

# Table of Contents

<b>ARTICLE 1: GENERAL PROVISIONS</b> .....	<b>1</b>
1.1 Name.....	1
1.2 Defined Terms .....	1
1.2.1 Declaration .....	1
1.2.2 Cohabitant.....	1
1.2.3 Additional Terms.....	1
1.3 Purpose .....	1
<b>ARTICLE 2: MEMBERSHIP AND VOTING RIGHTS</b> .....	<b>1</b>
2.1 Qualification .....	1
2.2 Transfer of Membership .....	2
2.3 Voting Rights.....	2
2.4 Joint Owner Disputes .....	2
2.5 Member's Rights and Duties.....	2
2.6 Voting for Members of the Board .....	2
<b>ARTICLE 3: MEMBERSHIP ASSESSMENTS AND LIEN RIGHTS</b> .....	<b>2</b>
3.1 Membership Assessments .....	2
3.2 Enforcement, Lien Rights.....	3
<b>ARTICLE 4: MEMBERSHIP RIGHTS AND PRIVILEGES</b> .....	<b>3</b>
4.1 Rights and Privileges of Members .....	3
4.2 Rules .....	3
4.3 Suspension of Voting Rights; Monetary Penalties; Other Discipline .....	3
<b>ARTICLE 5: MEETINGS OF MEMBERS</b> .....	<b>4</b>
5.1 Place of Meeting.....	4
5.2 Annual Meeting of Members.....	4
5.3 Special Meetings .....	4
5.4 Notice of Certain Agenda Items .....	5
5.5 Manner of Giving Notice.....	5
5.6 Adjourned Meetings and Notices Thereof.....	5
5.7 Quorum.....	6
5.8 Waiver by Attendance .....	6
5.9 Action without Meeting.....	6
5.10 Record Date .....	7
5.11 Proxies .....	7
<b>ARTICLE 6: DIRECTORS</b> .....	<b>8</b>
6.1 Number, Qualifications, Term of Office .....	8
6.2 Nominating Committee .....	8
6.3 Removal and Vacancies.....	8
6.4 Place of Meeting.....	9
6.5 Organization Meeting of the Board .....	9
6.6 Regular Meetings.....	9
6.7 Special Meetings .....	9
6.8 Meetings by Telephone .....	9

## Table of Contents

6.9 Quorum Requirement, Waiver of Notice .....	10
6.10 Action without Meeting.....	10
6.11 Quorum.....	10
6.12 Adjournment.....	10
6.13 Open Meetings.....	11
6.13.1 <i>Open to Members</i> .....	11
6.13.2 <i>Executive Session</i> .....	11
6.14 Compensation .....	11
6.15 Committees.....	11
6.16 Powers and Duties .....	12
<b>ARTICLE 7: OFFICERS .....</b>	<b>12</b>
7.1 Officers .....	12
7.2 Subordinate Officers.....	12
7.3 Election.....	12
7.4 Term .....	12
7.5 Resignation of Officers.....	12
7.6 President .....	13
7.7 Vice President.....	13
7.8 Secretary .....	13
7.9 Chief Financial Officer.....	13
<b>ARTICLE 8: INDEMNIFICATION BY THE ASSOCIATION .....</b>	<b>14</b>
8.1 Definitions .....	14
8.1.1 <i>Agent</i> .....	14
8.1.2 <i>Proceeding</i> .....	14
8.1.3 <i>Expenses</i> .....	14
8.2 Successful Defense by Agent .....	14
8.3 Actions Brought by Persons Other Than the Association .....	14
8.4 Action Brought by or on behalf of the Association.....	15
8.4.1 <i>Claims Settled out of Court</i> .....	15
8.4.2 <i>Claims and Suits Awarded against Agent</i> .....	15
8.5 Determination of Agent's Good Faith Conduct .....	15
8.5.1 <i>Required Standard of Conduct</i> .....	15
8.5.2 <i>Manner of Determination of Good Faith Conduct</i> .....	15
8.6 Limitations.....	16
8.7 Advance of Expenses.....	16
8.8 Contractual Rights of Nondirectors and Nonofficers .....	16
8.9 Insurance.....	16
<b>ARTICLE 9: MISCELLANEOUS .....</b>	<b>16</b>
9.1 Checks and Drafts.....	16
9.2 Contracts, How Executed .....	16
9.3 Inspection of Bylaws .....	17
9.4 Fiscal Year.....	17
9.5 Maintenance and Inspection of Other Corporate Records.....	17
9.6 Annual Report to Members .....	17

## Table of Contents

<b>ARTICLE 10: EVIDENCE OF MEMBERSHIP, SEAL.....</b>	<b>18</b>
10.1 Evidence of Membership.....	18
10.2 Seal .....	18
<b>ARTICLE 11: AMENDMENTS, CONFLICTS.....</b>	<b>18</b>
11.1 Amendments.....	18
11.2 Conflicts .....	18
<b>CERTIFICATION.....</b>	<b>19</b>

**THE AMENDED AND RESTATED**  
**BYLAWS OF**  
**THE SPRINGS HOMEOWNERS' ASSOCIATION**

**ARTICLE 1: GENERAL PROVISIONS**

**1.1 Name**

The name of the Association is The Springs Homeowners' Association ("Association"). The principal office of the Association is 6358 Irena Avenue, Camarillo, California 93012.

