

AMENDMENT TO BY-LAWS FOR TRACT 37061

WHEREAS, on October 27, 1981, Articles of Incorporation for the Rosemead Fairway Villas Homeowners Association, a California nonprofit mutual benefit corporation, were filed with the Secretary of State of the State of California; and

WHEREAS, the Rosemead Fairway Villas Homeowners Association was formed for the purpose of administering and maintaining that certain condominium project known as Rosemead Fairway Villas, located within Lot 1 of Tract 37061 in the City of Rosemead, County of Los Angeles, State of California and any real property annexed or to be annexed thereto (herein the Project); and

WHEREAS, pursuant to said Articles of Incorporation, certain Bylaws were prepared and adopted by the Board of Directors of the Rosemead Fairway Villas Homeowners Association; and

WHEREAS, subsequent to the adoption of said Bylaws, the name Fairway Villas Homeowners' Association, was changed to Whittier Greens Homeowners Association by the execution and filing of Restated Articles of Incorporation; and

WHEREAS, the Board of Directors of the Whittier Greens Homeowners Association (hereinafter referred to as the "Association"), now desires to amend said Bylaws in order to be consistent with the Restated Articles of Incorporation and that certain Amendment to Covenants, Conditions and Restrictions for Tract 37061 recorded on 12/17/82, as Instrument No. 82-1264116, in the Office of the County Recorder of Los Angeles County, State of California; and

WHEREAS, Article XIII of the By-laws provides for the amendment of same; and

WHEREAS, no Condominiums within the Project have as of the date of this document been conveyed to bona fide purchasers; and

WHEREAS, Grantor as the only member of the Association; and

WHEREAS, Grantor, as the only member of the Association is thereby entitled to unilaterally amend the Bylaws.

NOW, THEREFORE, said Bylaws are hereby amended as follows:

1) All references contained in said Bylaws to Fairway Villas Homeowners Association are hereby deleted in their entirety and substituted in lieu thereof by "Whittier Greens Homeowners Association".

2) Section 2.01, Article II, Page 1 of said Bylaws is hereby deleted in its entirety and the following Section 2.01 shall be added in lieu thereof:

"Section 2.01. 'Declaration' Defined. 'Declaration' shall mean and refer to that certain Declaration of Covenants, Conditions & Restrictions and Reservation of Easement recorded on November 16, 1981, as Instrument No. 81-1826624 of the Official Records of the County of Los Angeles, State of California, together with that certain Amendment to Covenants, Conditions & Restrictions for Tract 37061, recorded on 12/17/82, as Instrument No. 82-1264116 of the Official Records, of the County of Los Angeles, State of California, and all supplemental Declarations, Notices of Addition of Territory, and Amendments thereunder and thereto, which Declaration is by this reference incorporated herein and made a part hereof as though set forth in full hereat."

3) Section 5.01, Article V, Page 4 of said Bylaws is hereby deleted in its entirety and replaced by the following Section 5.01, in lieu thereof:

"Section 5.01. Number and Qualification. The Property, business and affairs of the Association shall be governed and managed by a Board of Directors composed of five (5) individuals, each of whom, except for those named in the Articles and serving as initial members of the Board of Directors, must be either an Owner or for so long as Grantor is an Owner, an agent of Grantor. Members of the Board of Directors shall not receive any salary or compensation for their services as members of the Board of Directors, provided, however, that (i) nothing herein shall be construed to preclude any member of the Board of Directors from serving the Association in some other capacity and receiving compensation therefor, and (ii) any member of the Board of Directors may be reimbursed for his actual expenses incurred in the performance of his duties. Notwithstanding the foregoing, no officer, employee or member of the Board of Directors, or Grantor or an affiliate of Grantor, serving in such capacity as an appointee of Grantor, may receive any compensation."

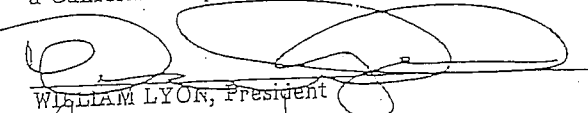
4) Section 6.04, Article VI, Pages 8 and 9 of said Bylaws is hereby deleted in its entirety and replaced by the following Section 6.04, in lieu thereof:

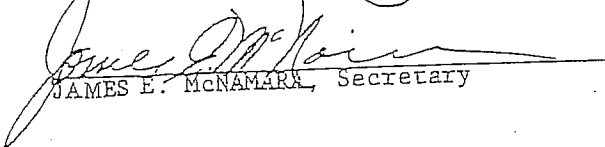
"Section 6.04. Compensation. Officers of the Association shall not receive compensation for their services as officers provided, however, that (i) nothing herein contained shall be construed to preclude any officer from serving the Association in some other capacity and receiving compensation therefor, and (ii) any officer may be reimbursed for his actual expenses incurred in the performance of such officer's duties. Notwithstanding the foregoing, no officer, employee or member of the Board of Directors, or Grantor or an affiliate of Grantor, serving in such capacity as an appointee of Grantor, may receive any compensation."

5) The remaining terms and conditions, and other matters contained in said Bylaws shall remain in full force and effect.

IN WITNESS WHEREOF, for purposes of amending the Bylaws of Whittier Greens Homeowners Association, formerly Fairway Villas Homeowners Association, the undersigned have set forth their hands thereby acknowledging approval of said by the Board of Directors.

