

THE CIRCLE OAKS HOMES ASSOCIATION BYLAWS

MARCH, 2015





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CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of the CIRCLE OAKS HOMES ASSOCIATION, INC.,

A California nonprofit, mutual benefit corporation, and

That these By-Laws constitute the restated By-Laws of said corporation, as duly adopted at a meeting of the Board and Members thereof, Held on March 10, 2015.

Signature on file with Napa County Recorder _____

Nancy Lewis-Heliotes, Secretary

_____ Date



ARTICLE I NAME AND LOCATION

The name of this California Nonprofit Mutual Benefit Corporation is CIRCLE OAKS HOMES ASSOCIATION, INC., hereinafter referred to as the "Association". The Association is a "Common Interest Development" and is governed by the "Davis/Stirling Common Interest Development Act". The principal location of the office of the Association shall be located in the County of Napa, State of California.

ARTICLE II DEFINITIONS

"Articles" shall mean the Articles of Incorporation of Circle Oaks Homes Association, which are filed in the Office of the Secretary of State of the State of California.

"Assessment" means an assessment made or assessed against an Owner and his or her Lot in accordance with the provisions of California Civil Code Section 5600-5740.

"Association" shall mean and refer to Circle Oaks Homes Association, Inc., a California non-profit mutual benefit corporation, its successors and assigns.

"Board of Directors" or "Board" shall mean the Board of Directors of the Circle Oaks Homes Association.

"Bylaws" shall mean the Bylaws of the Association, as such Bylaws may, from time to time, be amended.

"Common Area" and/or **"Greenbelt"** shall mean all real property owned by the Association for the common use, enjoyment and/or benefit of the members.

"County" means the County of Napa, State of California.

"Declaration" shall mean the Declaration of these Bylaws and/or the Declaration of Covenant, Conditions, and Restrictions for Circle Oaks Homes Association

"Governing Documents" shall refer collectively to these Bylaws, the Articles of Incorporation, the Declaration of Covenant, Conditions, and Restrictions for Circle Oaks Homes Association, the Rules, the Policies, and to any amendments to such documents.

"In Good Standing" shall refer to any member who is current on all assessments.

"Lot" shall mean and refer to each plot of land depicted on or described in those subdivision maps identified in to Circle Oaks Estates Subdivision, Lots No.1 through 938, inclusive, and that certain map entitled "Circle Oaks Estates" recorded in the Office of the County Recorder of Napa County, California including any residence or other improvements, but excluding the Common Areas.

"Member" shall mean and refer to every person or entity who owns a separate interest and therefore holds a membership in the Association and whose rights as a Member are not in good standing.

"Mortgage" means any security device encumbering all or any portion of the Properties, including a deed of trust.

"Owner" means any person, firm, corporation or other entity which owns a separate interest in any Lot (including contract sellers, but excluding those having such interest merely as security for the payment of a debt or the performance of an obligation). For purposes of determining the validity of an ownership interest, a valid copy of a deed or deed of trust must be on file with the Association.

"Properties" shall mean and refer to all that certain real property as has or may thereafter be brought within the jurisdiction of the Association.

ARTICLE III MEMBER MEETINGS

1. **Annual Meeting** The annual meetings of the Association shall be held in the month of June each calendar year on a weekend day to commence no earlier than 11:00AM and no later than 5:00PM on the published date. Meetings shall be held within CIRCLE OAKS HOMES ASSOCIATION, INC. or in such location within a reasonable distance as close to CIRCLE OAKS HOMES ASSOCIATION, INC. as possible as the Board may specify in writing, but in no event outside the County in which the community is located.