**1.2 Defined Terms**

Unless expressly indicated to the contrary, the terms used herein shall have the same meaning as used in the Declaration and below unless expressly indicated to the contrary.

**1.2.1 Declaration**

"Declaration" shall mean that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Springs Homeowners' Association recorded September 3, 2002 in the office of the County Recorder as Document 2002-0209446-00 and all amendments thereto.

**1.2.2 Cohabitant**

"Cohabitant" shall mean a Resident who is a domestic partner of a Qualifying Resident within the meaning of Section 297 of the Family Code of the State of California.

**1.2.3 Additional Terms**

The remainder of the terms defined in the Declaration shall have the same meaning when used in these Bylaws as when used in the Declaration.

**1.3 Purpose**

The Association has been formed for the purpose of exercising the powers and performing the duties of the Association as set forth in the Governing Documents.

**ARTICLE 2: MEMBERSHIP AND VOTING RIGHTS**

**2.1 Qualification**

Each Owner of a Lot is a Member. If a Lot is owned by more than one (1) Owner, all such Owners are Members. For the purposes of representing such Lot in the affairs of the Association and the voting of the Members, however, such Lot shall be entitled to only one (1) vote except as provided in Section 2.6 below. That vote shall be exercised and cast in accordance with the

provisions of these Bylaws. Ownership of a Lot is the only qualification for membership in the Association.

## **2.2 Transfer of Membership**

The Association membership of each Owner shall be appurtenant to the Lot giving rise to such membership and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon the transfer of title to said Lot, and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof.

## **2.3 Voting Rights**

All Members are entitled to one (1) vote for each Lot owned. When more than one (1) person is the Owner of a Lot, all such persons are Members. The vote for such Lot shall be exercised as the owning Members among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot except as provided in Section 2.6 below.

## **2.4 Joint Owner Disputes**

The vote for each Lot shall be cast only as a unit and fractionalized votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter or nominee in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that the voting Owner was acting with the authority and consent of all other Owners of the same Lot.

## **2.5 Member's Rights and Duties**

Each Member has the rights, duties and obligations as set forth in the Governing Documents.

## **2.6 Voting for Members of the Board**

In any election in which two (2) or more positions on the Board are to be filled, every Owner entitled to vote shall have the same number of votes for each Lot owned that is equal to the number of positions to be filled. No Member shall have the right of cumulating votes in order to give any one (1) candidate more than one (1) vote per Lot owned by the voting Member. Subject to the provisions of Section 5.7 hereof with respect to quorum requirements and to the provisions of Section 6.1 hereof with respect to Director qualification, the candidates receiving the highest number of votes, up to the number of Board members to be elected, shall be elected. Voting for members of the Board shall be by secret written ballot.

# **ARTICLE 3: MEMBERSHIP ASSESSMENTS AND LIEN RIGHTS**

## **3.1 Membership Assessments**

Annual, Special and all other Assessments as provided for in the Declaration shall be paid by the Members at the time, in the manner and subject to the conditions and limitations set forth in the Declaration. The Board shall fix, levy, collect and enforce such Assessments at the time, in the manner and subject to the conditions and limitations set forth in the Declaration.

### **3.2 Enforcement, Lien Rights**

For the purpose of enforcing and collecting Assessments, the Association shall have the lien rights set forth in the Declaration. Such lien rights shall be enforceable by the Board in the manner set forth in the Declaration. The Board shall also have all other rights and remedies set forth in the Declaration or otherwise provided for at law or in equity.

## **ARTICLE 4: MEMBERSHIP RIGHTS AND PRIVILEGES**

### **4.1 Rights and Privileges of Members**

No Member shall have the right, without the prior approval of the Board, to exercise any of the powers or to perform any of the acts delegated to the Board by the Governing Documents. Each Member shall have all of the rights and privileges granted to Members by the Governing Documents, including but not limited to property rights, rights of access over and use and enjoyment of the Association Property.

### **4.2 Rules**

The Board may establish such rules, regulations, fees and conditions for the use of the Association Property and its facilities as the Board deems appropriate. Such rules, regulations, fees and conditions shall not materially abridge the rights of Members or Residents as set forth in the Governing Documents. Any fee established shall apply equally to all Members and Residents but need not be the same as the fee for those who are not Members or Residents. Such fees shall be used first for the maintenance, repair and operation of the facility that is the subject of the fees. All rules and regulations adopted pursuant to this Section 4.2 shall be incorporated into and be a part of the Association Rules.

### **4.3 Suspension of Voting Rights; Monetary Penalties; Other Discipline**

After the meeting of the Board as provided in this Section 4.3, the Board shall have the right to suspend the voting rights of a Member for the period during which any Assessment owed by such Member remains delinquent. The Board shall also have the right to impose monetary penalties, to suspend voting rights for not more than thirty (30) days or to impose other discipline for any other failure to comply with the Governing Documents. Any suspension of voting rights or imposition of monetary penalties or other discipline shall be made only after a meeting of the Board at which a quorum is present. Such meeting shall be duly noticed and called in the same manner as provided in these Bylaws for the noticing and calling of a special meeting of the Board.

