payments; and Payment Plans. The Board shall annually distribute during the sixty (60)-day period immediately preceding the beginning of the Association's fiscal year, a statement, in 12-point type, presenting the information required by Civil Code §5565. That notice discusses the obligations of Owners to pay assessments, the consequences of failing to make a timely payment of assessments, and the right of owners to

request that their Association consider a payment plan for the satisfaction of delinquent assessment obligations.

Section 12.02 Annual Disclosure of Association Collection Policies. In addition, not less than thirty (30), or more than ninety (90) days, immediately preceding the beginning of the Association's fiscal year, the Association shall provide its Members with a statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in the payment of assessments.

Section 12.03 Notification to Members Regarding Insurance Coverage Maintained by the Association.

(a) Scope of Required Summary Disclosures. In accordance with Civil Code §5300, within sixty (60) days preceding the beginning of the Association's fiscal year, the Association shall distribute to its Members a summary of the Association's property, general liability, earthquake, and flood insurance (if any) and fidelity insurance containing the information described in subparagraph (b), below.

(b) Content of Annual Insurance Summary. The insurance summary required by subparagraph (a), above, shall include (i) the name of the insurer; (ii) the type of insurance; (iii) the policy limits of the insurance; and (iv) the amount of the deductibles, if any. In addition, the summary shall include the following statement in at least 10-point boldface type: "This summary of the Association's policies of insurance provides only certain information, as required by Civil Code §5300, 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, on request and provision of reasonable notice to the Association, review the Association's insurance policies and, on 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 personal injuries or other losses that occur within or around your Lot. Even if a loss is covered by the Association's insurance, 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." To the extent that any of the information required to be included in an annual insurance summary is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by providing its Members with a copy of the declaration page.

(c) Notification of Cancellation or Material Change in Policies. The Association shall, as soon as reasonably practicable, notify its Members by first-class mail if any of the policies described in subparagraph (a) have lapsed, been canceled and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible as to any of those policies. If the Association receives any notice of nonrenewal of a policy described in subparagraph (a), the Association shall immediately notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse.

Section 12.04 Alternative Dispute Resolution (ADR) Disclosure. On an annual basis, the Board shall provide each Member with a summary of the provisions of Civil Code §§5925-5965, which require common interest owners' associations and their members to attempt to resolve most disputes involving the enforcement or interpretation of the Development's Governing Documents through the use of alternative dispute resolution (ADR), rather than formal civil litigation. Civil Code §5965 requires owners' associations to provide their members with an annual summary of the requirements of Civil Code §§5925-5965 and §§5900-5920, which specifically references Article 2 of the Davis-Stirling Common Interest Development Act and which includes the following 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.

The ADR summary shall be provided either at the time the budget required by Section 12.05 is distributed. The summary shall include a description of the Association's internal dispute resolution process, as required by Civil Code §5925.

Section 12.05 Statement of Outstanding Charges. Within ten (10) days following receipt of a written request by an Owner, the Association shall provide the Owner with a written statement setting forth the following information as of the date of the statement: (a) the amount of the Association's current Regular Assessments and Special Assessments (if any), and fees; (b) the amount and nature of any assessments levied on the Owner's Lot that are unpaid on the date of the statement; (c) the amount of any monetary fines or penalties levied on the Owner's Lot that are unpaid as of the date of the statement; and (d) any change in the Association's current Common and/or Special Assessments and fees that have been approved by the Board, but have not become due and payable as of the date of the statement. The statement shall also include true and correct information regarding late charges, interest, and costs of collection that, as of the date of the statement, are or may be made a lien on the Owner's Lot or that may be made a lien on that Lot in accordance with Civil Code §5675. The Association may impose a fee for providing the information stated in this Section 13.05, not to exceed the reasonable costs incurred to prepare and reproduce the requested items. The items required to be made available to members under this Section 13.05 may be maintained by the Association in electronic form, and requesting parties shall have the option of receiving them by electronic transmission or machine-readable storage media if the Association maintains these items in electronic form.

Section 12.06 Disclosure of Schedule of Fines or Other Monetary Penalties. If the Association adopts a schedule of fines for commonly recurring infractions of the Governing Documents, or any other policy imposing a monetary penalty or a fee on any Member for violation of any Governing Document or the Association Rules, including any monetary penalty relating to the activities of a guest or invitee of a Member, the Board shall distribute the schedule or policy to the Members by either personal delivery or first-class mail. This distribution obligation shall arise whenever such a schedule or policy is adopted or subsequently amended.

Section 12.07 Disclosure of Right to Receive Board Meeting Minutes. Members of the Association shall be notified in writing at the time the pro forma budget is distributed under Section 12.05(a) or at the time of any general mailing to the entire membership, of the Members' right to have copies of the minutes of any Board meeting and how and where those minutes may be obtained.