WHITTIER GREENS HOMEOWNERS' ASSOCIATION  
a California nonprofit mutual benefit corporation

  
WILLIAM LYON, President

  
JAMES E. McNAMERA, Secretary

HWTM.43 FAIRWAY VILLAS

BY-LAWS (CA/CM)

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BY-LAWS

OF

FAIRWAY VILLAS

HOMEOWNERS ASSOCIATION

A California Nonprofit Mutual Benefit Corporation

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BY-LAWS  
OF  
FAIRWAY VILLAS  
HOMEOWNERS ASSOCIATION  
A California Nonprofit Mutual Benefit Corporation

ARTICLE I

NAME AND ORGANIZATION; POWERS AND DUTIES;  
PRINCIPAL LOCATION AND OFFICE;  
LOCATION OF MEETINGS

Section 1.01. Name and Organization. The name of this corporation is Fairway Villas Homeowners Association (hereinafter referred to as the "Association"). The Association is a nonprofit mutual benefit corporation organized under the California Nonprofit Mutual Benefit Corporation Law.

Section 1.02. Association Powers and Duties. The Association shall have such powers and duties, and such other authority and responsibilities, as are set forth in the Declaration (as hereinafter defined).

Section 1.03. Principal Location and Office. The principal location and office of the Association shall be in the County of Los Angeles, State of California, at the Properties (as that term is defined in the Declaration).

Section 1.04. Location of Meetings. The meetings of the Members (as that term is defined in the Declaration) shall be held at such places within the County of Los Angeles, State of California, as may be designated by the Board of Directors (as that term is defined in the Declaration).

ARTICLE II

DEFINITIONS

Section 2.01. "Declaration" Defined. "Declaration" shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Fairway Villas, made \_\_\_\_\_, 19\_\_ and recorded \_\_\_\_\_, 19\_\_ as Instrument No. \_\_\_\_\_, in Book \_\_\_\_\_, Pages \_\_\_\_\_, inclusive, of the Official Records of the County of Los Angeles, State of California, together with all Supplemental Declarations, Notices of Addition of Territory, and amendments thereunder and thereto, which Declaration is by this reference incorporated herein and made a part hereof as though set forth in full hereat.

Section 2.02. Other Terms Defined. Each of the definitions set forth and contained in Article I of the Declaration is by this reference incorporated herein and made a part hereof as though set forth in full hereat. Such definitions shall apply to these By-Laws and govern the interpretation hereof.

ARTICLE III

MEMBERSHIP

Section 3.01. Classes of Voting Membership. The Association shall have two (2) classes of voting membership, as follows:

(a) Class A. Class-A Members shall originally be all Owners with the exception of Grantor for so long as there exists a Class-B membership. Each Class-A Member shall be entitled to one (1) vote for each Owner's Property against which assessments have been levied by the Association and of which such Member is the Owner. Grantor shall become a Class-A Member for so long as Grantor is an Owner upon conversion of Grantor's Class-B membership as provided below. When more than one Person holds an interest in Owner's Property, all such Persons shall be Members. The vote for Owner's Property shall be exercised in accordance with the Declaration, and in no event shall more than one (1) Class-A vote be cast with respect to any Owner's Property.

(b) Class B. The Class-B Member shall be Grantor and Grantor shall be entitled to three (3) votes for each Owner's Property against which assessments have been levied by the Association and of which Grantor is the Owner. The Class-B membership shall be converted to Class-A membership and shall forever cease to exist on the occurrence of whichever of the following is first in time:

(1) Equality of the total number of votes outstanding in the Class-A membership with the total number of votes outstanding in the Class-B membership; or

(2) The second anniversary of the original issuance of the most recently issued Final Subdivision Public Report for a Phase of Development; or

(3) The fourth anniversary of the original issuance of the Final Subdivision Public Report for Phase 1.

Section 3.02. Membership Approval. Unless otherwise expressly provided in the Declaration or these By-Laws, and excepting the enforcement of certain bonded obligations of Grantor, as set forth in the Declaration, any action which may be taken by the Association upon membership approval shall require the vote or written assent of a prescribed percentage of each class of membership during the time that there are two outstanding classes of membership.

Section 3.03. Quorum. The presence in person or by proxy of Members the voting power of which constitutes at least fifty percent (50%) of the total voting power of the Association shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Members present, either in person or by proxy, may, as otherwise provided by law, adjourn the meeting to a date not less than five (5) days nor more than thirty (30) days from the original meeting date (but may not transact any other business), at which adjourned meeting the quorum shall be Members entitled to vote at least twenty-five percent (25%) of the total 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 time and place of the adjourned meeting shall be given to the Members in the manner prescribed for regular meetings.

Section 3.04. Proxies. Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Secretary of the Association at least twenty-four (24) hours before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease after completion of the meeting for which the proxy was filed.

#### ARTICLE IV

##### MEETINGS OF MEMBERS

Section 4.01. Place of Meetings of Members. Meetings of the Members shall be held on the Properties or at such other suitable place in the county in which the Properties are situated as proximate thereto as practicable and convenient to the Members as may be designated from time to time by the Board of Directors.