Written notice of the meeting shall be given at least fifteen (15) days before the meeting to the Member or Resident against whom discipline is sought. The notice shall contain, at a minimum, the date, time and place of the meeting, the nature of the alleged violation for which the Member may be disciplined and a statement that the Member has a right to attend the meeting and may address the Board at the meeting. Such notice shall be given either in person or by United States mail, certified or registered with postage and fees prepaid and return receipt requested, addressed to the Member or Resident at the Member's or Resident's Lot or at the address given to the

Association for the purpose of notice. Such notice, if mailed, shall be deemed received twenty-four (24) hours after being so deposited in the United States mail.

The Member or Resident so noticed shall be entitled to appear at the meeting and present the case as to why voting rights should not be suspended or why monetary penalties or other discipline should not be imposed. If requested by the Member or Resident being disciplined, the Board shall meet in executive session. The decision in the matter shall be made by a majority of the Board present at the meeting and shall be binding. No action taken at the meeting shall be effective unless a quorum of the Board is present in person or by proxy and unless written notice, either by personal delivery or first-class mail, shall have been given to the Member or Resident subject thereto within fifteen (15) days following the action. The notice of suspension or imposition shall include the reasons(s) for the action.

## **ARTICLE 5: MEETINGS OF MEMBERS**

### **5.1 Place of Meeting**

All meetings of the Members shall be held at the principal office of the Association.

### **5.2 Annual Meeting of Members**

The Annual Meeting of Members shall be held each year in November. At each Annual Meeting there shall be elected by secret written ballot of the Members a Board of Directors in accordance with the requirements of these Bylaws. The Members may also transact such other business of the Association as may properly come before them. The Secretary shall give written notice of the Annual Meeting to each Member not less than ten (10) nor more than ninety (90) days before the meeting. The notice shall specify, in addition to the place, day and time of the meeting, the general nature of the matters that the Board intends to present for action by the Members. Any proper matter may be presented for action at the meeting. The notice of any meeting at which directors are to be elected shall include the names of those who are nominees at the time the notice is sent.

### **5.3 Special Meetings**

Special Meetings of Members for any purpose may be called at any time by the President, by the Board, by any two (2) or more directors or by Members representing five percent (5%) or more of the Voting Power of the Association. Except in cases where other express provision is made by statute, these Bylaws or the Declaration, notice of such Special Meetings shall be given in the same manner as for Annual Meetings and may be given by any person(s) entitled to call such meeting. Notices of any Special Meeting shall specify, in addition to the place, day and time of such meeting, the general nature of the business to be transacted. No business may be transacted at a Special Meeting other than that specified in the notice.

If Members call a Special Meeting, the calling Members shall submit a written request specifying the general nature of the business proposed to be transacted. The request shall be delivered personally or sent by registered mail or by facsimile transmission to the President, the Vice-President or the Secretary of the Association. The officer receiving the request shall cause

notice to be promptly given to all Members entitled to vote that a meeting will be held and the date and time for the meeting. Such date shall be not less than ten (10) nor more than ninety (90) days following the receipt of the request. If the notice is not given within twenty (20) days after receipt of the request, the Members requesting the meeting may give the notice.

#### **5.4 Notice of Certain Agenda Items**

Member action on any of the following proposals shall be invalid unless the notice of meeting or the written waiver of notice states the general nature of the proposal:

- Removing a director without cause;
- Filling vacancies on the Board by the Members;
- Amending the Articles; or
- Approving a contract or transaction in which a director has a material financial interest.

#### **5.5 Manner of Giving Notice**

Notice of any meeting of Members shall be given to each Member either in person, by first-class mail or by facsimile or other written communication sent to the Member's Lot or to the address given by the Member for the purpose of notice. If no address appears in the Association's records and the Member does not reside on a Lot, notice shall be deemed to have been given if either:

- Notice is sent to that Member by first-class mail or facsimile or other written communication to the Association's principal office; or
- Notice is published at least once in a newspaper of general circulation in the County.

Notice shall be deemed to have been given at the time when delivered in person or deposited in the mail or sent by facsimile or other means of written communication. The Secretary or other person giving the notice shall execute an affidavit of the mailing or other means of giving the notice and shall file such affidavit in the minute book of the Association.

#### **5.6 Adjourned Meetings and Notices Thereof**

Any Annual or Special Meeting whether or not a quorum is present may be adjourned by the affirmative vote of a majority of the votes entitled to be cast and present at such meeting in person or by proxy. In the absence of a quorum, however, no other business may be transacted at any such meeting unless these Bylaws or the Declaration otherwise provide. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) nor more than thirty (30) days from the original meeting date.

The quorum for an adjourned meeting shall be twenty-five percent (25%) of the Voting Power of the Association. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the date, time and place of the adjourned meeting shall be given to Members in the manner prescribed for Annual Meetings.

When any Annual or Special Meeting is adjourned for thirty (30) days or more, notice of the reconvening of the adjourned meeting shall be given as in the case of the original meeting so adjourned.



Except as otherwise provided in this Section 5.6, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting other than by an announcement at the meeting at which the adjournment occurred.

