

SECOND  
RESTATED  
BY-LAWS

OF  
AUBURN LAKE TRAILS  
PROPERTY OWNERS  
ASSOCIATION



**SECOND RESTATED BYLAWS  
AUBURN LAKE TRAILS PROPERTY OWNERS ASSOCIATION**

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**SECOND RESTATED BYLAWS OF  
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**ARTICLE 1  
Recitals and Definitions**

Section 1. Name of Corporation. The name of this corporation shall be Auburn Lake Trails Property Owners Association and shall be referred to herein as the "Association".

Section 2. Corporation is Non-Profit. This corporation has been formed pursuant to the California Non-Profit Corporation Law as a non-profit corporation.

Section 3. Description of Auburn Lake Trails. Auburn Lake Trails is a common interest real estate development located in the County of El Dorado, State of California.

Section 4. Specific Purposes. The specific and primary purposes of this Association shall be:

- (a) To own, repair, maintain, improve, and manage the Common Areas and Common Facilities within Auburn Lake Trails;
- (b) To enforce all Governing Documents in addition to the Association Rules adopted by the Board of Directors from time to time;
- (c) To promote the use and enjoyment of the Common Areas and Common Facilities by the Owners in common; and
- (d) To discharge the duties, responsibilities, and purposes of the Association as set forth in the Governing Documents.

Section 5. Definitions

- (a) Definition of County. The term "County" shall mean the County of El Dorado, State of California.
- (b) Definition of Declaration. The term "Declaration" shall mean all limitations, restrictions, covenants, terms and conditions set forth in that certain document entitled "Second Restated Declaration of Covenants, Conditions and Restrictions" recorded in the office of Recorder of the County of El Dorado with respect to the properties comprising of Auburn Lake Trails at Book \_\_\_\_\_, page \_\_\_\_\_, as such Declaration may from time to time be supplemented, amended or modified by a subsequent Declaration, or amendment thereto, duly recorded in said recorder's office.

- (c) Definition of Lot. The term “Lot” shall mean any numbered and subdivided residential lot designated on any duly recorded final subdivision or parcel map for any portion of Auburn Lake Trails. The term shall not include any Restricted Lot, as defined in Article 1, Section 30 of the Declaration and not voting or other membership rights in the Association or rights of use and enjoyment of the Common Areas and Common Facilities shall accompany ownership of any Restricted Lot. Accordingly, for purposes of these Bylaws, the term “Lot” shall mean and be limited to “Residence Lots” as defined in Article 1, Section 28 of the Declaration.
- (d) Definition of Office of Recorder. The term “Office of Recorder” shall mean the Office of the Recorder, County of El Dorado, State of California.
- (e) Definition of Person. The term “Person” shall mean and include any individual, corporation, partnership, association or other entity recognized by the laws of the State of California.
- (f) Other Definitions Incorporated by Reference. The terms defined in the Declaration shall have the same meanings when used herein unless the context clearly indicated a contrary intention.

## **ARTICLE II Principal Office**

Section 1. Location of Principal Office. The principal office of the Association shall be located at such place within Auburn Lake Trails as the Board shall from time to time designate by resolution.

## **ARTICLE III Membership**

Section 1. Members of the Association. Every Owner of a Residence Lot within Auburn Lake Trails shall be a Member of the Association. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any Residence Lot.

Section 2. Term of Membership. A Member shall retain his or her status as such until the Member no longer meets the membership qualification requirements of Section 1, above.

Section 3. Multiple Ownership of Lots. Ownership of a Lot shall give rise to one membership vote in the Association. Accordingly, if more than one person owns a Lot, all of said persons shall be deemed to be one Member for voting purposes. The Secretary of the Association shall be notified in writing of the

Owner designated by his or her co-Lot Owners as having the sole right to vote the membership on their behalf. If no such notification is received, the Secretary may accept the vote of any Owner of Record or proxy hold of such an Owner as the vote attributable to the Lot in question; provided, however, that if the multiple Owners of a Lot attempt to vote the membership attributable to said Lot in an inconsistent fashion, the Secretary or other person or persons designated as election inspectors by the Board of Directors may refuse to count any ballot pertaining to said Lot.

Section 4. 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 or she is qualified to be a Member under Section 1 above. The Secretary may require that a new Owner furnish evidence of such qualification in the form of a copy of a recorded grant deed (certified by the Office of the Recorder) or a contract of sale, executed by the contract buyer and seller and acknowledged before the notary public. Exercise of membership rights shall be further subject to the rules regarding record dates for notice, actions by written ballot and eligibility for voting as set forth herein.

#### **ARTICLE IV Membership Voting**

Section 1. Single Class of Membership. The Association shall have a single class of membership comprising of the Owners of Residence Lots within Auburn Lake Trails.

Section 2. Member Voting Rights. On each matter submitted to a vote of Members, whether at meetings held after proper notification to the membership, by written ballot or otherwise, each Member shall be entitled to cast one vote for each Residence Lot owned by the Member. Single membership in which two or more persons have an interest shall be voted in accordance with Article III, Section 3 of these Bylaws. No Association voting rights shall arise by virtue of the ownership of any Restricted Lot.

Section 3. Eligibility to Vote. The persons entitled to vote an any meeting of Members shall be those persons who are Members as of the record date determined in accordance with Article V, Section 8 hereof. To be eligible to vote, a Member must be in good standing (as of the record date), with all assessments current, and not to be subject to any suspension of membership rights.

Member eligibility shall be a requirement for any matter put before the Members for a vote. The Association shall not be obligated to conduct a hearing in advance of suspending the Member's voting privileges on the basis of the non-payment of assessments, although a delinquent Owner may request a hearing to

contest any assessment obligation. The Association's right to suspend other member privileges shall be subject to compliance with the procedural requirements of Article XIII, Section 6 of the Declaration.

Section 4. Manner of Casting Votes.