Section 4.02. Regular Meetings of Members. The first regular meeting of Members shall be held within forty-five (45) days after the transfer by Grantor of Owners' Properties in fifty-one percent (51%) of the Condominium covered by the first Final Subdivision Public Report for all or any part of Properties, or within six (6) months after the first transfer of the Own-Property in any Condominium, whichever occurs first. Thereafter, the regular meetings of the Association shall be held within thirty (30) days before after the anniversary date of the first regular meeting. At each regular meeting there shall be elected by ballot of the Members a Board of Directors, accordance with the requirements of these By-Laws. The Members may also transact such other business of the Association as shall properly come before the meeting. Each First Mortgagee may by written request filed with the Secretary of the Association designate a representative to attend all regular meetings of the Members.

Section 4.03. Special Meetings of Members. It shall be the duty of the President to call a special meeting of the Members, as directed by resolution of a majority of a quorum of the Board of Directors, or upon receipt of a written request for a special meeting signed by Members representing at least five percent (5%) of the total voting power of the Association. Any business shall be transacted at a special meeting except as stated in the notice thereof. Each First Mortgagee may by written request filed with the Secretary of the Association designate a representative to attend all special meetings of the Members.

Section 4.04. Notice of Meetings of Members. It shall be the duty of the Secretary to give written notice of each regular or special meeting of the Members, specifying the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken, to each Member of record and to each First Mortgagee which has filed a written request for notice with the Secretary of the Association, not less than ten (10) nor more than ninety (90) days prior to the date on which such meeting is to be held. The notice may set forth time limits for speakers and nominating procedures for the meeting. If served by mail, each such notice shall be sent, postage prepaid, to the address reflected on the records of the Association; and shall be deemed given, if not actually received earlier, at 5:00 o'clock p.m. on the second day after it is deposited in a regular depository of the United States mail as provided herein. A copy of such notice shall also be posted in a conspicuous place in the Common Area. The Board of Directors shall fix a date as a record date for the determination of the Members entitled to notice of any meeting of Members. The record date so fixed shall not be more than thirty (30) days nor less than twelve (12) days prior to the date of the meeting. Only Members of record on the record date shall be entitled to notice of the meeting, notwithstanding any transfer or issuance of membership certificates on the books of the Association after the record date.

Section 4.05. Order of Business. The order of business at all meetings of the Members shall be as follows: (a) roll call to determine the voting power present at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of committees; (f) election of inspector of election (at regular meetings or special meetings held for such purpose); (g) election of members of the Board of Directors (at regular meetings or special meetings held for such purpose); (h) unfinished business; and (i) new business. Meetings of Members shall be conducted by the President of the Association, or, in his absence or unavailability, the ranking available officer, in the order that the offices of the Association are established in Article VI of these By-Laws.

Section 4.06. Action Without Meeting. Any action which may be taken by the vote of Members at a regular or special meeting, except the election of members of the Board of Directors where cumulative voting is a requirement, may be taken without a meeting if done in compliance with the provisions of California Corporations Code Section 7513.



Section 4.07. Minutes; Evidence of Notice. Minutes or a similar record of the proceedings of meetings of Members, when signed by the President or Secretary of the Association, shall be presumed truthfully to evidence the matters set forth therein. A recitation in the minutes of any such meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given.

#### ARTICLE V

##### BOARD OF DIRECTORS :

Section 5.01. Number and Qualification. The property, business and affairs of the Association shall be governed and managed by a Board of Directors composed of five (5) individuals, each of whom, except for those named in the Articles and serving as initial members of the Board of Directors, must either be an Owner or, for so long as Grantor is an Owner, an agent of Grantor. Members of the Board of Directors shall not receive any salary or compensation for their services as members of the Board of Directors unless such compensation is first approved by vote or written assent of a majority of the voting power of each class of membership of the Association, during the time that there are two outstanding classes of membership, and vote or written assent of a majority of the voting power of the membership of the Association thereafter, provided that, after the conversion of the Class-B membership and for such time, if any, as Grantor holds or directly controls twenty-five percent (25%) or more of the voting power of the Association, such compensation shall further be subject to approval by vote or written assent of a majority of the voting power of the Association, excluding the voting power of Grantor; provided, however, that (1) nothing herein contained shall be construed to preclude any member of the Board of Directors from serving the Association in some other capacity and receiving compensation therefor, and (2) any member of the Board of Directors may be reimbursed for his actual expenses incurred in the performance of his duties. Election of any member of the Board of Directors shall not of itself create contractual rights of compensation for services performed by such member of the Board of Directors. Notwithstanding the foregoing, no officer, employee or member of the board of directors of Grantor or any affiliate of Grantor, serving in such capacity as an appointee of Grantor, may receive any compensation.

Section 5.02. Powers and Duties. The Board of Directors shall have such powers and duties and may do such acts and things and enjoy such authority and is subject to such responsibilities as are set forth in the Declaration.

Section 5.03. Special Powers and Duties. Without prejudice to such powers and duties as are set forth in the Declaration, the Board of Directors is vested with, and responsible for, the following powers and duties:

(a) The power but not the duty to change the principal office for the transaction of the business of the Association from one location to another within the county in which the Properties are situate, as provided in Article I of these By-Laws; to designate any place within such county for the holding of any regular or special meeting or meetings of Members consistent with the provisions of Article IV of these By-Laws; and to adopt and use a corporate seal and to alter the form of such seal from time to time, as the Board of Directors, in its sole judgment, may deem best, provided that such seal shall at all times comply with all applicable provisions of law.

(b) The power and duty to keep, or cause to be kept, a complete record of all acts and corporate affairs of the Association and to present a statement thereof to the Members at each regular meeting of the Members and at any other time that such statement is requested by at least ten percent (10%) of the voting power of the membership.