### **5.7 Quorum**

Unless otherwise expressly provided by these Bylaws or the Declaration:

- The presence in person or by proxy of Members entitled to cast at least fifty percent (50%) of the Voting Power of the Association shall constitute a quorum for any action by the Members;
- A majority of the Members present in person or by proxy and entitled to vote at a meeting at which a quorum is present shall prevail at such meeting; and
- All action required or permitted to be taken by the Members may be taken only at a duly called and properly noticed Annual or Special Meeting at which a quorum is present.

The Members present in person or by proxy at a duly called meeting at which a quorum first was present may continue to do business until adjournment notwithstanding the withdrawal of enough Members so that less than a quorum remains. Other than adjournment, however, any action taken at such a meeting shall require the approval of Members equal to a majority of the number required to constitute a quorum.

### **5.8 Waiver by Attendance**

Attendance by a person at a meeting shall also constitute a waiver of notice of that meeting by that person, except when the person objects at the beginning of the meeting to the transaction of any business because of the inadequacy or illegality of the notice. Also, 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 if that objection is expressly made at the meeting.

### **5.9 Action without Meeting**

Any action other than the election of directors, which under the provisions of the California Nonprofit Mutual Benefit Corporation Law shall be taken at a meeting of the Members, may be taken without a meeting and without prior notice if:

- The written ballot of every Member is solicited;
- The required number of signed written approvals setting forth the action so taken is received;
- The number of ballots cast within the time period specified equals or exceeds the quorum required to be present at a meeting to authorize the action; and
- The number of approvals received equals or exceeds the number of votes that would be required to approve at a meeting to authorize the action.

Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 7511 and Sections 7513 and 7514 of the California Nonprofit Mutual Benefit Corporation Law. 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 approval necessary to pass the measure submitted. The solicitation shall specify the time and date by which the ballot must be received in order to be counted.

Subject to Sections 7611 and 7613 of the California Nonprofit Mutual Benefit Corporation Law, any Member or transferee or personal representative of a Member or their respective proxyholders may revoke a ballot and substitute another by a writing received by the Association prior to the time specified in the solicitation pursuant to the preceding paragraph, but may not do so thereafter. Such revocation is effective upon its receipt by the Secretary of the Association.

### **5.10 Record Date**

The Board of Directors may fix a date in the future as a record date for the determination of the Members entitled to notice of and to vote at any meeting of Members. The record date so fixed shall not be more than sixty (60) days nor less than ten (10) days before the date of the meeting, nor more than sixty (60) days prior to any other proposed action. When a record date is so fixed, only Members of record on that date shall be entitled to notice of and to vote at the meeting or on the proposed action, notwithstanding any transfer of or issuance of membership certificates on the books of the Association after the record date.

If no record date is fixed in accordance with the provisions of the preceding paragraph, the record date for determining those Members entitled to receive notice of or to vote at a meeting of Members or on a proposed action 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. The record date for determining those Members entitled to vote by ballot on a proposed action without a meeting when no prior action by the Board has been taken shall be the day on which the first written consent is given. When prior action of the Board has been taken, it shall be the day on which the Board adopts the resolution relating to that proposed action. For purposes of this paragraph and the preceding paragraph, a person holding membership as of the close of business on the record date shall be deemed the Member of record.

### **5.11 Proxies**

Every person entitled to vote or execute consents shall have the right to do so in person or by an agent authorized by a written proxy executed by such person or the person's duly authorized agent. The proxy shall be filed with the Secretary of the Association prior to the commencement of the meeting at which the proxy is to be exercised. A validly executed proxy that does not state that it is irrevocable shall continue in full force and effect unless:

- Revoked by the Member executing it, before the vote cast pursuant to that proxy, by a writing delivered to the Association stating that the proxy is revoked, by a subsequent proxy executed by such Member or by personal attendance and voting at a meeting by such Member; or unless
- Written notice of the death or incapacity of the maker of the proxy is received by the Association before the vote pursuant to that proxy is counted.

No proxy, however, shall be valid after the expiration of eleven (11) months from the date of the proxy unless otherwise provided in the proxy. The provisions of the California Nonprofit Mutual Benefit Corporation Law shall govern the revocability of a proxy that states on its face that it is irrevocable. In any election of directors, any form of proxy that is marked by a Member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld, shall not be voted either for or against the election of a director. Failure

to comply with this paragraph shall not invalidate the election of any director, but may be the basis for challenging a proxy at a meeting.

## **ARTICLE 6: DIRECTORS**

### **6.1 Number, Qualifications, Term of Office**

The affairs of the Association shall be managed by a Board of five (5) directors each of whom shall be both a Resident and a Member or, if not a Member, shall be a Member's spouse or Cohabitant. All directors shall be elected to serve two (2) year terms. At each Annual Meeting, the Members shall elect a new director to fill each vacancy created by the expiration of a prior director's term. The number of directors may be increased or decreased from time to time by the Members amending these Bylaws as hereinafter provided. In no event, however, shall there be less than three (3) director positions.

### **6.2 Nominating Committee**

The President of the Association shall appoint a committee to select qualified candidates for election to the Board at least sixty (60) days before the date of the election. The Secretary shall forward to each Member, with the notice of meeting required by Section 5.2 hereof, a list of the candidates nominated.