- (a) Voting at Membership Meetings. Voting, at any membership meeting, may be by voice or by ballot, provided that any election of directors shall be conducted by secret ballot either cast by Members in person at a meeting or by absentee ballot solicited in accordance with Section 6 of this Article IV. The vote on any other issue properly before a meeting of the Members shall be conducted by secret ballot when determined by the chairman of the meeting, in his discretion, or when requested by 10 percent of the voting power present at the meeting.
- (b) Proxy Voting. Members otherwise eligible to vote at a meeting may do so in person or by proxy, except that proxies may not be used for the election of directors. Proxy voting is further subject to the rules set forth in Section 5, below.
- (c) Balloting in Director Elections. Balloting in director elections shall be subject to the provisions of Section 6 of this Article IV and Article VII, Section 4 of these Bylaws.
- (d) Cumulative Voting Prohibited. Cumulative voting in director elections shall not be permitted.

Section 5. Proxies.

- (a) Proxies Generally. Except in the election of directors, every Member entitled to vote may do so either in person or by one or more agents authorized by a written proxy signed by the Member and filed with the secretary of the Association. All proxy forms shall be dated in assist in determining their value.
- (b) Multiple Proxy Holders. If more than one person is designated as the proxy holder (e.g. a designation of the Board of Directors as the proxy holder) and the proxy form does not specify how the proxy is to be voted, the following rules shall apply: (i) if only one of the proxy holders votes the proxy, such act binds all; (ii) if more than one votes, the act of the majority so voting binds all.
- (c) Effectiveness of Proxies. Any proxy issued hereunder shall be revocable by the person executing such proxy at any time prior to the vote pursuant thereto, by (i) delivery to the Secretary of a written notice of revocation; (ii) a subsequent proxy executed by the Member executing the prior proxy and presented to the meeting, or (iii) as to any meeting, by attendance at such meeting and voting in person by the Member executing the proxy. The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmarks contained on the envelopes in which they are mailed. A



proxy shall be deemed revoked when the Secretary shall receive actual notice of the death or judicially declared incompetence of the Member issuing the proxy, or upon termination of such Member's status as an Owner of a Lot as provided in Article III, Section 1 above.

- (d) Validity of Proxies With Respect to Certain Material Transactions. Any proxy given with respect to any of the matters described in this subparagraph (d) shall be valid only if the proxy form sets forth a general description of the nature of the matter to be voted upon. The matters subject to this requirement are:

- (i) Removal of directors without cause;
- (ii) Approval of contracts or transactions between the Association and one or more of its directors, or between the Association and a corporation, firm or association in which one or more of its directors has a material financial interest;
- (iii) Action to amend the Articles of Incorporation, these Bylaws or the Declaration;
- (iv) Action to change any Association assessments in a manner requiring membership approval under the Declaration;
- (v) Sale, lease, exchange, transfer or other disposition of all or substantially all of the Association's assets otherwise than in the regular course of the Association's activities;
- (vi) Approval of a merger of the Association or an amendment to an agreement of merger; or
- (vii) Approval of an election to voluntarily wind up and dissolve the Association.

- (e) Proxy Rules for Memberships In More Than One Name. Where two or more persons constitute a Member, any proxy issued with respect to the vote of such Member may be signed by any of such persons unless the joint owners notify the Secretary, in writing, to the contrary. If several proxies for a single membership are issued by the joint owners of such membership and the proxies bear the same date, the Secretary shall disregard all such proxies. The priority of multiple proxies for a single membership that bear different dates shall be determined in accordance with subparagraph (b) above.

#### Section 6. Action by Written Ballot.

- (a) Definition of Written Ballot. A "written ballot" is a ballot which is mailed or otherwise distributed to every Member entitled to vote on the matter and which complies with the requirements of this Section 6. The term "written ballot" does not include a ballot distributed to Members at a

meeting for purposes of conducting a vote of the Members at such meeting.

- (b) Written Ballots, Generally. Any matter or issue requiring the vote of the Members may be submitted to the Members for approval by written ballot without the necessity of calling a meeting of the Members, so long as the requirements for action by written ballot set forth in this Section 6 are satisfied. The determination to seek Member approval for Association action in this fashion shall be made by a majority vote of the Board or by Members possessing 5 percent of the total voting power of the membership signing a written request and delivering this request to the President, Vice President or Secretary. Once the determination is made to seek Member approval by written ballot, the Board shall establish a record date (see Article V, Section 8 (a), hereof) for purpose of determining those Members eligible to cast written ballots.
- (c) Balloting Time Requirements.
  - (i) Director Elections. In the case of written ballots used in the election of Directors, the ballots shall be mailed to all Members who are eligible to vote not more than 35 days prior to the date set for the election, but no less than 20 days prior to such date. If the Member elects to return his or her written ballot by mail or personal delivery to the address set forth in the solicitation materials for return of the ballots prior to the meeting at which the director election will be held, the written ballot must be received no later than the close of the business on the second business day prior to the meeting date. If the Member elects to return his or her written ballot in person at the meeting, the ballot must be inserted in the ballot box prior to conclusion of the time scheduled for receipt of ballots at the meeting.
  - (ii) Other Matters. In the case of any other matter or issue submitted to the Members for approval by written ballot, the Board shall distribute the written ballot to every Member entitled to vote on the matter at least 30 days prior to the final date the written ballots are to be received to be counted.
  - (iii) Extension of the Balloting Period. The time fixed for the return of written ballots may only be extended if the Board so notifies the Members in the balloting materials originally sent to Members and then for no more than two successive periods of 30 days each. Notwithstanding the foregoing, if a meeting at which a director election is scheduled to be held is adjourned without concluding the election process, the time fixed for the return of written

ballots in the director election shall be extended to the date the adjourned meeting is reconvened.

(d) Content of Written Ballots.