2. **Special Meetings** Special meetings of the Members may be called at any time by the President of the Association or by its Board, or a special meeting of the Members of the Association may be called at any time by written, signed petition given to the Board, of not less than twenty five percent (25%) of the total voting power of the Association.
3. **Notice of Meetings** A written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each member who, on the record date for notice of the meeting, is entitled to vote thereat; provided, however, that if notice is given by mail, it shall be delivered by first-class, registered, or certified mail. If such meeting shall include balloting, then notice must be given at least 30 days before the meeting. Balloting may only be called by the Board. Said notice shall be sent to the Member's address last appearing on the Books of the Association, or supplied by such Member to the Association for the purpose of notice. The Association assumes no responsibility for failure to notify, if such Member has not supplied a current address to the Association. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. If mailed, the notice shall be deemed to be delivered seventy-two (72) hours after its deposit in the United States mail, first class postage prepaid, to the Member at his or her address as provided herein.
4. **Quorum** The presence at the meeting of Members entitled to cast (or of proxies entitled to cast) fifteen percent (15%) of the votes of the total voting power of the Association shall constitute a quorum for any action, except as otherwise provided in the Declaration or these Bylaws. If however, such quorum shall not be present or represented at any such meeting, those present may adjourn the meeting to a later date but may not conduct any other business. If a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to all Members in the manner prescribed in regular meetings. The new meeting shall be set for such time to be a date not less than five (5) but not more than thirty (30) days from the date of the original meeting. If a time or place is not fixed at the time at the time on adjournment, then Members shall given notice of the new meeting in the manner described for all meetings.
5. **Proxies** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association. Proxies for ELECTION ballots must be filed with an Inspector of Elections. Every proxy shall be revocable and shall automatically cease upon the conveyance by the Member of the title to his or her Lot, or upon the death or declared incapacity of such Member, if written notice of death or incapacity is received by Association prior to the count of the vote. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise specifically provided in the proxy.
6. **Action without a meeting** With the expressed exception of the election of Directors, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the Association distributes a written ballot to every member entitled to vote on the matter. That ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.
7. **Voting Rights** Each Lot Owner whose dues are paid current shall be a Member in good standing. 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. When more than one (1) person holds an interest in a single Lot the vote for each Lot must be cast as a unanimous decision of co-owners whose votes count as one vote for the Lot. Any single vote cast by a Lot owner shall be deemed the authorized vote for that Lot. If conflicting votes are cast by multiple owners for a Lot, no vote shall be counted for that Lot, except a single vote shall be counted for



purposes of a quorum. Members not in good standing shall not be entitled to vote. In the case where a vote for a Lot cannot be cast because a Member Owner is not in good standing and not allowed to vote, the Lot(s) shall be reduced from the total number of Lots needed to calculate a quorum, and will also be reduced from the total number of Lots used to calculate a majority of votes.

ARTICLE IV BOARD OF DIRECTORS

1. **Number** The affairs of the Association shall be managed by a Board of five (5) Directors who shall be Members of the Association in good standing.
2. **Term of Office** The term of office for a Director shall be two (2) years and elections shall be staggered so that on even years two (2) Directors are elected and on odd years three (3) Directors are elected.
3. **Compensation** No Director shall receive compensation for any services rendered to the Association; provided, however, that a Director may be reimbursed for his or her reasonable expenses actually incurred in the performance of his or her duties as Director of the Association.

ARTICLE V NOMINATION, ELECTION OR REMOVAL OF DIRECTORS

1. **Nomination/Application** The Board shall issue a call for Applications/Nominations in accordance with the current elections process, at least 90 days prior to the Annual Meeting.
2. **Candidates Forum** 60 to 45 days before the Annual Meeting, all candidates and willing nominees shall be given the opportunity to address the Board and all members attending, to state their interest in becoming a Director. This forum shall be conducted at the April Board meeting, and all members shall be advised of and invited to attend the forum.
3. **Sufficient Candidates** If the number of candidates 35-45 days before the Annual Meeting, is equal to or greater than the number of openings, a full scale, all members, secret ballot will be conducted as in item 4-6 below. If the number of candidates, as of this date, is less than or equal to the number of open positions, the Board shall appoint candidates by acclamation. The Board will announce the election results 35-45 days before the Annual Meeting, without undergoing the effort and expense of a secret ballot process.
4. **Notification of Slate** 35 to 45 days prior to the Annual Meeting if there exists a sufficient slate of candidates, all members shall be notified by first class mail of the slate of candidates and they will be supplied with secret ballot(s), secret ballot envelope(s), an external mail envelope and instructions for completing and sending their votes. (One ballot per owned lot shall be included.) All ballots shall be sealed in the supplied ballot envelope(s) and then sealed in the external mail envelope which shall be addressed and sent to the Inspector of Elections.
5. **Inspector of Elections** If a formal, secret ballot is to be conducted, the Board shall solicit the services of an Inspector of Elections. As provided for in Civil Code §5110, inspectors may include the following:
 - a. a volunteer poll worker with the county registrar of voters,
 - b. a licensee of the California Board of Accountancy, or notary public
 - c. a member of the association (who is not a member of the board of directors or a candidate for the board of directors or related to a member of the board of directors or a candidate for the board of director).
 - d. The third party may NOT be a person, business entity, or subdivision of a business entity who is currently employed or under contract to the Association.
6. **Election** At the Annual Meeting the Inspector of Elections shall be seated in view of the membership and shall proceed to open all secret ballots, tabulate the votes, and then announce the results to the members. If there were not sufficient candidates for a formal secret ballot election, the Board will announce any Directors who they have appointed by acclamation.