Members representing five percent (5%) of the membership may nominate candidates for the Board at any time before the fiftieth (50th) day preceding such election. On timely receipt of a petition signed by the required number of Members, the Secretary shall cause the names of the candidates named on it to be placed on the ballot along with those candidates named by the nominating committee. At the meeting to elect directors, any Member present, in person or by proxy, may place names in nomination.

### **6.3 Removal and Vacancies**

The entire Board may be removed from office, with or without cause, at any duly called and noticed Annual or Special meeting at which a quorum is present by a majority of the Members present, in person or by proxy and entitled to vote. Unless the Members remove the entire Board from office, no individual director shall be removed prior to the expiration of that director's term except by the vote of at least a simple majority of the Voting Power of the Association. A vacancy in the Board created by the removal of a director shall be filled by a majority of the Members present in person or by proxy and entitled to vote at a duly called Annual or Special Meeting at which a quorum is present. Each director so elected shall hold office until a successor is elected at an Annual Meeting or at a Special Meeting duly called for that purpose.

A vacancy or vacancies shall be deemed to exist in case of the death, resignation or removal of any director, or if the Members shall increase the authorized number of directors but shall fail to elect the full number of authorized directors. Only the Members shall have the power to fill a vacancy caused by removal. In the event of vacancies created by an increase in the authorized number of directors, no more than one (1) director may be appointed by the Board rather than elected by the Members. In the event of any other vacancy, the Board shall have the power to

appoint a successor to complete the vacated term. If the Board accepts the resignation of a director tendered to take effect at a future time, the Board shall have the power to appoint a successor to take office when the resignation becomes effective.

In the event that any member of the Board shall be absent for four (4) consecutive regular meetings of the Board, the Board may, by action taken at the meeting during which said fourth (4<sup>th</sup>) absence occurs, declare the position of said absent director to be vacant.

#### **6.4 Place of Meeting**

All meetings of the Board shall be held at the principal office of the Association.

#### **6.5 Organization Meeting of the Board**

Immediately following each Annual Meeting, the Board shall hold a regular meeting at the same place for the purpose of organization, election of officers and the transaction of other business. Notice of such meeting is hereby dispensed with.

#### **6.6 Regular Meetings**

Regular meetings of the Board shall be held at the time, date and place designated by the Board from time to time. Notice of the time and date of such meeting shall be posted at a prominent place within the Association Property and shall be communicated to each director not less than four (4) days prior to the meeting. Regular meetings of the Board shall be held at least once every three (3) months.

#### **6.7 Special Meetings**

Special meetings of the Board for any purpose or purposes may be called by written notice at any time by the President, or, if the President is absent or is unable or refuses to act, by any Vice President or by any two (2) directors.

Notice of the time, date and place of special meetings and of the nature of any special business to be considered shall be given to each director either:

- By written notice given by first-class mail at least ninety-six (96) hours prior to the scheduled time of such meeting; or
- By telephone notice or written notice delivered personally or by facsimile transmission at least seventy-two (72) hours prior to the meeting.

Notice of the time, date and place of all special meetings shall be posted at a prominent place within the Association Property no later than seventy-two (72) hours prior to the meeting.

Whenever any director is absent from any special meeting and notice of such meeting has been duly given to such director, an entry in the minutes to the effect that notice has been duly given shall be made.

#### **6.8 Meetings by Telephone**

Any meeting, regular or special, may be held by conference telephone or via similar communications equipment. Any member of the Board may participate by conference telephone

or similar communications equipment in a meeting at which other members of the Board are physically present so long as all directors participating in the meeting can hear one another. All such directors shall be deemed to be present in person at such meetings.

### **6.9 Quorum Requirement, Waiver of Notice**

The transaction of any business at any meeting of the Board, however called and noticed or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice:

- If a quorum is present, unless a quorum is expressly not required pursuant to these Bylaws; and
- If, either before or after the meeting, each of the directors not present signs a written waiver of notice or a consent to the holding of such meeting or an approval of the minutes thereof.

All such waivers, consents or approvals shall be filed with the Association's records and made a part of the minutes of the meeting.

### **6.10 Action without Meeting**

Any action required or permitted to be taken by the Board by law or by the Governing Documents may be taken without a meeting if all members of the Board consent in writing to such action. The written consents shall be filed with the minutes of the Board and shall have the same force and effect as a unanimous vote of the directors. If the Board resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place in the Association Property within three (3) days after the written consent of all directors has been obtained.

### **6.11 Quorum**

A majority of the Board shall constitute a quorum thereof. Unless a different standard is required by the Governing Documents, every act done or decision made by a majority of the directors present at a meeting duly held at which a quorum is present in person, by proxy or by telephone shall be regarded as the act of the Board. Matters that may require a different standard include:

- The approval of contracts or transactions in which a director has a direct or indirect material financial interest;
- The appointment of committees; and
- The indemnification of directors.

### **6.12 Adjournment**

A quorum of the directors may adjourn any directors' meeting to meet again at a stated day and hour. In the absence of a quorum, a majority of the directors present at a directors' meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board. Notice of the time, date and place of holding an adjourned meeting need not be given unless the meeting is adjourned for more than twenty-four (24) hours. In that event personal notice of the time, date and place shall be given before the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

## **6.13 Open Meetings**

### **6.13.1 Open to Members**

Regular and special meetings of the Board shall be open to all Members. Members who are not on the Board may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board. In the event the Board elects to hold any such meeting by telephone conference call, then any Member may request to be and shall be connected to such telephone conference call. If the number of Members requesting such connection makes the telephone conference call impractical or impossible, a telephone conference meeting may not be held.