(c) The power but not the duty to appoint a membership committee composed of at least one (1) member of the Board of Directors and at least

one (1) Member. Such committee shall be responsible for contacting all transferees of Owners' Properties as soon as any transfer of an Owner's Property is discovered. Such committee shall further attempt to establish initial contact with all Members who are delinquent in the payment of any assessments or other charges due the Association.

Section 5.04. Election and Term of Office.

(a) At the first meeting of the Members, and thereafter at each regular meeting of the Members, new members of the Board of Directors shall be elected by secret written ballot by the Owners as provided in these By-Laws, and all positions on the Board of Directors shall be filled at each such election. In the event that a regular meeting is not held, or the members of the Board of Directors are not elected thereat, the Board of Directors may be elected at any special meeting of the Members held for that purpose. Each member of the Board of Directors shall hold office until his successor has been elected or until his death, resignation, removal or judicial adjudication of mental incompetence. The term of office of each member of the Board of Directors elected at the first regular meeting and the term of office of each member of the Board of Directors elected to fill a vacancy created by the expiration of the term of office of the respective past member of the Board of Directors shall be one (1) year. The term of office of each member of the Board of Directors elected to fill a vacancy created by the resignation, death or removal of his predecessor shall be the balance of the unserved term of such predecessor. Any person serving as a member of the Board of Directors may be re-elected, and there shall be no limitation on the number of terms during which such member may serve. A Member shall be entitled to cumulate his or her vote for one or more candidates for member of the Board of Directors, subject only to the procedural prerequisites to cumulative voting prescribed by California Corporations Code Section 7615(b).

(b) Notwithstanding the foregoing, from the first election of members of the Board of Directors and thereafter, whenever (1) notice is given for an election of members of the Board of Directors and (2) upon the date such notice is given Grantor is either (i) entitled to exercise a Class B vote, or (ii) entitled to exercise a majority of the voting power of the Association, and (3) upon such date the Members other than Grantor do not have a sufficient percentage of the voting power of the Association to elect a number of members of the Board of Directors equal to at least twenty percent (20%) (though not less than one (1)) of the entire number of members of the Board of Directors through the foregoing cumulative voting procedure, then such notice shall also provide for the following special election procedure. Twenty percent (20%) of the offices of members of the Board of Directors shall be elected separately by Members other than Grantor. Any Owner shall be an eligible candidate for the special election upon receipt by the Secretary of the Association of a Declaration of Candidacy, signed by the candidate, at any time prior to the election. Such election shall be by secret ballot. The person or persons receiving the greatest number of votes cast by Members other than Grantor shall be elected to the office or offices of member of the Board of Directors so separately elected in a co-equal capacity with all other members of the Board of Directors. The remaining members of the Board of Directors shall be elected through the foregoing cumulative voting procedure.

Section 5.05. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a member of the Board of Directors by vote of the Members shall be filled by vote of the majority of the remaining members of the Board of Directors, even though they may constitute less than a quorum; and each person so elected shall be a member of the Board of Directors until a successor is elected at the next regular meeting of the Association, or at a special meeting of the Members called for that purpose. A vacancy or vacancies shall be deemed to exist in the event of the death, resignation, removal or judicial adjudication of mental incompetence of any member of the Board of Directors, or in the event that the Members fail to elect the full authorized number of members of the Board of Directors at any meeting at which such election is to take place.

Section 5.06. Removal of Members of the Board of Directors.

any regular or special meeting of the Members duly called, any one or more of the members of the Board of Directors may be removed with or without cause by majority vote of the Members, subject to the provisions of this Section 5.06 and a successor may then and there be elected to fill the vacancy thus created. Any member of the Board of Directors whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting. Except when the entire Board of Directors is removed from office in one action by vote of the Members, no individual member of the Board of Directors shall be removed prior to the expiration of his term of office if the number of votes cast against his removal would be sufficient to elect such member of the Board of Directors if voted cumulatively at an election of the Board of Directors at which the same total number of votes were cast and the entire number of members of the Board of Directors authorized at the time of the most recent election of such member of the Board of Directors were then being elected. If any or all of the members of the Board of Directors are so removed, new members of the Board of Directors may be elected at the same meeting. Notwithstanding the foregoing, any member of the Board of Directors who has been elected to office solely by the votes of Members other than Grantor by special election pursuant to these By-Laws may be removed from office prior to the expiration of his term of office by, and only by, the vote of at least a simple majority of the voting power residing in Members other than Grantor.

Section 5.07. Books; Records; Inspection.

The Board of Directors shall cause to be maintained 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. Financial statements for the Association shall be prepared and copies distributed to each Member (and to any First Mortgagee upon such Mortgagee's filing a written request with the Secretary of the Association) as set forth in the Declaration. The membership register and books of account of the Association and minutes of meetings of the Association, the Board of Directors, the Architectural Control Committee, and all committees of the Board of Directors shall be made available for inspection and copying by any Member or his duly appointed representative at the principal office of the Association or such other place within the Properties as the Board of Directors may prescribe, at any reasonable time and for a purpose reasonably related to such Member's interest as a Member. The Board of Directors shall establish reasonable rules with respect to (1) notice to be given to the custodian of the records by the Member desiring to make the inspection, (2) hours and days of the week when such an inspection may be made and (3) payment of the cost of reproducing copies of documents requested by a Member. Every member of the Board of Directors shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association, and the physical properties owned or controlled by the Association. The right of inspection by a member of the Board of Directors shall include the right to make extracts and copies of documents.