Section 12.08 Notice of Significant Legal Proceedings. Notwithstanding anything herein to the contrary, the Board shall not institute any significant legal proceeding, including any arbitration or judicial reference proceeding, against any person without providing the Members of the Association with at least thirty (30) days' prior written notice of the Association's intention to institute legal proceedings (see Civil Code §5985). The notice required by this Section 13.08 shall describe the purpose of the proceeding, the parties to the proceeding, the anticipated cost to the Association (including estimated attorneys' fees) in prosecuting the proceeding, the source of funds to process the proceeding (reserve or Special or Regular Assessments), and suggested information that should be disclosed to third parties, such as prospective purchasers and lenders, while the proceeding is being prosecuted. For purposes of this Section 13.08, "significant legal proceeding" means any legal proceeding in which it reasonably could be anticipated that any of the following events could occur:

- (i) the levy of a special assessment to fund all or any portion of the proceedings;
- (ii) the expenditure of funds from the Association's reserves in connection with the proceeding in an amount in excess of five percent (5%) of the Association's then current reserves;
- (iii) the amount of the claim is in excess of twenty-five thousand dollars (\$25,000); or
- (iv) the action could have a material adverse effect on the ability to sell and/or refinance Lots within the Development during the period the proceeding is being prosecuted.

If the proposed legal proceeding is against the Declarant or other builder or developer for alleged damage of the Association Common Area, alleged damage to the Lots that the Association is obligated to maintain or repair, or alleged damage to the Lots that arises out of, or is integrally related to, damage to the Association Common Area or the Lots that the Association is obligated to maintain or repair, the notice also shall specify all of the following: (i) that a meeting of the Members will take place to discuss problems that may lead to the filing of a civil action and the time and place of the meeting; and (ii) the options, including civil actions that are available to address the problems, including the filing of a civil action, and a statement of the various alternatives that are reasonably foreseeable by the Association to pay for those options and whether these payments are expected to be made from the use of reserve account funds or the imposition of Regular or Special Assessments, or emergency assessment increases. Under Civil Code §§6000 et seq., additional notices to Members are required if the Association either rejects the Declarant's offer to settle a construction defect suit (in which case the notice is of a meeting to discuss the options available to the Association and its Members) or the Association accepts the Declarant's

offer to settle a defect claim (in which case the notice is to report that a settlement has been reached and the terms of that settlement).

Notwithstanding the foregoing, the above-described notice shall not be required to commence and pursue any action for the collection of delinquent assessments from any Member in accordance with the collection procedures set forth in the Declaration (and any published collection policy of the Association) or to enforce any Association Common Area completion bond in accordance with the procedures described in the Declaration. Furthermore, if the Board in good faith determines that there is insufficient time to provide prior notice to the Members before the expiration of any applicable statute of limitations or before the loss of any other significant right of the Association, the Board may take the necessary steps to commence the proceeding to preserve the rights of the Association, provided that as soon as is reasonably practical thereafter, and not later than thirty (30) days after the commencement of the proceeding, the Board shall provide the Members with notice as required herein.

Section 12.09 Notification to Members of Rule Changes.

(a) Rule Changes Requiring Notification to Members. For purposes of this Section 13.09, a “rule change” is defined as any proposed action by the Board to adopt, amend, or repeal an operating rule (i.e., any rule of general application) that pertains to any of the following subjects: (i) use of the Association Common Areas of the Development; (ii) use of a Lot (including, without limitation, the adoption or amendment of any Design Guideline); (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 assessment disputes; or (vi) any procedures for reviewing and approving or disapproving a proposed physical change to a member’s Lot or to the Common Area under Article V.

Specifically excluded from the definition of a rule change are the following: (i) a decision regarding maintenance of the Association Common Area; (ii) decisions on specific matters that are not intended to apply generally; (iii) decisions setting the amount of a Regular 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. The Board must provide written notice of a proposed rule change [as defined in subparagraph (a), above] to the Members at least **twenty-eight (28) days** before 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 an 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. 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 twenty (120) days]. The notices required by this Section 13.09 may be given to the Members by any means permitted by Civil Code §4045. The Member notification requirements for proposed rule changes are intended to afford Members the right to demand that the Board conduct a special meeting or a written ballot vote to rescind the proposed rule change in accordance with Civil Code §4365 (which sets forth procedures for a Member-initiated plebiscite to challenge the proposed rule change). [Reduced time for notice of proposed rule change to members from 30 to 28 days by legislature in 2018]

Section 12.10 Required Statutory Assessment and Reserve Funding Disclosure Summary. The financial disclosures required under Article XII shall also be presented to the Members, at the time the annual budget is presented, in summary form using the form that is set forth in Civil Code §5570 entitled “Assessment and Reserve Funding Disclosure Summary.” 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 disclosure, the amount of reserves needed to be accumulated for a component 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 to fund reserves in accordance with the calculation that is required to be disclosed under Civil Code §5570.