- (i) Written Ballots Used for Voting in Director Elections. Written ballots used in any election of directors shall set forth the names of the candidates whose names have been placed in nomination at the time the ballot is issued (see Article VII, Section 3). The ballot form shall also provide a space where the Member can designate a vote for another (write-in) candidate.
- (ii) Written Ballots Used for Voting on Other Matters. Any written ballot distributed to the Members to vote on any issue other than the election of directors shall set forth the proposed action and provide an opportunity to specify approval or disapproval of the proposal.
- (iii) Specification of Time for Return of Written Ballot. All written ballots shall state the time by which the ballot must be received in order to be counted (see subparagraph (c ), above).

(e) Requirements For Valid Member Action by Written Ballot. Membership approval by written ballot shall be valid only when: (i) the number of votes cast by ballot within the time established for return of the ballots equals or exceed the quorum (as specified in Article V, Section 5), that would have been required to be present at a membership meeting if such a meeting had been convened to vote on the proposal, and (ii) the number of approvals equals or exceed the number of affirmative votes that would have been required to approve the action at such a meeting.

(f) Solicitation Rules.

- (i) Solicitation Rules, Generally. Written ballots shall be solicited in a manner consistent with the requirements of Article V, Section 4, pertaining to the issuance of notice of Member's meetings. All solicitations of written ballots shall: (A) indicate the number of responses needed to meet the quorum requirements for valid action; (B) the time by which the written ballot must be received by the Association in order to be counted; and (C) in the case of any written ballot distributed to vote on matters other than the election of directors, the percentage of affirmative votes necessary to approve the measure submitted for membership approval.

- (ii) Director Elections. Solicitation materials accompanying written ballots distributed in director elections shall advise the Members that their ballots may be returned by mail to the Association's accountants (see subparagraph (g), below). If a Member attends the membership meeting in person and has not returned the ballot by mail, it will be necessary for the Member to register during the registration period and receive a different form of ballot. The solicitation materials shall set forth the address where written ballots can be returned by mail or personal delivery in advance of the meeting at which the election will be held.
  
- (g) Additional Balloting Procedures.
  - (i) Generally. If deemed necessary by the Board, the balloting shall be conducted in accordance with such additional procedures, not inconsistent with the provisions of this Section, as may be prescribed by a firm of public accountants of good repute who may also be retained to supervise the secrecy and conduct of the balloting process.
  - (ii) Director Elections. In order to ensure the secrecy of written ballots utilized in director elections and fairness in the conduct of the election, the Board shall use the services of a public accountant to receive and tabulate all written ballots (whether returned by mail or cast in person by Members attending the meeting at which the election takes place). The accountant retained to perform such services shall have the full powers of an inspector of elections appointed by the Board pursuant to Section 7614 of the California Corporations Code. Furthermore, the Board, in its discretion, shall be entitled to adopt such additional reasonable procedures as it deems necessary or appropriate to assure fairness in the balloting process, such as requiring members attending the meeting to surrender the mailed written ballot form for a written ballot form containing the same information as the mailed ballot, but colored or formatted differently.
  
- (h) Notification of Results of Balloting Process. Upon tabulation of the written ballots, the Board shall notify the Members of the outcome of the vote within 30 days following the close of the balloting process and tabulation of the ballots. In the case of an election of directors, the Board shall also notify those Members present at the meeting of the results of the election immediately upon conclusion of the balloting

process. If the number of written ballots cast with respect to any matter is insufficient to satisfy the minimum quorum requirements for valid action, the Board shall so notify the Members.

- (i) Prohibition of Revocation. Once cast, a written ballot may not be revoked.
- (j) Conduct of Informational Meetings. Use of the written ballot procedures provided herein shall not preclude the Association from also conducting informational meetings of the Members or from scheduling a membership meeting to coincide with the culmination of the balloting period. In the case of director elections, the balloting period shall culminate with the annual meeting, or any special meeting, at which the election is scheduled to be held (see subparagraph (c) (i) above).

Section 7. Majority Vote of Members Represented at Meeting Required. If a quorum is present, the affirmative vote of the majority of the voting power of Members represented at the meeting, entitled to vote and voting on any matter (other than the election of directors) shall be the act of the Members, unless the vote of a greater number is required by California's Non-Profit Corporation Law or by the Governing Documents. In the case of director elections, the candidates receiving the greatest number of votes, up to the number of directors to be elected to fill the vacancies.

## **ARTICLE V**

### **Membership Meetings**

Section 1. Place of Meeting. The meetings of the Members shall be conducted within a suitable Common Facility building at the Properties or at such other reasonable place and at such time as may be designated by notice of the Board of the meeting. Unless unusual conditions exist, meetings shall be held in El Dorado County.

Section 2. Annual Meeting. The annual meeting of the Members shall be held during the month of May each year at a date, time and location (which shall be within the County) specified in the notice of the meeting (see Section 4 below).

Section 3. Special Meetings.

- (a) Persons Entitled to Call Special Meetings. A majority of a quorum of the Board or 5 percent or more of the Members may call special meetings of the Members at any time to consider any reasonable business of the Association.

- (b) Procedures for Calling Special Meetings Requested by Members. If a special meeting is called by members, 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 certified mail or by telegraphic or other facsimile transmission to the President, 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 4 of this Article V, that a meeting will be held, and the date and time for such meeting, which date shall be not less than 35 or more than 90 days following the receipt of the request. If the notice is not given within 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 4. Notice of Members' Meetings.