### **6.13.2 Executive Session**

The Board may, with the approval of a majority of a quorum of its members, adjourn a meeting and reconvene in executive session to discuss and vote upon:

- Personnel matters;
- Litigation in which the Association is or may become involved;
- Matters related to the formation of contracts with third parties; and
- Matters involving Member discipline.

The nature of any and all business to be considered in executive session shall first be announced in open session.

## **6.14 Compensation**

No director or officer of the Association shall receive any salary or other compensation for services rendered as such director or officer. Directors and officers, however, shall be reimbursed for expenses incurred for the Association and authorized by the Board. Nothing herein shall preclude any director or officer from serving the Association in any capacity other than as an officer or a director and receiving compensation therefor as authorized and approved by the vote or written consent of Members holding a majority of the Voting Power of the Association. Any director receiving any special compensation for services in such other capacity shall be excluded from deliberations and voting by the Board and by the Members relative to the authorization thereof and the compensation therefor.

## **6.15 Committees**

The Board shall have the power to appoint an Executive Committee and other committees and to delegate to such committees any of the powers and authority of the Board in the management of the business and affairs of the Association except the power to:

- Adopt, amend or repeal these Bylaws;
- Fill vacancies on the Board or on any committee;
- Amend or repeal any resolution of the Board that by its express terms is not so amendable or repealable;
- Appoint any other committees of the Board or the members of those committees; or
- Approve any transaction
  - To which the Association is a party and in which one or more directors has a material financial interest, or

- Between the Association and one or more of its directors or officers, or
- Between the Association and any entity in which one or more of its directors or officers has a material financial interest.

Each committee shall be composed of two (2) or more directors (one member of the Executive Committee shall be the President) and shall keep regular written minutes of the proceedings and report the same to the Board.

### **6.16 Powers and Duties**

Except for matters expressly reserved to the Members by the Governing Documents, the California Nonprofit Mutual Benefit Corporation Law or the California Civil Code, all Association powers and duties including those set forth in the Declaration shall be exercised by or approved by a vote of the members of the Board. The Board shall direct and control the business and affairs of the Association.

## **ARTICLE 7: OFFICERS**

### **7.1 Officers**

The officers of the Association shall be a President, a Vice President, a Secretary, a Chief Financial Officer and such other officers as the Board may appoint. Any person may hold more than one office except that neither the Secretary nor the Chief Financial Officer may serve concurrently as the President. The President, Vice President, Secretary and Chief Financial Officer all shall be members of the Board. Each officer shall be both a Resident and a Member or, if not a Member, shall be a Member's spouse or Cohabitant.

### **7.2 Subordinate Officers**

The Board may appoint or may authorize the President or another officer to appoint any other officer that the Association may require. Each officer shall have the title, hold office for the period, have the authority and perform the duties specified in these Bylaws or as determined by the Board.

### **7.3 Election**

Officers shall be removed, elected or appointed at any meeting of the Board by a majority vote of the total number of directors on the Board.

### **7.4 Term**

All officers shall hold office at the pleasure of the Board.

### **7.5 Resignation of Officers**

Any officer may resign at any time by giving written notice to the Board. Any resignation shall take effect at the date of receipt of the notice or at any later date specified in the notice. Unless otherwise specified in the notice, the acceptance of the 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.

## **7.6 President**

The President shall be the chief executive officer of the Association and shall, subject to the control of the Board, have supervision, direction and control of the business and affairs of the Association. The President:

- Shall preside at all meetings of the Members and of the Board;
- Shall *ex officio* be a member of all standing committees, including the Executive Committee if in existence;
- Shall have the general powers and duties of management usually vested in the office of President of a California nonprofit mutual benefit corporation;
- Shall have such powers and duties as may be prescribed by the Board or these Bylaws; and
- Shall sign all leases, easements, mortgages and deeds of the Association.

## **7.7 Vice President**

In the absence or disability of the President, the Vice President shall perform all the duties of the President and when so acting shall have all the powers of and be subject to all the restrictions on the President. The Vice President shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

## **7.8 Secretary**

The Secretary shall keep or cause to be kept a book of minutes at the principal office of the Association, or at such other place as the Board may order, of all meetings of directors and Members noting:

- The time and place of holding;
- Whether the meeting was regular or special, and if special how authorized and the notice thereof given;
- The names of the directors present and of any person speaking at directors' meetings;
- The number of Members present or represented at Members' meetings; and
- A record of the proceedings thereof.

The Secretary shall give or cause to be given notice of all meetings of the Members and of the Board required by these Bylaws or by law to be given. The Secretary 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 these Bylaws.

The Secretary shall keep or cause to be kept at the principal office of the Association a register of the Members showing their names, addresses and the Lot owned by each.