7. **Removal of Director** Any Director may be removed by majority vote of one-half (1/2) of the Membership.

ARTICLE VI MEETINGS OF DIRECTORS

1. **Regular Board Meetings** Regular meetings of the Board shall be held monthly. However, if the Board shall determine that the business to be transacted by the Board does not reasonably justify monthly meetings, then regular meetings of the Board shall be held at such intervals as the Board may determine, but not less frequently than once every three (3) months. Regular meetings shall be held at the time and at a place within the community fixed by the Board and written notice of the time and place of such meetings shall be posted at a prominent place or places within Circle Oaks and on its web site.
2. **Special Board Meetings** Special meetings of the Board shall be held when called by written notice signed by the President of the Association or by any two Directors other than the President.
3. **Notice of Meeting to Directors** Notice of any regular or special meeting of the Board shall be given to each Director not less than four (4) days prior to the date fixed for such meeting by written notice delivered personally, sent by mail or e-mail. Notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to the holding of such meeting. The notice shall specify the time and place of the meeting and an agenda of the business to be considered. If mailed, such notice shall be deemed to be delivered seventy-two (72) hours after deposit in the United States mail so addressed, with first class postage thereon fully prepaid. The attendance of a Director at the meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.
4. **Quorum** Three Directors shall constitute a quorum for the transaction of business. Every act done or decision made by the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.
5. **Action Without a Meeting** On an emergency basis only, the Directors shall have the right to take any action, without a meeting, as may be required for the efficient and expeditious operation and conduct of the Association's business and which it otherwise would have the power and authority to take at a meeting; provided, however, that the prior written consent of all Directors to such action is first obtained and provided further, that written notice to Association Members of the action so taken without a meeting shall be posted in a conspicuous place in Circle Oaks within three (3) days after the written consents of all Directors have been obtained. Any action so taken without a meeting and with such approval shall have the same effect as though taken at a duly noticed meeting of the Board.
6. **Notice of Board Meeting to Members, Member Attendance** The Secretary of the Association shall post a notice of all Board meetings, regular and special, in a conspicuous place in Circle Oaks, and upon its web site, not less than four (4) days prior to the scheduled time of regular meetings and not less than seventy-two (72) hours prior to the time of special meetings. All meetings of the Board shall be open to all Members of the Association. Members shall be given time to speak at such Board meetings on topics not included in the current agenda. However, no action nor voting shall take place on such items until a future Board Meeting. Members of the Association who are not Members of the Board shall have no right to participate in any Board deliberations or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board.
7. **Executive Session** The Board may, with the approval of a majority of a quorum of its members, adjourn any meeting of the Board and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and orders of business of a similar nature; provided, however, the nature of any and all business to be considered in executive session shall first be announced in open session.



ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Powers The Board shall have the power to:

- a) Enforce the provisions of the Declaration and these Bylaws and to propose, adopt, amend and publish rules governing the use of the Common Area and enforce the provisions of the Declaration.
- b) Suspend, after notice, the voting rights of a Member during any period in which such Member is in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days, for infraction of Rules; provided, however, in either event the Association cannot suspend or limit the right of any Member to use any private driveway within the Project for vehicular ingress or egress for any reason whatsoever or abridge an Owner's right to use his or her individually owned Lot except where such loss or forfeiture is the result of the judgment of a court, or a decision arising out of an arbitration or on account of a foreclosure or sale.
- c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws or the Declaration.
- d) Elect officers of the Board.
- e) Fill vacancies On the Board except for a vacancy created by removal of a Director.
- f) Declare the office of a Member of the Board to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board.
- g) Levy a fine, after notice and hearing before the Board, against any Lot Owner who shall fail or refuse to obey the Governing Documents, provided such fine shall not exceed Five Hundred Dollars (\$500.00) for any infraction of such Rules.
- h) Contract for goods and/or services for the Common Area, facilities and interests or for the Association subject to the limitations set forth herein.
- i) Delegate its powers to committees, officers or employees of the Association as authorized herein and by the Declaration of Covenants, Conditions and Restrictions.
- j) Make temporary appointments to replace a Director having to retire due to illness, death, relocation or other such cause, until the next Association general election of Directors.

Limitation of Powers Without the vote or written assent of a majority of the voting power of the Association the Board shall be prohibited from taking any of the following actions:

- a) Incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year or \$500.00, whichever is greater.
- b) Selling property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.
- c) Paying compensation to Directors or officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or Officer to be reimbursed for his or her expenses incurred, if reasonable, in carrying on the business of the Association.