Section 5.08. First Regular Meeting of Board of Directors.

The first regular meeting of a newly elected Board of Directors shall be held within ten (10) days of the election of the Board of Directors, at such time and place as shall be fixed and announced by the Board of Directors at the meeting at which the Board of Directors was elected, for the purpose of organization, election of officers and the transaction of other business.

Section 5.09. Regular Meetings of Board of Directors.

Regular meetings of the Board of Directors shall be open to all Members; provided, that Members who are not members of the Board of Directors may not participate in any deliberations or discussions at such regular meetings, unless expressly so authorized by a vote of a majority of a quorum of the Board of Directors. Regular meetings may be held at such time and place within the Properties as shall be determined, from time to time, by a resolution adopted by a majority of a quorum of the Board of Directors; provided, however, that such meetings shall be held no less frequently than quarterly. Notice of the time and place of regular meetings of the Board of Directors shall be given to each member of the Board of Directors personally or by mail, telephone or telegraph, and shall

be posted at a prominent place or places within the Common Area, at least ninety-six (96) hours prior to the time named for such meeting, provided that notice of such meeting need not be given to any member of the Board of Directors who has signed a waiver of notice of or a written consent to the holding of such meeting. If served by mail, each such notice shall be sent, postage prepaid, to the address reflected on the records of the Association, and shall be deemed given, if not actually received earlier, at 5:00 o'clock p.m. on the second day after it is deposited in a regular depository of the United States mail as provided herein.

Section 5.10. Special Meetings of Board of Directors. Special meetings of the Board of Directors shall be open to all Members; provided, that Members who are not members of the Board of Directors may not participate in any deliberations or discussions at any such special meeting, unless expressly so authorized by a vote of a majority of a quorum of the Board of Directors. A special meeting may be called by written notice signed by the President or by any two (2) members of the Board of Directors. Notice of the time and place of such special meeting of the Board of Directors and the nature of any special business to be considered shall be given to each member of the Board of Directors personally or by mail, telephone or telegraph, and shall be posted at a prominent place or places within the Common Area, at least seventy-two (72) hours prior to the time named for such meeting, provided that notice of such meeting need not be given to any member of the Board of Directors who has signed a waiver of notice of or a written consent to the holding of such meeting. If served by mail, each such notice shall be sent, postage prepaid, to the address reflected on the records of the Association, and shall be deemed given, if not actually received earlier, at 5:00 o'clock p.m. on the second day after it is deposited in a regular depository of the United States mail as provided herein. Whenever any member of the Board of Directors has been absent from any special meeting of the Board of Directors, an entry in the minutes to the effect that notice has been duly given shall be conclusive and incontrovertible evidence that due notice of such meeting was given to such member of the Board of Directors, as required by law and as provided herein.

Section 5.11. Actions of Board of Directors Without Meeting. The Board of Directors may take actions without a meeting if all the members of the Board of Directors consent in writing to the action to be taken. The Secretary of the Association shall file written minutes of the action taken, together with the written consents of all the members of the Board of Directors, in the minutes of the Board of Directors. 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 (3) days after the written consents of all members of the Board of Directors have been obtained.

Section 5.12. Waiver of Notice. Before or at any meeting of the Board of Directors, any member of the Board of Directors may, in writing, waive personal notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. All such waivers shall be filed with the records of the Association or made a part of the minutes of such meeting.

Section 5.13. Quorum and Adjournment. Except as otherwise expressly provided herein, at all meetings of the Board of Directors, a majority of the members of the Board of Directors shall constitute a quorum for the transaction of business, and the acts of a majority of the members of the Board of Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice, provided that a quorum then be present. The Board of Directors may, with the approval of a majority of a quorum of the members of the Board of 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 5.14. Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

Section 5.15. Committees. The Board of Directors, by resolution, may from time to time designate such advisory and other committees as it shall desire, and may establish the purposes and powers of each such committee created. The resolution designating and establishing the committee shall provide for the appointment of its members, as well as a chairman, shall state the purposes of the committee, and shall provide for reports, termination, and other administrative matters as deemed appropriate by the Board of Directors.

## ARTICLE VI

### OFFICERS

Section 6.01. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Chief Financial Officer, all of whom shall be elected by the Board of Directors. The President shall serve only during his tenure as a member of the Board of Directors; upon the President not being a member of the Board of Directors, the office of President shall stand vacant. The Board of Directors may appoint an Assistant Chief Financial Officer and an Assistant Secretary, and such other officers as in their judgment may be necessary. Officers other than the President may but need not be members of the Board of Directors. The offices of Secretary and Chief Financial Officer may be held by the same individual, but no other two offices may be held by the same individual.

Section 6.02. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the first regular meeting of each newly elected Board of Directors, and each officer shall hold his office at the pleasure of the Board of Directors, until he shall resign or be removed or otherwise disqualified to serve or his successor shall be elected and qualified to serve.

Section 6.03. Removal of Officers. Upon an affirmative vote of a majority of the entire Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the Association. Any such resignation shall take effect at the date of receipt of such notice or at any later time specified therein; and unless otherwise specified in said notice, acceptance of such resignation by the Board of Directors shall not be necessary to make it effective.