- (a) Time Requirements. All notices of meetings of Members (whether regular or special) shall be sent or otherwise given in writing to each Member who, on the record date for notice of the meeting (as provided in Section 8 of this Article V) is entitled to vote thereat, in accordance with this Section 4, not less than 10 or more than 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 20 days (nor more than 90 days) before the meeting.
- (b) Minimum Requirements Regarding Content of Notice. The notice shall specify the place, date, and hour of the meeting and (i) in the case of a special meeting, the general nature of the business to be transacted, and no other business may in that case be transacted, or (ii) in the case of a regular meeting, those matters 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.
- (c) Certain Significant Actions Must Be Disclosed in the Notice. If action is proposed to be taken at any meeting for approval of any of the following proposals, the notice shall also state the general nature of the proposal. Member action on such items is invalid unless the notice or written waiver of notice states the general nature of the proposal(s):
- i. Regular election of directors;
  - ii. Removing a director without cause;

- iii. Filing vacancies on the Board of Directors under those circumstances where a vote of the Members is required pursuant to Article VII, Section 5 of these Bylaws;
  - iv. Amending the Articles of Incorporation of the Association, these Bylaws or the Declaration in any manner requiring approval of the Members;
  - v. Approving a contract or transaction between the Association and one or more of its directors, or between the Association and any corporation, firm or association in which one or more of its directors has a material financial interest;
  - vi. Approving any change in the Association's Assessments in a manner requiring membership approval under the Declaration; or
  - vii. Voting upon any election to voluntarily terminate and dissolve the Association.
- (d) Manner of Service of Notice. Unless otherwise required, notice of any meeting of Members shall be given either personally or by first-class mail, 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 (i) notice is sent to that Member by first-class mail or telegraphic or other written communication to the Association's principal office, or (ii) notice is published at least once in a newspaper of general circulation in the county where that office is located. Notice shall be deemed to have been given at that time when delivered personally or deposited in the mail or sent by telegram or other means of written communication.
- (e) Affidavit of Mailing of Notices. An affidavit of the mailing or other means of giving any notice of any Member's 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 of the giving of notice.

#### Section 5. Quorum Requirements.

- (a) Quorum Requirements, Generally. The following quorum requirements must be satisfied for any meeting of the Members or action by written ballot pursuant to Article IV, Section 6 of these Bylaws:
- (i) Quorum For Votes on Assessment Increases. In the case of any membership meeting or written ballot called

or conducted in order to vote on assessment increases requiring membership approval (Article IV of the Declaration), the quorum requirement for valid action on the proposal shall be the percentage specified in Section 1366 of the Civil Code or comparable superseding statute. That quorum percentage is currently a majority of the Members; and

- (ii) Quorum With Respect To Other Matters. In the case of a membership meeting or written ballot called or conducted for any purpose other than assessment increases, the quorum shall be 25 percent of the Members eligible to vote and represented in person or by proxy provided, however, that at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power of the Members (but at which a quorum is present) the only matters upon which action may validly be taken are those matters the general nature of which were described in the notice of the meeting.
- (b) Members Represented by Proxy. Members present at a membership meeting in person or by proxy shall be counted towards satisfaction of the quorum requirements specified herein.
- (c) Effect of Departure of Members from Meeting. The Members present in person or by proxy 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.

#### Section 6. Adjourned Meetings.

- (a) Right of Members to Adjourn Meeting. 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 45 days) by the vote of the majority of Members present at the meeting, either in person or by proxy. Unless there is an absence of a quorum (in which case no other business may be transacted at that meeting except as provided in Section 5 (c) above), 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 7. Waiver of Notice or Consent by Absent Members.

- (a) If decisions are made 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 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 or by proxy) consents to the meeting by signing (i) a written waiver of notice, (ii) a consent to holding the meeting, or (iii) an approval of the minutes. The waiver of notice need not specify the purpose or general nature of business to be transacted at such meeting unless action is given or proposed to be taken on matters specified in Section 4(c) of this Article V. in which case, the waiver of notice must state the general nature of the matter. All such waivers, consents or approvals shall be filed with the Association records or be made part of the minutes of the meeting.
- (b) Attendance by a person at a meeting shall also constitute a waiver of notice of that meeting, except when the person attends the meeting for the sole purpose of objecting at the beginning of the meeting to the transaction of any business because of 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 4(c) of this Article V. if that objection is expressly made at the meeting.

Section 8. Record Dates for Member Notice, Voting and Giving Consents.

- (a) Record Dates Established by the Board. 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 of 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 Incorporation, by agreement, or in the California Nonprofit Mutual Benefit Corporation Law. The record dates established by the Board pursuant to this Section shall comply with the following requirements:
  - (i) Record Dates for Notice of Meetings. In case of determining those Members entitled to notice of a meeting, the record date shall not be more than 90 nor less than 10 days before the date of the meeting;

- (ii) Record Date for Voting in Director Elections. In the case of determining those Members entitled to vote at any meeting at which directors are to be elected, the record date shall be the last day of the calendar month immediately preceding the month in which the election is scheduled to be held, but not less than 10 days before the date of the meeting;
  - (iii) Record Date for Voting at Other Meetings. In the case of determining those Members entitled to vote at any meeting at which no directors are to be elected, the record date shall not be more than 60 days before the date of the meeting;
  - (iv) Record Date for Action by Written Ballot. In the case of determining Members entitled to cast written ballots, the records date shall not be more than 60 days before the day on which the first written ballot is mailed or solicited; provided, however, that if the written ballot is used in a director election, the time periods specified in subparagraph (a)(ii) shall apply.
  - (v) Record Date for Other Lawful Action. In the case of determining Members entitled to exercise any rights in respect to other lawful action, the record date shall not be more than 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. The record date for determining those Members entitled to vote by written ballot on proposed Association actions without a meeting, when no prior action by the Board has been taken, shall be the day on which the first written ballot is mailed or solicited. When prior action of the Board has been taken, it shall be the day on which the Board adopts the resolution relating to that action.
  - (iv) Record Date for Other Lawful Action. The record date for determining those Members entitled to exercise any rights in respect to any other lawful action shall be Members a the close of business on the day on which the

Board adopts the resolution relating thereto, or the 60<sup>th</sup> day prior to the date of such other action, whichever is later.