Duties It shall be the duty of the Board of Directors to undertake all duties and responsibilities of the Association as expressed in the Declaration and the management and conduct of the affairs of the Association, except as expressly reserved to a vote of the Members. Such duties shall include, but are not limited to, the following:

- a) Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the Members upon request by any Member. The Association shall give to each Member an annual statement of income and expenses and a budget for the preceding year within one hundred twenty (120) days after the expiration of the Association's annual meeting.
- b) Supervise all officers, agents and employees of the Association and see that their duties are properly performed.
- c) Shall have the authority to levy annual assessments, collections, fees and fines as defined in the CC&Rs and/or Association Policies or Regulations.
- d) Issue or cause an appropriate officer to issue, upon demand by any Member, a certificate setting forth whether or not any assessment has been paid. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of receipt of such payment.



- e) Procure and maintain adequate insurance as required by Civil Code §5800-§5810.
- f) Cause all officers and employees having fiscal responsibilities to be bonded, if deemed appropriate.
- g) Cause the Common Area and the exterior of buildings located on each Lot to be maintained.

ARTICLE VIII OFFICERS AND THEIR DUTIES

1. **Officers named** The officers of this Association shall be President and Vice President, both of whom shall at all times be Directors, a Secretary, Chief Financial Officer (Treasurer) and such other officers as the Board may from time to time by resolution create.
2. **Election of Officers** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.
3. **Term** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, be removed or otherwise be disqualified to serve.
4. **Special Appointments** The Board may elect 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 the Board may from time to time determine.
5. **Resignation and Removal** Any officer may be removed from office with or without cause by the Board. If a Director serving in the office of President or Vice President of the Association has been removed pursuant to Article V, Section 7, such person shall also be automatically removed from said office; however, any officer removed by the Board shall not also be removed from the position of Director except pursuant to said Article V, Section 7. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of 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.
6. **Vacancies** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve the remainder of the term of the officer he or she replaces.
7. **Multiple Offices** Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.
8. **Duties** The duties of the officers are as follows:
 - a. **President:** The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments.
 - b. **Vice President:** The Vice President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.
 - c. **Secretary:** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; shall keep the corporate seal (if any) of the Association and affix it on all papers requiring said seal; shall serve notice of meetings of the Board and of the Members; shall keep appropriate current records showing the Members of the Association together with their addresses and shall perform such other duties as required by the Board.
 - d. **Chief Financial Officer:** The Chief Financial Officer shall cause all received funds to be deposited in appropriate bank account(s), and shall cause all monies of the Association to be disbursed as directed by resolution(s) of the Board; shall keep proper books of accounts and shall prepare an annual operating statement reflecting income and expenditures for the preceding calendar year and the allocation thereof to each Lot and a balance sheet as of the last day of the Association's calendar year. The Chief Financial Officer shall distribute a copy of such report to each Lot Owner within one hundred twenty (120) days after the close of the fiscal year.

ARTICLE IX INDEMNIFICATION OF OFFICERS, DIRECTORS AND AGENTS

1. **Right of Indemnity** The Association shall indemnify such Director officer, committee member, employee or other agent of the Association who is a party to or is threatened to be made a party to any proceeding including a proceeding by or in the right of the Association, against all expenses and liabilities actually and



reasonably paid or incurred in connection with such proceeding to the maximum extent permitted by the California Nonprofit Mutual Benefit Corporation Law.

2. **Approval of Indemnity** Upon written request to the Board by any person seeking indemnification hereunder, the Board shall promptly determine whether the applicable standard of conduct set forth in the California Nonprofit Mutual Benefit Corporation Law has been met and, if so, 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 prevent formation of a quorum of Directors who are not parties to such proceeding, the Board shall promptly call a special meeting of Members. At such meeting the Members shall determine whether the applicable standard of conduct set forth in the California Nonprofit Mutual Benefit Corporation Law has been met and if so, the Members shall authorize indemnification. Members or other persons seeking to be indemnified shall not be entitled to vote on the question of indemnification.
3. **Advancement of Expenses** To the full extent permitted by law and except as is otherwise determined by the Board in a specific instance, expenses incurred by a Director, officer, committee member, employee or agent seeking indemnification under these Bylaws in defending any proceeding covered by these Bylaws shall be advanced by the Association prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the Director, officer, committee member, employee or the agent to repay such amount unless it is ultimately determined that such person is entitled to be indemnified by the Association therefore.