Section 6.04. Compensation. Officers of the Association shall not receive compensation for their services as officers unless such compensation is first approved by vote or written assent of a majority of the voting power of each class of membership of the Association, during the time that there are two outstanding classes of membership, and vote or written assent of a majority of the voting power of the membership of the Association thereafter, provided that, after the conversion of the Class-B membership and for such time, if any, as Grantor holds or directly controls twenty-five percent (25%) or more of the voting power of the Association, such compensation shall further be subject to approval by vote or written assent of a majority of the voting power of the Association, excluding the voting power of Grantor; provided, however, that (1) nothing herein contained shall be construed to preclude any officer from serving the Association in some other capacity and receiving compensation therefor, and (2) any officer may be reimbursed for his actual expenses incurred in the performance of such officer's duties. Appointment of any officer shall

not of itself create contractual rights of compensation for services performed by such officer. Notwithstanding the foregoing, no officer, employee or member of the board of directors of Grantor or any affiliate of Grantor, serving in such capacity as an appointee of Grantor, may receive any compensation.

Section 6.05. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of the president of a corporation, including but not limited to the power, subject to the provision of Article V of these By-Laws, to appoint such committees from among the Members from time to time as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Association. The President shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business of the Association. The President shall be ex officio a member of all standing committees. The President shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these By-Laws.

Section 6.06. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or disabled or refuse or be unable to act. The Vice President shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these By-Laws.

Section 6.07. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association at the principal office of the Association or at such other place as the Board of Directors may order. The Secretary shall keep the seal of the Association in safe custody and shall have charge of such books and papers as the Board of Directors may direct. The Secretary shall further, in general, perform all of the duties customarily incident to the office of secretary of a corporation. The Secretary shall give, or cause to be given, notices of meetings of the Members and of the Board of Directors required by these By-Laws or by law to be given. The Secretary shall maintain a record book of Members, listing the names and addresses of the Members as furnished to the Association, and such books shall be changed only at such time as satisfactory evidence of a change in Ownership is presented to the Secretary. The Secretary shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these By-Laws.

Section 6.08. Chief Financial Officer. The Chief Financial Officer shall have responsibility for Association funds and securities and shall be responsible for keeping, or causing to be kept, full and accurate accounts, tax records and business transactions of the Association, including accounts of all assets, liabilities, receipts and disbursements in books belonging to the Association. The Chief Financial Officer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors. The Chief Financial Officer shall disburse the funds of the Association as may be ordered by the Board of Directors, in accordance with the Declaration, and shall render to the President and the Board of Directors, upon request, an account of all of his transactions as Chief Financial Officer and of the financial conditions of the Association. The Chief Financial Officer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these By-Laws.

## ARTICLE VII

### OBLIGATIONS OF MEMBERS

Section 7.01. Assessments.

(a) All Members are obligated to pay, in accordance with the provisions of the Declaration, all assessments imposed by the Association.

(b) All delinquent assessments shall be enforced, collected or foreclosed in the manner provided in the Declaration.

Section 7.02. Maintenance and Repair.

(a) Every Member must perform promptly, at his sole cost and expense, such maintenance and repair work within his Unit as is required under the provisions of the Declaration. As further provided in the Declaration, all plans for alterations and repair of Improvements on the Lots within the Properties must receive the prior written consent of the Architectural Control Committee. The Architectural Control Committee shall establish reasonable procedures for the granting of such approval, in accordance with the Declaration.

(b) As further provided in the Declaration, each Member shall reimburse the Association for any expenditures incurred in repairing or replacing any portion of the Common Area which is damaged through the fault of such Member. Such expenditures shall include all court costs and reasonable attorneys' fees incurred in enforcing any provision of these By-Laws or the Declaration.

ARTICLE VIII

MORTGAGEES

Section 8.01. Notice to Association. Any Member who encumbers his Owner's Property with a Mortgage shall notify the Association through the Manager, or through the Secretary in the event there is no Manager, of the name and address of such Owner's Mortgagee; and the Association shall maintain such information in a book entitled "Mortgagees." Any such Member shall likewise notify the Association as to the release or discharge of any such Mortgage.

Section 8.02. Notice of Unpaid Assessments. The Board of Directors shall at the written request of a Mortgagee report any unpaid assessments due from the Mortgagor of such Mortgagee's Mortgage in accordance with the provisions of the Declaration.

ARTICLE IX

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Except to the extent that such liability, damage or injury is covered by insurance proceeds, the Board of Directors may, and if then required by law shall, authorize the Association to pay expenses incurred by, or to satisfy a judgment or fine rendered or levied against, a present or former member of the Board of Directors, officer, committee member, or employee of the Association, or his estate, executor, administrator, heirs, legatees or devisees, in an action brought by a third party against such Person, whether or not the Association is joined as a party defendant, to impose a liability or penalty on such Person for an act alleged to have been committed by such member of the Board of Directors, officer, committee member or employee of the Association; provided, that the Board of Directors determines in good faith that such member of the Board of Directors, officer, committee member or employee of the Association was acting in good faith within what he reasonably believed to be the scope of his employment or authority and for a purpose which he reasonably believed to be in the best interests of the Association or the Members; and provided, further, that the payment of such expenses is otherwise permitted or required pursuant to the applicable provisions of the California Corporations Code. Notwithstanding the foregoing, in no event shall any employee, officer or member of the board of directors of Grantor, serving in such capacity as an appointee of Grantor, be entitled to such indemnification. Payments authorized hereunder include amounts paid and expenses incurred in settling any such action or threatened action.