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

## **ARTICLE VI Membership Rights**

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

Section 1. Use and Enjoyment of Common Areas. Each member shall be entitled to the use and enjoyment of all Common Areas, roads and Common Facilities within Auburn Lake Trails.

Section 2. Use of Common Areas, Etc. by Family Members. All persons who regularly reside with an Owner in a Residence within Auburn Lake Trails as well as other members of the Owner’s immediate family as defined by the Association Rules, while not technically Members of the Association, shall be entitled to use and enjoy the Common Areas, roads and Common Facilities within Auburn Lake Trails.

Section 3. Tenants. Each Member shall have the right to assign his or her rights as a Member (other than voting rights) to a tenant residing on said Member’s Residence Lot. Such assignment shall only be effective so long as said tenant is so residing on said Member’s 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 Charter Documents. In the event that a person leases an unimproved Residence Lot that person shall only have rights of use and enjoyment of the Common Facilities when approved by the Board.

Assignment of an Owner’s right to use the Common Facilities 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 the or her family who will be entitled to use and enjoy the Common Areas, Common Facilities and roads within Auburn Lake Trails by virtue of said assignments.

During the period of any lease or rental of a Lot, any Owner-Member who has assigned to the tenant the Owners rights of use and enjoyment of the Common Facilities shall not be entitled to use the Common Areas or Common

Facilities (other than roads) except to the extent reasonably necessary to perform the usual responsibilities of a landlord or to ensure or gain compliance by the tenant with the requirements of these Bylaws and the Declaration, unless the Member is contemporaneously residing on another Lot (or owns an improved Lot) within Auburn Lake Trails.

Section 4. Member's Guests. The invitees and guests of a Member shall have the privileges, unless limited by the Association Rules and subject to any fee schedule imposed by the Board, to use and enjoy the Common Facilities and roads within Auburn Lake Trails

Section 5. Association Rules. The right of any person to use and enjoy the Common Areas and Common Facilities, shall at all times be subject to the rules, limitation's and restriction set forth herein, in the Declaration and in the Association's published rules as promulgated by the Board from time to time. With the exception of the right of use of any roads, the Board shall have the right to impose monetary penalties or to temporarily suspend the use and enjoyment of any Common Area and Common Facilities for the failure of a Member to pay any assessments when due under the Declaration, or to comply with any other rule imposed upon such Member, his tenants or guests, pursuant to any Governing Document; provided, however, that any such suspension or penalty 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 1. General Corporate Powers. Subject to the provisions of the California Non-Profit Mutual Benefit Corporation Law and any limitations in the Articles, Declaration, and these Bylaws relating to action required to be approved by the Members, the business and affairs of the Association shall be vested in an exercised by, the Association's Board of Directors consisting of five (5) persons, who, shall be Owners of Lots.

Subject to the limitations expressed in Article X, Section 1, 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 corporate powers shall continue to be exercised under the ultimate direction of the Board.

Section 2. Term of Office. At each annual meeting, the Members shall elect directors for a term of two years to replace those directors whose terms are then expiring. There shall be no limitation upon the number of consecutive terms to which a director may be re-elected. 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 3. Nomination of Directors.

- (a) Nomination Procedures. At least 120 days before the date of any election of directors, the Board shall appoint a Nominating Committee to select qualified candidates for election to those positions on the Board of Directors held by directors whose terms are then expiring. The Nominating Committee shall consist of a Chairman, who may not be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall make its report at least 45 days before the date of the election, and the Secretary shall forward to each member, with the notice of meeting required by Article V, Section 4, a list of candidates nominated. 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 to be filled on the Board.
- (b) Nominations From the Membership. Members representing at least 2 percent of the voting power of all Members may nominate candidates for election as directors at least 45 days prior to such election. Upon timely receipt of a petition signed by the required number of members, the Association Secretary shall cause the names of the candidates identified in the petition to be placed on the ballot along with those candidates selected by the Nominating Committee.
- (c) Nominations From the Floor. If there is a meeting to elect directors, any Member present at the meeting, in person or by proxy, may place names in nomination.
- (d) Good Standing Requirement. To be eligible for nomination and election to the Board, the Association Secretary must certify that the candidate-Member is in good standing with the Association and is current in the payment of his or her Assessments.

### Section 4. Election of Directors.

- (a) Use of Written Ballot Procedures. The annual election of directors to fill those positions on the Board held by directors whose terms of office are expiring shall be conducted by written ballot in accordance with Article IV, Section 6, hereof.

- (b) Determination of Election Results. 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 lot.

Section 5. 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) or (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 paragraph, 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 specified 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 Remove Directors. The Board of Directors shall have the power and authority to remove a director and declare his office vacant if he has (i) been declared of unsound mind by a final order of court, (ii) been convicted of a felony and there is no pending appeal of said conviction, (iii) been found by a final order or judgment of any court to have breached any duty under Sections 5230-5236 of the Californian Non-Profit Mutual Benefit Corporation Law (relating to the standards of conduct of directors), or (iv) if the director fails, without reasonable explanation, to attend three consecutive regular meeting of the Board which have been duly noticed in accordance with California Law.
- (d) Authority of Members to Remove Directors. Except as otherwise provided in subparagraph (d) above, a director may only be removed from office prior to expiration of his term by the affirmative vote of a majority of the votes of Members represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) or by written ballot in conformity with Article IV, Section 6 hereof.

- (e) Filing of Vacancies. Unless the vacancy is caused by the removal of a director or the failure to elect a sufficient number of directors, vacancies on the Board shall be filled by a majority of vote of the remaining directors though less than a quorum, or by a sole remaining director. The Members may, and in the case of the removal of a director shall, elect a director or directors, but any such election or written ballot shall require the approval of a majority of the voting power.
- (f) Reduction In Number of Directors. No reduction of the authorized number of directors (see Section 1 above) shall have the effect of removing any director before that director's term of office expires.