ARTICLE X COMMITTEES

The Association shall have the authority to appoint a Nominating Committee, and an Architectural Committee and such other committees as deemed appropriate in carrying out the purposes of the Association. Notwithstanding any grant of authority from the Board, no committee shall have the power to approve any action which by law or these Bylaws requires the approval of the Members, fill vacancies on the Board or any committee, amend or repeal Bylaws or adopt new Bylaws, amend or repeal any resolution of the Board or appoint committees of the Board or members thereof. The Board shall not delegate the power to levy fines, to hold disciplinary hearings, to impose discipline, to make capital expenditures, to file suit, to record a claim of lien, or to foreclose for failure to pay assessments.

ARTICLE XI BOOKS AND RECORDS

All books, records and papers of the Association that are so dictated by law, shall be available for inspection and copying by any Member, or his or her duly appointed representative. The Board shall establish reasonable rules with respect to:

- 1) Notice to be given to the custodian of records by a Member desiring to make the inspection.
- 2) Hours and days of the week when such an inspection may be made.
- 3) Payment of the cost of reproducing copies of documents requested by a Member.

Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents.

ARTICLE XII ASSESSMENTS

The Board shall have the authority and responsibility to collect assessments from the Membership. Full details concerning assessments shall be covered in the Declaration of Covenant, Conditions, and Restrictions for Circle Oaks Homes Association, and in the Association's Assessment Collection Policy. Each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent.

ARTICLE XIII CORPORATE SEAL

The Board may (but shall not be required to) adopt, use and at will alter a corporate seal. Such seal, if adopted, shall be affixed to all corporate documents, but failure to affix the seal to any corporation instrument shall not affect the validity thereof.



ARTICLE XIV AMENDMENTS

1. **Amendments** These Bylaws may be amended, at a regular or special meeting of the Members, by a majority of a quorum, as defined in Article III section 4. Occasional amendments or modifications to these Bylaws may be required by changes in State or County Law. Such changes are not subject to Member approval.
2. **Conflict** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration of Covenant, Conditions, and Restrictions and these Bylaws, the Declaration shall control.
3. **Record of Amendments** Whenever an amendment or new Bylaw is adopted, a record of the amendment and the previous version of the Bylaw shall be faithfully kept and made available to any Member at their request. If any Bylaw repeals any portion of the original Bylaws, the date of the meeting at which the repeal was enacted or written assent was filed shall be stated in such records.

ARTICLE XV CERTIFICATES OF MEMBERSHIP

1. **Certificate of Membership** The Board of Directors may, but shall not be required to, issue certificates evidencing membership in the Association, which shall be in such form as may be determined by the Board. Such certificates, if issued, shall be signed by the President or a Vice President and by the Secretary or an Assistant Secretary and shall be sealed with the seal of the Corporation, if a seal is adopted. If any certificate shall become lost, mutilated, or destroyed, a new certificate may be issued upon such terms and conditions as the Board may determine.
2. **Transfer of Membership** Upon the sale of any Lot, the membership of the selling Owner shall terminate and the certificate, if any, issued to such Member shall be cancelled. The new purchasing Owner shall receive a newly issued certificate if the Association has elected to issue certificates evidencing membership in the Association as provided in Paragraph 1 above.

ARTICLE XVI TAX EXEMPT STATUS

The Board and Members of the Association shall conduct the business of the Association in such manner that the Association qualifies and be considered an organization exempt from Federal and State income taxes pursuant to Internal Revenue Code Section 528 and California Revenue and Taxation Code Section 23701t. In particular:

- (1) Sixty percent (60%) or more of the gross income of the Association for each taxable year shall consist solely of amounts received as membership dues, fees and assessments from Lot Owners
- (2) Ninety percent (90%) or more of the expenditures of the Association for the taxable year are expenditures solely for providing management, maintenance and care of Association property, including Common Areas in the Project, or for the general welfare of the community comprising the Association;
- (3) No part of the net earnings of the Association shall inure to the benefit of any private member or individual (other than by the Association providing management, maintenance and care of Association property, including Common Areas, or by a rebate of excess membership dues, fees or assessments
- (4) The Association shall not provide or maintain facilities to provide utilities for its Members (provided, however, that the Association may charge for utility services provided to the Project by utility companies, which services are not separately metered);
- (5) Amounts received as membership dues, fees and assessments not expended for Association purposes during the taxable year shall be transferred to the budget of the following year and used only for management, maintenance and care of the Association property, including Common Areas of the Project, or to promote the general welfare of the community comprising the Association. The Board shall cause to be timely filed any annual election for tax-exempt status as may be required under federal or state law, and shall undertake to cause the Association to comply with the statutes, rules and regulations adopted by federal and state agencies pertaining to such exemptions.

ARTICLE XVII MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year.