## **7.9 Chief Financial Officer**

The Chief Financial Officer shall keep and maintain adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, surplus and reserves. The books of account shall at all times be open to inspection by any director. The Chief Financial Officer shall deposit for the account of the Association all monies and other valuables with such depositories as the Board may designate. The Chief Financial Officer shall disburse the funds of the



Association as may be ordered by the Board and shall render to the President and directors, whenever they request it, an account of the financial transactions of the Association and of the financial condition of the Association. The Chief Financial Officer shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws. The Board may delegate the performance of the foregoing duties, subject to the supervision of the Chief Financial Officer, to a professional manager retained by the Association.

## **ARTICLE 8: INDEMNIFICATION BY THE ASSOCIATION**

### **8.1 Definitions**

For the purpose of this Article 8:

#### **8.1.1 Agent**

"Agent" means any person who was or is a director, officer, employee or agent of the Association, or was or is serving at the request of the Association as a director, officer, employee or agent of another entity or enterprise;

#### **8.1.2 Proceeding**

"Proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and

#### **8.1.3 Expenses**

"Expenses" includes without limitation all attorneys' fees, costs, and any other expenses incurred:

- In the defense of any claim or proceeding against an agent by reason of the person's status as agent; and
- In establishing a right to indemnification under this Article 8.

### **8.2 Successful Defense by Agent**

To the extent that an agent has been successful on the merits in the defense of any claim or proceeding referred to in this Article 8, the agent shall be indemnified against expenses reasonably incurred in connection therewith. If an agent either settles the claim or proceeding or sustains a judgment against him or her, the provisions of Sections 8.3, 8.4 and 8.5 below shall determine whether the agent is entitled to indemnification.

### **8.3 Actions Brought by Persons Other Than the Association**

Subject to the required findings to be made pursuant to Section 8.5 below, the Association shall indemnify any person who was or is a party or who is threatened to be made a party to the proceeding because such person was or is an agent against all expenses, judgments, fines, settlements and other amounts reasonably incurred in connection with a proceeding. Excluded from this indemnification is any person who is a party to an action brought by or on behalf of the Association or by an officer, director or person granted related status by the Attorney General either outright or on the ground that the defendant agent was or is engaging in self-dealing within the meaning of California Corporations Code Section 5233.

## **8.4 Action Brought by or on behalf of the Association**

### **8.4.1 Claims Settled out of Court**

If any agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of the Association, with or without approval, the agent shall receive no indemnification against amounts paid pursuant to the terms of the settlement or other disposition or against any expenses incurred in defending the proceeding.

### **8.4.2 Claims and Suits Awarded against Agent**

The Association shall indemnify any person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action brought by or on behalf of the Association because the person was or is an agent against all expenses reasonably incurred in connection with the defense of that action, provided that both of the following conditions are met:

- The determination of good faith conduct required by Section 8.5 below shall be made in the manner provided for in that section; and
- Upon application, the court in which the action was brought shall determine that, in view of all the circumstances in the case, the agent is entitled to indemnification against the expenses incurred. If the agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

## **8.5 Determination of Agent's Good Faith Conduct**

The indemnification granted to an agent in Sections 8.3 and 8.4 above is conditioned on the following:

### **8.5.1 Required Standard of Conduct**

The agent seeking reimbursement shall be found to have acted:

- In good faith;
- In a manner the agent believed to be in the best interest of the Association;
- With such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances; and
- In the case of a criminal proceeding, with no reasonable cause to believe that the conduct in question was unlawful.

The termination of any proceeding by judgment, order, settlement, conviction or on a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person did not act in accordance with the above stated standard of conduct.

### **8.5.2 Manner of Determination of Good Faith Conduct**

The determination that the agent did act in a manner complying with Section 8.5.1 above shall be made by:

- The Board by a majority vote of a quorum consisting of directors who are not parties to the proceeding;
- The affirmative vote or written ballot of a majority of the Members present in person or by proxy and entitled to vote at a duly called meeting at which a quorum is present

(which affirmative votes or ballots also constitute a majority of the required quorum), with the person(s) to be indemnified not being entitled to vote; or

- The court in which the proceeding was or is pending. Such determination may be made on application brought by the Association or, if the Association fails to bring or opposes such application, by the agent, attorney or other person rendering a defense of the agent.

### **8.6 Limitations**

Except as provided in Section 8.2 above and in the third bullet under subsection 8.5.2 above, no indemnification or advance shall be made under this Article 8 if the indemnification or advance would be inconsistent with:

- The Governing Documents;
- A resolution of the Members;
- An agreement in effect at the time of the alleged cause of action asserted in the proceeding; or
- Any condition expressly imposed by a court in approving a settlement.

### **8.7 Advance of Expenses**

The Association may advance expenses incurred in defending any proceeding before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance. Such repayment shall not be required if it is determined ultimately that the agent is entitled to indemnification as authorized in this Article 8.

### **8.8 Contractual Rights of Nondirectors and Nonofficers**

Nothing contained in this Article 8 shall affect any right of indemnification to which persons other than directors and officers of the Association may be entitled by contract or otherwise.

### **8.9 Insurance**

The Board may purchase and maintain insurance on behalf of any agent against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the Association would have the power to indemnify the agent against that liability under the provisions of this Article 8. In all events, the Board shall secure and maintain "D and O" coverage protecting all directors and officers of the Association against such liability.