## **ARTICE VIII Board Meetings**

Section 1. Place of Meetings. Regular and special meetings of the Board of Directors may be held in any place within Auburn Lake Trails that has been designated from time to time by the Board. In the absence of such designation, the meeting shall be held at the principal office of the Association.

Section 2. Annual Meeting of Directors. Immediately following each annual meeting of Members, the Board of Directors shall hold a meeting in executive session for the purpose of organization and the election of officers. Any other business that comes from before said meeting shall be conducted in open session unless the requirements for meeting in executive session specified in Article VII Section 5 are met. Notice of this meeting shall not be required.

Section 3. Other Regular Meetings. Other regular meetings of the Board shall be held at such time as shall from time to time be fixed by the Board of Directors and communicated to the Board members. Ordinarily, regular meetings can be held as infrequently as every six months if the Board's business does not justify more frequent meetings. Notice of the time and place of regular meetings shall be posted in a prominent place or places within the Common Area and shall be communicated to the Board members not less than four days prior to the meeting date; provided, however, that notice need not be given to any Board member who has signed a waiver of notice or a written consent to holding of the meeting, as more particularly provided in Section 7 of this Article VIII.

### Section 4. Special Meetings of the Board.

- (a) Persons Entitled to Call Special Meeting. Special meetings of the Board of Directors for any purpose may be called at any time by the President or any two directors.
- (b) Notice of Special Meetings.

- (i) Manner of Giving. Notice of the time and place of special meetings of the Board shall be posted in the manner prescribed for notice of regular meetings shall be given to each director, by one of the following methods: (a) by personal delivery of written notice; (b) by first-class mail, postage prepaid; (c) by telephone communications, either directly to the director or to an adult person in the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given or sent to the director's address as shown on the records of the Association. Notwithstanding the foregoing, notice of a meeting need not be given to any director who signs a written waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at commencement of the meeting, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes.
- (ii) Time Requirements. Notices sent by first-class mail shall be deposited into a limited States mailbox at least 4 days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned or given to the telegraph company at least 72 hours before the time set for the meeting.
- (iii) Notice Contents. The notice shall state the time and place for the meeting and the nature of any special business to be considered.

Section 5. Attendance by Members. All meetings of the Board shall be open to Members of the Association; provided, however, that non-director Members may only participate in deliberations or discussions of the Board when expressly authorized by a vote of a majority of a quorum of the Board; and provided further than the Board may, with the approval of a majority of a quorum of the directors, 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 and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 6. Quorum Requirements. A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 8 of this Article VIII. 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 Non-Profit Corporation Law, especially those provisions relating to (i) approval of contracts of transactions in which a director has a direct or indirect material financial interest, (ii) appointment of committees, and (iii) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors below a quorum, if any action taken is approved by at least a majority of the required quorum for that meeting, or such greater number as is required by these Bylaws, the Articles or by law.

Section 7. 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 corporate 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 waived by any director who attends the meeting without protesting before or at its commencement about the lack of notice.

Section 8. Adjournment. A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place; provided, however, that an adjournment for purposes of reconvening in executive session may only be undertaken in compliance with Section 5 of this Article VIII. If the meeting is adjourned for more than 24 hours, notice of adjournment to any other time or place shall be given prior to the time of the adjourned meeting to the directors who are not present at the time of the adjournment, so that the absent directors will have an opportunity to attend the adjourned meeting. Except as hereinabove provided, notice of adjournment need not be given.

Section 9. Action Without A Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board, individually or collectively, consent in writing to that action. If the Board of Directors resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the Common Area within three days after the written consents of all Board members have been obtained. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 10. Compensation. Directors 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 to be just and reasonable by resolution of the Board of Directors adopted at a duly noticed regular or special meeting of the Board of which notice has been duly given. Expenses for which reimbursement is claimed shall be supported by a receipt or invoice.

## **ARTICLE IX Duties and Powers of the Board**

Section 1. Specific Powers. Without prejudice to the general powers of the Board of Directors set forth in Article VII, Section 1, the directors shall have the power:

- (a) To exercise all powers vested in the Board under the Charter Documents, and the laws of the State of California.
- (b) To appoint and remove all officers of the Association, the General Manager of the Association, if any, and other Association employees; prescribe any powers and duties for such persons that are consistent with the law, the Articles and these Bylaws; and fix their compensation.
- (c) To 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) Subject to the provisions of the Declaration, to adopt, establish and cause to be enforced, rules and regulations (the "Association Rules") governing the use of the Common Areas, the Common Facilities and roads within Auburn Lake Trails, and the personal conduct of the Members and their guests thereon, and to 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 and the right to use any Common Areas or Common Facilities; provided notice and a hearing are provided as more particularly set forth in Article XIII, Section 6 of the Declaration. Rules and regulations adopted by the Board may contain reasonable variations and distinctions as between Owners and tenants.
- (e) To enforce all applicable provisions of the Governing Documents relating to the control, management, and use of the Lots. Common Areas, Common Facilities and the roads within Auburn Lake Trails. Notwithstanding the foregoing, the Board shall be authorized to permit the Association's General Manager to allow temporary variances to the rules or restrictive covenants otherwise applicable to an Owner or his or her Lot so long as the Manager has found that an emergency exists, and reports in writing the conditions requiring issuance of the variance at the next Board meeting following such action.