Section 12.11 Annual Notice of Architectural Review and Approval Procedures. The Association shall annually provide its Members with notice of any requirements for Association approval of physical changes to the Member’s Lots or Residences under Article V. The notice shall describe the types of changes that require Association approval and shall include a copy of the procedures used to review and approve or disapprove proposed Improvement Developments. Furnishing the Members with a copy of any Architectural Rules adopted under Section 5.05 shall constitute compliance with this disclosure requirement.

Section 12.12 Avoidance of Duplication in Reporting Requirements. To the extent that one document distributed to the Members under Article XII or this Article XIII provides the information required in more than one of the foregoing sections of this Article, any such requirements listed above may be satisfied by sending the Members the same document.

ARTICLE XIII MISCELLANEOUS

Section 13.01 Inspection of Books and Records. The Members shall have the right to inspect the records of the Association as provided in Civil Code §5200, or any replacement statute.

Section 13.02 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.

Section 13.03 Manager. The Board may, from time to time, employ the services of a manager 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 any of its day-to-day management and maintenance duties and powers under these Bylaws and the Declaration, provided that the manager shall, at all times, remain subject to the general control of the Board.

Section 13.04 Robert's 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 13.05 Amendment or Repeal of Bylaws. Except as otherwise expressly provided herein, these Bylaws may only be amended or repealed, and new Bylaws adopted by the affirmative vote or assent by written ballot of a majority of Members of the Association; provided, that if any provision of these Bylaws requires the vote of a larger proportion or all of the Members, such provisions may not be altered, amended, or repealed, except by such greater vote, unless otherwise specifically provided herein. Any amendment to these Bylaws shall become effective immediately upon approval by the Members. The secretary of the Association shall certify adoption of any duly approved amendment to the Bylaws and a copy of said certificate and the amendment shall be included in the Association's corporate records.

Section 13.06 Notice Requirements. Except as otherwise provided herein, any notice, or other document permitted or required to be delivered, as provided herein, may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail, postage prepaid, and addressed as follows: If to the Association or the Board of Directors, at the principal office of the Association as designated from time to time by written notice to the Members; if to a director, at the address from time to time given by such director to the secretary for the purpose of service of such notice; if to a Member, at the address from time to time given by such Member to the secretary for the purpose of service of such notice; or, if no such address has been so given, to any Lot within the Development owned by such Member.

Section 13.07 Indemnification of Agents.

(a) Indemnification of Association. Each Owner shall be liable to the Association for any damage to the Common Areas caused by the negligence or willful misconduct of the Owner or his/her family, guests, invitees, or lessees, to the extent that the damage shall not be covered by insurance. Each Owner shall indemnify, hold harmless, and pay any costs of defense of each other Owner, from claims for personal injury or Development damage, occurring within any portion of the Common Areas, provided that this protection shall not extend to any indemnitee whose negligence or willful misconduct caused or contributed to the injury or damage. This section is not intended to be for the benefit of any insurer and shall not affect nor limit the duty of any insurer to pay any claim, which would be payable by said insurer, but for this section.

(b) Indemnification by Association of Directors and Officers, Employees, and Other Agents. To the fullest extent permitted under the California law and the law applicable to California Nonprofit Mutual Benefit Corporations as referred to herein, the Association shall indemnify its directors, officers, employees, and other agents, as described in Corporations Code §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, 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. The term “Expenses”, as used in this section, shall have the same meaning as in Corporations Code §7237(a).

(c) 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 §7237(e), whether the applicable standard of conduct set forth in Corporations Code §§7237(b) or 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 §7237(e), whether the applicable standard of conduct, set forth in Corporations Code §§7237(b) or 7237(c), has been met; and, if it has, the Members present at the meeting in person, shall authorize indemnification.

(d) 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 (b) and (c) 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.

(e) 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.

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Section 13.08 Construction and Definitions. 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, the 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.

CERTIFICATE OF SECRETARY

The undersigned, secretary of the Association known as High Sierra Property Owners Association, Inc., hereby certifies that the above and foregoing Second Amended and Restated Bylaws, consisting of thirty-six (36) pages, were duly adopted by written ballot of the Members of the Association on [fill-in date adopted], and that they now constitute the Bylaws of the Association.

**HIGH SIERRA PROPERTY OWNERS ASSOCIATION,
INC.**, a California nonprofit mutual benefit corporation,

By: _____

[Fill-in name of secretary], Secretary