## ARTICLE X

## NOTICE AND HEARING PROCEDURE

Section 10.01. Suspension of Privileges. In the event it is alleged that a Member has violated the Declaration, the Articles, these By-Laws or the rules and regulations of the Association, after written notice of the allegation is delivered personally or mailed by first-class mail or by certified mail return receipt requested, or both, to such Member or any agent of such Member alleged to be in default in the manner herein provided, the Board of Directors shall have the right, after affording such member Notice and Hearing, and upon an affirmative vote of a majority of the members of the Board of Directors, to take any one or more of the following actions: (1) impose a monetary penalty by levy of a Reimbursement Assessment against such Member's Owner's Property as provided in the Declaration; (2) suspend such Member's rights as a Member, as provided in the Declaration; or (3) record a notice of noncompliance encumbering such Member's Owner's Property. The Association shall have no power to cause a forfeiture or abridgement of an Owner's rights to the full use and enjoyment of his Owner's Property on account of a failure by such Owner to comply with the provisions of the Declaration, the Articles, these By-Laws, or the rules and regulations of the Association except as the result of the judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of such Owner to pay assessments levied by the Association. Any suspension of such Member's rights as a Member shall be for a period of not more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any assessment after the same becomes delinquent) may be imposed for so long as the violation continues. Any failure of the Board of Directors or the Architectural Control Committee to enforce the Declaration, the Articles, these By-Laws or the rules and regulations of the Association shall not constitute a waiver of the right to enforce the same thereafter. The remedies set forth above and otherwise provided by these By-Laws shall be cumulative and none shall be exclusive. However, any individual Member must exhaust all available internal remedies of the Association prescribed by these By-Laws, or by the rules and regulations of the Association, before that Member may resort to a court of law for relief with respect to any alleged violation of the Declaration, the Articles, these By-Laws or the rules and regulations of the Association by another Member, provided that the foregoing limitation pertaining to exhausting available internal remedies shall not apply to the Board of Directors or to any Member where the complaint alleges nonpayment of Common Assessments, Capital Improvement Assessments, Reconstruction Assessments or Reimbursement Assessments.

Section 10.02. Compliance with California Corporations Code. The provisions of this Article X for Notice and Hearing are intended to satisfy the minimum requirements of California Corporations Code Section 7341. Such Section 7341 shall govern and control all actions and proceedings under this Article X, and in the event of any conflict between such Section 7341 and this Article X, such Section 7341 shall be controlling.

Section 10.03. Written Complaint. A hearing to determine whether a right or privilege of a Member under the Declaration or these By-Laws shall be suspended or conditioned, or whether a Reimbursement Assessment shall be levied, shall be initiated by the filing of a written complaint by any Member or by any officer or member of the Board of Directors or the Architectural Control Committee with the President of the Association. Such complaint shall set forth in ordinary and concise language the acts or omissions with which such Member is charged, and a reference to the specific provisions of the Declaration, these By-Laws or the rules and regulations of the Association which such Member is alleged to have violated. A copy of such complaint shall be delivered to such Member in accordance with the notice procedures set forth in the Declaration, together with a statement which shall be substantially in the following form:



"Unless a written request for a hearing signed by or on behalf of the person named as respondent in the accompanying complaint is delivered or mailed to the Board of Directors within fifteen (15) days after the complaint is delivered or mailed to you, the Board of Directors may proceed upon the complaint without a hearing, and you will have thus waived your right to a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled 'Notice of Defense' to the Board of Directors at the following address: \_\_\_\_\_.

You may, but need not, be represented by counsel at any or all stages of these proceedings. If you desire the names and addresses of witnesses or an opportunity to inspect any relevant writings or items on file in connection with this matter in the possession, custody or control of the Board of Directors, you may contact \_\_\_\_\_."

Such Member shall be entitled to a hearing on the merits of the matter if a notice of defense is timely filed by such Member with the Board of Directors. Such Member may file a separate statement by way of mitigation, even if he does not file a notice of defense.

Section 10.04. Hearing Committee. The President shall appoint a hearing committee of three (3) persons upon receipt of a written complaint as provided in this Article X. In appointing the members of the hearing committee, the President shall make a good faith effort to avoid appointing next-door neighbors of the Member that is the subject of the complaint or any Members who are witnesses to the alleged violation giving rise to the complaint. The decision of the President shall be final, except that the Member that is the subject of the complaint may challenge any member of the hearing committee for cause, on the ground that such member of the hearing committee could not afford a fair and impartial hearing, at any time prior to the taking of evidence at the hearing. In the event of such a challenge, the Board of Directors shall meet to determine the sufficiency of the challenge, without the President voting. If such a challenge is sustained, the President shall appoint another Member to replace the challenged member of the hearing committee. All decisions of the Board of Directors in this regard shall be final. The hearing committee shall elect a chairman and appoint a hearing officer who shall present evidence and ensure that a proper record of all proceedings is maintained.

Section 10.05. Notice of Hearing. The hearing committee shall serve a notice of hearing, as provided herein, on all parties at least ten (10) days prior to the hearing, if such hearing is requested by the Member that is the subject of the complaint. The hearing shall be held no sooner than thirty (30) days after the complaint is mailed or delivered to the Member that is the subject of the complaint as provided in this Article X. The notice to such Member shall be substantially in the following form but may include other information:

"You are hereby notified that a hearing will be held before a hearing committee appointed by the President of undersigned homeowners association at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_, upon charges made in the complaint served upon you. You may be present at the hearing, may but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to request the attendance of witnesses and the production of books, documents or other items by applying to the Board of Directors of the Association."