- (f) To contract 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) To contract and pay for maintenance, landscaping, utilities, materials, supplies, labor and services that may be required from time to time for the benefit of the Common Areas, Common Facilities or the Owners in common.
- (h) To pay all taxes, special assessments and other assessment and charges which are or would become a lien on any portion of the Common Areas within Auburn Lake Trails.
- (i) To contract for and pay for construction or reconstruction of any portion or portions of the Common Areas or Common Facilities which have been damaged or destroyed and which the Association is responsible for rebuilding as specified in the Declaration.
- (j) If and when the Board deems it appropriate, to delegate its duties and power hereunder to the officers of the Association or to committees established by the Board, subject to the limitations expressed in Article X, Section 1 hereof.
- (k) To establish and levy assessments on the Members of the Association and to collect the same, in accordance with the Declaration, and to establish and collect reasonable use charges for any or all of the Common Facilities as the Board may deem necessary or desirable from time to time for the purpose of equitably allocating among the users and the Owners, in general, the cost of maintaining and operating the Common Facilities.
- (l) To perform all acts required of the board under the Declaration.
- (m) To 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 Article XII, Section 5 hereof.
- (n) To appoint a nominating committee for the nomination of persons to be elected to the Board, and to prescribe rules under which said nominating committee is to act, all as more particularly described in Article VII.
- (o) To 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 hereof.
- (p) To fill vacancies on the Board of Directors or in any committee except for a vacancy created by the removal of a Board Member.
- (q) To open bank accounts and borrow money on behalf of the Association and to designate the signatories to such bank accounts.
- (r) To bring and defend actions on behalf of one or more Members of the Board or on behalf of the Association to protect the interests of the Members or the Association so long as the action is pertinent to the

operation of the Association, and to assess the members for the cost of such litigation. Any disciplinary action against a Member shall be subject to the hearing and due process requirements set forth in Article XII, Section 6 of the Declaration.

- (s) Subject to the Declaration, to enter Lots as necessary in connection with maintenance, emergency repairs, construction or the elimination or correction of hazardous conditions for the benefit of the Common Areas, Common Facilities or the Owners in common.
- (t) Subject to Section 2(g) below, to rent or lease portions of the Common Facilities or Common Areas to third parties so long as the lessee operates the rented or leased facility for the benefit of the Association and its Members.

Section 2. Limitations on Powers. Without the vote or written assent of a majority of the voting power of the Members, the Board of Directors shall not take any of the following actions:

- (a) Enter into a contract with a third party for the furnishings of goods or services to the Common Areas or the Association for a term longer than one year. This restriction shall not apply to (i) FHA or VA approved management contracts, (ii) public utility contracts where the rates charged for materials or services are regulated by the Public Utilities Commission; provided, however that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate, (iii) prepaid casualty liability insurance policies not to exceed three years; provided the policies provide for short rate cancellation by the insured; or (iv) any contract approved by the unanimous vote of the Board.
- (b) 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; provided, however, that this limitation shall not apply to the expenditure of any funds accumulated in a reserve fund to defray the future repair or replacement of the Common Areas or common Facilities so long as the expenditure is for the purpose for which the fund was established.
- (c) 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 year; provided, however, that this limitation shall not apply to the sale or other disposition of improved or unimproved Lots acquired by the Association.
- (d) Pay compensation to members of the Board of directors; provided, however, that the Board may cause a Member or officer to be reimbursed for expenses incurred in carrying on the business of the corporation.
- (e) Fill any vacancy on the Board of directors created by the removal of a Board member.

- (f) 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 as more particularly described in Article II, Section 3(e) of the Declaration.
- (g) Enter into a lease of Common Area or Common Facilities pursuant to Section 1(t), above, for a term longer than three years.

## **ARTICLE X Committees**

Section 1. Committees of Directors. In addition to the Nominating Committee appointed and constituted pursuant to Article VII, Section 3(a) of these Bylaws and the Design and Covenants committees appointed and constituted pursuant to the Declaration, 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, which shall have all the authority of the Board, except that no committee, regardless of Board resolution, may:

- (a) Take any final action on any matter, which, under the Non-Profit Corporation Law of California, also requires approval of the Members.
- (b) Fill vacancies on the Board of Directors or in 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 the members of those committees.
- (f) Expend Association funds to support any nominee for director.
- (g) Approve any transaction (i) to which the Association is a party and one or more directors have a material financial interest; or (ii) between the Association and one or more of its directors or between the Association or any person in which one or more of its directors have a material financial interest.

Section 2. 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, concerning meetings of directors, with such changes in the context of these 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 the committees may also be called by resolution of the Board of Directors. Notice of special meeting of committees shall also be given to any and all alternate members, who shall

have the right to attend all meeting of 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 rules for the governance of any committee not inconsistent with the provisions of these Bylaws.

## **ARTICLE XI Officers**

Section 1. Officers. The officers of the Association shall be a President, a Vice-President, a Secretary and a Chief Financial Officer each of whom shall be elected by the Boards of Directors from among the individuals serving as directors. Any director may hold two or more officer positions except that neither the Secretary nor the Chief Financial Officer may serve concurrently as President.

- (a) President. The President shall be the chief officer of the Association and shall, subject to the control of the Board, act on its behalf. The President shall preside at all meetings of the Board, and shall have the power of appointment with concurrence of the Board and shall have such other powers and duties as may be prescribed by the Board of these Bylaws.
- (b) 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 upon, the President. He shall have such other powers and perform such other duties as from time to time may be prescribed by the Board or these Bylaws.
- (c) Secretary. 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 of Members present in person or by proxy at members' meetings, and the appropriate current records showing the Members of the Association, together with their addresses. He 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 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.
- (d) Chief Financial Officer. 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 transaction of the Association, including accounts of its asset, liabilities, receipts, disbursements, gains, losses, capital, and retained

earnings and other matters customarily included in financial statements. The earnings and other matters customarily included in financial statements. The books of account shall at all 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 depositaries as may be designated by the Board. He 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 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 or by the Bylaws. If required by the Board, the Treasurer shall give the Association a bond (to be paid for by the Board) in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of his office and for restoration to the Association of all its books, papers, vouchers, money and other property of every kind in his possession or under his control on his death, resignation, retirement, or removal from office.

Section 2. Election of Officers. Each officer of the Association, except such officers as may be appointed in accordance with the provisions of the directors, and each shall hold his office until he shall resign or shall be removed or otherwise disqualified to serve, or his successor shall be elected and qualified.