## **ARTICLE 9: MISCELLANEOUS**

### **9.1 Checks and Drafts**

All checks, drafts or other orders for payment of money, notes or other obligations of the Association shall be signed by such person(s) and in such manner as determined by the Board.

### **9.2 Contracts, How Executed**

The Board, except as otherwise provided in these Bylaws, may authorize any officer or agent to enter into any contract or to execute any instrument in the name and on behalf of the Association.

Such authority may be either general or limited to specific instances. Unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Association by a contract or undertaking, to pledge its credit or to render it liable for any purpose or for any amount.

### **9.3 Inspection of Bylaws**

The Association shall keep in its principal office the original or a copy of these Bylaws as amended, certified by the Secretary. These Bylaws shall be open to inspection by the Members at all reasonable times during office hours.

### **9.4 Fiscal Year**

The fiscal year of the Association shall terminate on December 31 of each year.

### **9.5 Maintenance and Inspection of Other Corporate Records**

The register of Members, the accounting books and the records and minutes of meetings of the Members, the Board and any committee(s) of the Board shall be kept at such place or places designated by the Board. In the absence of such designation, all such records shall be kept at the principal office of the Association. The minutes shall be kept in written or typed form. The accounting books and records shall be kept in written or typed form or in any other form capable of being converted into written, typed or printed form. The register of Members, minutes and accounting books and records shall be open to inspection on the written demand of any Member at any reasonable time during usual business hours for a purpose reasonably related to the Member's interest as a Member. The inspection may be made in person or by an agent or attorney, and shall include the right to copy and make extracts.

The Board shall establish reasonable rules with respect to:

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

Each director shall have the right at any reasonable time to inspect all books, records and documents of the Association as well as 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 without payment of the cost of reproduction.

### **9.6 Annual Report to Members**

The annual report to Members referred to in the California Nonprofit Mutual Benefit Corporation Law is expressly dispensed with, but nothing in these Bylaws shall be interpreted as prohibiting the Board from issuing annual or other periodic reports to the Members as the Board considers appropriate. The Association shall, however, provide to the Members and directors all financial reports required by the Declaration and by California Corporations Code Section 8322.

## ARTICLE 10: EVIDENCE OF MEMBERSHIP, SEAL

### 10.1 Evidence of Membership

The Board shall have the power but not the obligation to cause the issuance of evidence of membership in the Association to the Members in such form as the Board shall determine.

### 10.2 Seal

The Association shall have a seal in circular form having within its circumference the name of the Association, its date of incorporation and such other matters as may be required by the law of California.

## ARTICLE 11: AMENDMENTS, CONFLICTS

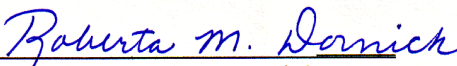
### 11.1 Amendments

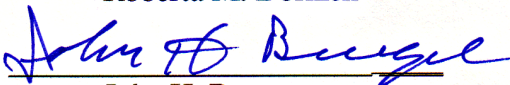
These Bylaws may be amended only by the Members. Any amendment of these Bylaws shall require the vote or written approval of Members holding a majority of the Voting Power of the Association. Amendments shall be kept by the Secretary with the other records and books of the Association and shall become effective upon the Secretary's written certification of the amendment without any further action or requirement.

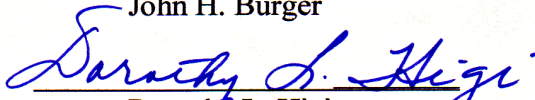
### 11.2 Conflicts

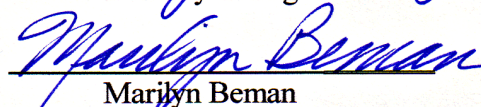
In the event of any conflict between these Bylaws and the Articles, the Articles shall control. In the event of any conflict between these Bylaws or the Articles and the Declaration, the Declaration shall control.

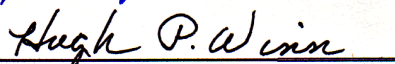
IN WITNESS WHEREOF, we, being all of the directors of The Springs Homeowners' Association, have hereunto set our hands this 3rd day of September, 2002.

  
\_\_\_\_\_  
Roberta M. Dornick

  
\_\_\_\_\_  
John H. Burger

  
\_\_\_\_\_  
Dorothy L. Higi

  
\_\_\_\_\_  
Marilyn Beman

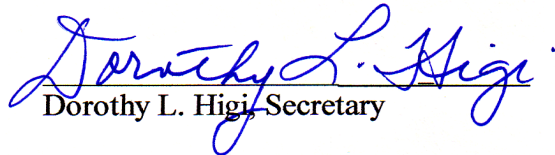
  
\_\_\_\_\_  
Hugh P. Winn

## CERTIFICATION

THIS IS TO CERTIFY:

That I am the duly elected, qualified and acting Secretary of The Springs Homeowners' Association, a California nonprofit mutual benefit corporation, and that the above and foregoing amended and restated Bylaws were adopted as the Bylaws of said corporation by the affirmative vote or written approval of more than fifty-one percent (51%) of the Members of the Association on the 15th day of August 2002.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Association on this 3<sup>rd</sup> day of September 2002.

  
Dorothy L. Higi, Secretary