Section 10.06. Hearing.

(a) Whenever the hearing committee has commenced to hear a matter and a member of the hearing committee is forced to withdraw prior to a final determination by the hearing committee, the remaining members shall continue to hear the case and the hearing officer shall replace the withdrawing member. Oral evidence shall be taken only on oath or affirmation administered by an officer of the Association. The use of affidavits and written interrogatories in lieu of oral testimony shall be encouraged by the hearing committee.

(b) Each party to a hearing shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any matter relevant to the issues; to impeach any witnesses; and to rebut the evidence against him. If the Member that is the subject of the complaint does not testify in his own behalf he may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(d) Neither the Member who has filed a complaint nor the Member that is the subject of the complaint need be in attendance at the hearing. The hearing shall be open to attendance by all Members, to the extent of the permissible capacity of the hearing room. In rendering a decision, official notice may be taken at any time of any generally accepted matter within the Declaration, the Articles, these By-Laws, the rules and regulations of the Association, or the workings of the Association. Parties present at the hearing shall be informed of the matters to be noticed by the hearing committee, and these matters shall be made a part of the record of proceedings. The hearing committee may grant continuances upon showing of good cause.

Section 10.07. Decision. If the Member that is the subject of the complaint fails to file a notice of defense as provided in this Article X, or fails to appear at a hearing, the hearing committee may take action based upon the evidence presented to it without further notice to the Member that is the subject of the complaint. However, such Member may make any showing by way of mitigation. The hearing committee shall prepare written findings of fact and recommendations for consideration by the Board of Directors. The hearing committee shall make its determinations only in accordance with these By-Laws. After all testimony and documentary evidence has been presented to the hearing committee, the hearing committee shall vote by secret ballot upon the matter, with a majority of the entire hearing committee controlling. A copy of the findings and recommendations of the hearing committee shall be posted by the Board of Directors at a conspicuous place within the Common Area, and a copy shall be served by the President on each party in the matter and his attorney, if any. Disciplinary action and levy of a Reimbursement Assessment under the Declaration, the Articles, these By-Laws or the rules and regulations of the Association shall be imposed only by the Board of Directors and in accordance with the findings and recommendations of the hearing committee in their entirety, except that the Board of Directors may reduce the proposed penalty and adopt the balance of the recommendations. In no event shall the Board of Directors impose more stringent disciplinary action than recommended by the hearing committee. The decision of the Board of Directors shall be in writing and shall be served and posted in the same manner as the findings and recommendations of the hearing committee. The decision of the Board of Directors shall

become effective ten (10) days after it is served upon the Member that is the subject of the complaint, unless otherwise ordered in writing by the Board of Directors. The Board of Directors may order a reconsideration at any time within fifteen (15) days following service of its decision on the parties, on its own motion or on petition by any party.

## ARTICLE XI

## MISCELLANEOUS

Section 11.01. Execution of Documents. The Board of Directors, except as in these By-Laws otherwise provided, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name and on the behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no officer, agent, committee member or employee of the Association shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

Section 11.02. Inspection of By-Laws. The Association shall keep in its office for the transaction of business the original or a copy of these By-Laws as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the Members and all First Mortgagees in accordance with these By-Laws.

Section 11.03. Fiscal Year. The fiscal year of the Association shall be determined by the Board of Directors, and, once so determined, is subject to change from time to time as the Board of Directors shall determine.

Section 11.04. Membership Book. The Association shall keep and maintain in its office for the transaction of business a membership book containing the name and address of each Member. Termination or transfer of a Member's Ownership shall be recorded in such membership book, together with the date on which such Ownership was transferred, in accordance with the provisions of the Declaration.

## ARTICLE XII

## CONFLICTING PROVISIONS

In case any of these By-Laws conflict with any provisions of the laws of the State of California, such conflicting By-Laws shall be null and void upon final court determination to such effect, but all other By-Laws shall remain in full force and effect. In case of any conflict between the Articles and these By-Laws, the Articles shall control. In case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

## ARTICLE XIII

## AMENDMENTS

These By-Laws may be amended only by vote or written assent of a majority of the voting power of each class of membership of the Association, during the time that there are two outstanding classes of membership, and, thereafter, by vote or written assent of a majority of the voting power of the membership of the Association and vote or written assent of a majority of the voting power of the membership of the Association excluding the voting power of Grantor; provided that the vote required to amend any provision of these By-Laws shall in no event be less than the prescribed affirmative vote required for action to be taken under such provision. The prior written approval of the First Mortgagee of each First Mortgage made in good faith and for value must be secured before any material amendment to these By-Laws may take effect which adversely affects the rights of any such First Mortgagee, and this sentence may not be amended without such prior written approval.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting Secretary of Fairway Villas Homeowners Association, a California nonprofit mutual benefit corporation (the "Association"); and

2. The foregoing By-Laws, comprising 16 pages including this page, constitute the By-Laws of the Association duly adopted at the meeting of the Board of Directors of the Association held on \_\_\_\_\_, 19\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed the seal of the Association this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Secretary

[SEAL]