Section 3. Subordinate Officers. The Board may appoint, and may empower the President to appoint, such other subordinate officers as the affairs of the Association may require including one or more assistant secretaries, one or more assistant treasurers and such other subordinate officers as may be required. These subordinate officers shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws and as the Board may from time to time determine.

Section 4. Removal of Officers. Any officer may be removed, either with or without cause, by the Board at any regular or special meeting.

Section 5. 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 or the receipt 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 6. 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 7. Compensation. Officers of the Association 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 claimed shall be supported by a receipt or invoice.

## **ARTICLE XII**

### **Member Assessment Obligations and Association Finances**

Section 1. Description of Assessments to Which Owners Are Subject. Owners of Lots within Auburn Lake Trails are subject to Annual, Special and Special Individual Assessments as more particularly described in Article IV of the Declaration.

Section 2. Checks. All checks or demands for money and notes of the Association shall be signed by at least two directors, or by such other officer or officers or such other person or persons as the Board of Directors may from time to time designate. Notwithstanding the foregoing, 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 3. 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 those components of Auburn Lake Trails, which the Association is obligated to maintain.

Section 4. Other Accounts. The Board shall maintain any other accounts it shall deem necessary to carry out its purposes, including reserve accounts components of the Common Areas and Common Facilities which the Association is obligated to maintain. All Association books of account shall be maintained in accordance with generally accepted accounting principles.

Section 5. 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 for each fiscal year consisting of at least the following information shall be distributed to members not less than 45 nor more than 60 days prior to the beginning of the fiscal year:



- (i). Estimated revenue and expenses on an accrual basis;
- (ii). The amount of the total cash reserves of the Association currently set aside for the future repair or replacement of, or addition to, those major components of the Common Areas and Common Facilities which the Association is obligated to maintain and for contingencies;
- (iii). An estimate of the current replacement costs of the estimated remaining useful life of, and the methods of funding to defray repair or replacement of additions to, those major components of the Common Areas and Common Facilities which the Association is obligated to maintain;
- (iv). A general statement setting forth the procedures used by the Board of Directors in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Areas and Common Facilities which the Association is obligated to maintain.

In lieu of distributing the complete pro forma operating budget as specified above, the Board of Directors 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 and at the Association's principal office and will be furnished, upon request, to any Member at the Association's expense. If a Member requests a copy of the complete budget, the Association shall mail the material, via first class mail, within 5 days. The Association notice required hereunder shall be presented on the front page of the summary in 10-point bold type.

- (b) Year-End Report. Within 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 changes in financial position 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 Section 8322 of the Corporations Code requiring the disclosure of certain transactions in excess of \$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 \$10,000 per year.

The annual report shall be prepared by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income of the Association exceeds \$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) Annual Statement Regarding Delinquency/Foreclosure Policy. In addition to financial statements, the governing body shall annually distribute within 60 days prior to the beginning of the fiscal year, a statement of the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of Regular and Special Assessments including the recording and foreclosing of liens against Members' subdivision interests.
- (d) Review of Accounts. On no less than a quarterly basis, the Board of Directors 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.

To the extent one document provides the information required in more than one of the above listed items, any such requirements listed above may be satisfied by reviewing the same document.

## **ARTICLE XIII Miscellaneous**

### Section 1. Inspection of Books and Records

- (a) All books, records, minutes (including minutes of meetings of Committees of the Board), membership lists and papers of the Association shall at all times, during reasonable business hours, be

subject to the inspection and copying of any Member, or his duly appointed representative, at the offices of the Association or at such other place within Auburn Lake Trails as the Board of Directors shall prescribe, for any purpose reasonably related to the Member's interest as such. Member's rights of inspection hereunder shall be exercised in accordance with, and shall be subject to, the inspection provisions of Sections 8330 and the following California Corporations Code. A Member's written demand for inspection shall state the purpose for which the inspection rights are requested.

- (b) The Board of Directors shall establish reasonable rules with respect to (i) notice of inspection, (ii) hours and days of the week when inspection may be made, and (iii) payment of the cost of reproducing copies of documents requested by a Member.
- (c) Every director shall have an absolute right to 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 2. General 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 Declaration, provided that the General Manager shall at all times remain subject to the general control of the Board.

Section 3. Corporate Seal. The association shall have a seal in circular form having within its circumference the words "Auburn Lake Trails Property Owners Association, Incorporated February 3, 1970, State of California".

Section 4. 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 written ballot of a majority of the total voting power of the membership 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. Notwithstanding the foregoing, unless all Members consent, to Membership or voting rights shall arise by virtue of the ownership of a Restricted Lot, as defined in Article I, Section 30 of the Declaration.

Section 5. Notice Requirements. Any notice or other document permitted or required to be delivered as provided herein may be delivered by mail. If

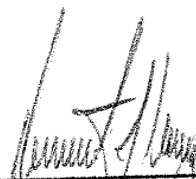
delivery is made by mail, it shall be deemed to have been delivered 72 hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: if to the Association or the Board, at 2277 Westville Trail, Cool, California 95614; if to a director, at the address 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 Auburn Lake Trails owned by such Member.

Section 6. 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 Non-Profit Mutual Benefit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, and singular number includes the plural and the plural number includes the singular. All captions and titles used in these Bylaws are intended solely for convenience of reference and shall not affect the interpretation or application of any of the terms or provisions contained herein.

### **CERTIFICATE OF SECRETARY**

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, Secretary of the organization known as Auburn Lake Trails Property Owners Association, does hereby certify that the above and foregoing Second Restated By-Laws, consisting of 54903 pages, were adopted by Order No. 54903 of the El Dorado Superior Court on the 5<sup>TH</sup> day of March, 1990 and that they now constitute said By-Laws.

  
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Kenneth Carey  
Secretary