

BY-LAWS OF AMHERST ESTATES ASSOCIATION

A California Nonprofit Corporation

I. NAME AND LOCATION

The name of the Association is AMHERST ESTATES  
HOMEOWNERS' ASSOCIATION ("Association").

The Association is organized under the California General Nonprofit Corporation law. The principal office of the Association shall be located in San Diego County, California. Meetings of members shall be held at those places specified in The Declaration.

2. DEFINITIONS

2.1 Declaration. The "declaration" means collectively, The Declaration of Covenants, Conditions and Restrictions and any amendment to them that is or may be recorded that is applicable to the development commonly known and referred to as AMHERST ESTATES DEVELOPMENT,

LOCATED IN San Diego County, California, legally described as:

Lot 3 of AMHERST ESTATES of Tract No. 6598, filed in the  
Office of the County Recorder of San Diego County.

together with any and all other real property annexed to the development and the Declaration as provided in the Declaration.

2.2 Other Definitions. Each and every definition of Section 1 of the Declaration shall have the same meaning here as there, and each such definition is incorporated by reference and made a part of this instrument as if it were reprinted here verbatim.

3. MEMBERSHIP: VOTING RIGHTS

The qualification for membership and the voting rights of members shall be controlled by Section 2 of the Declaration, the terms of which are incorporated by reference here.

4. MEETINGS OF MEMBERS

4.1 Annual Meetings. The organizational meeting and the first annual meeting of the members shall be held as described in the Declaration. Subsequent annual meetings of members of the Association shall be held in each succeeding year within one week before or after the anniversary date of the first annual meeting or a day to be determined by the Board, which day shall not be a legal holiday.

4.2 Special Meetings. Special meetings of the members may be called at any time by the President or by The Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all the votes of the Class A membership.

4.3 Notice and Place of Meetings. Notice of all members' meetings, annual or special, shall be given by mail or telegram and shall be given not less than ten (10) days nor more than thirty (30) days before the time of the meeting and shall set forth the place, date, and hour of the meeting, and the nature of the business to be undertaken. Notices shall be given by, or at the direction of, the secretary or person authorized to call the meeting, and shall be transmitted to each member entitled to vote and to each mortgagee; the notices shall be addressed to the member's or mortgagee's address last appearing on the books of the Association, or supplied by the member or mortgagee to the Association for the purpose of notice. Mailed notices shall be deemed received forty-eight (48) hours after they are mailed by certified mail, return receipt requested; notice by telegram shall be deemed received twenty-four (24) hours after they are sent. Notices to members may also be personally delivered and shall be deemed received upon delivery to any occupant of the member's residence. Meetings of the Association members shall be held within the subdivision or at a meeting place as close thereto as possible; unless unusual conditions exist, members' meetings shall not be held outside of the county in which the subdivision is situated.

4.4 Quorum. The presence at any meeting in person or by proxy of members entitled to cast at least fifty percent (50%) of the total votes of all members of the Association constitutes a quorum. If any meeting cannot be held because a quorum is not present, members representing a majority of the votes present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days, nor more than thirty (30) days from the time the original meeting was called, at which adjourned meeting the quorum requirement shall be at least twenty-five (25) percent of the total votes. Any meeting of members at which a quorum is present may be adjourned for any reason to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by members representing a majority of the votes present either in person or by proxy.

4.5 Proxies. At all meetings of members each member may be present in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy is revocable and automatically ceases when the ownership interest or interests (that entitled a member to membership in the Association) cease.

4.6 Order of Business. The order of business of all meetings of the members shall be as follows:

- 4.6.1 roll call;
- 4.6.2 proof of notice of meeting or waiver of notice;
- 4.6.3 reading of minutes of preceding meeting;
- 4.6.4 reports of board and officers;

4.6.5 election of directors, if any are to be elected;

4.6.6 unfinished business; and

4.6.7 new business

4.7 Parliamentary Procedure. All questions of parliamentary procedure shall be decided in accordance with Roberts Rules of Order.

4.8 Majority of Owners. Except as otherwise provided here or in the Declaration, the majority of the total voting power present, in person or by proxy, shall prevail at all meetings.

4.9 Action Without Meeting. Any action that may be taken at a meeting of the members may be taken without a meeting if authorized by a writing signed by all of the members who would be entitled to vote at a meeting and filed with the secretary.

## 5. SELECTION AND TERM OF OFFICE OF BOARD

5.1 Number. The Board shall consist of three (3) Directors who need not be members.

5.2 Term of Office. At the first annual meeting the members shall elect each of the three (3) Directors for a term of one (1) year. At the expiration of the initial term of office of each Director, his successor shall be elected to serve for a term of one (1) year. Terms of Directors shall run concurrently.

5.3 Election; Removal; Vacancies. Any officer may be removed from office by The Board with or without cause. Any officer may resign at any time by giving written notice to The Board, The President, or The Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. When the death, resignation, or removal of a Director occurs, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. Unless the entire governing body is removed from office by the vote of Association members, an individual governing body member shall not be removed prior to the expiration of his term of office if the number of votes cast against his removal is greater than the quotient arrived at by dividing the total number of votes that may be cast under cumulative voting procedures by a divider equal to one plus the authorized number of governing body members. An officer or Director who has been elected to office solely by the votes of members of The Association other than the subdivider may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in members other than the subdivider.

5.4 Compensation. A Director shall not receive any compensation for any service he may render to the Association; provided, however, that any Director may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

## 6. NOMINATION AND ELECTION OF DIRECTORS

6.1 Nomination. Nomination for election to the Board shall be made by a nominating committee consisting of three (3) persons. Nominations also may be made from the floor at each annual meeting. The nominating committee shall consist of a chairman, who shall be a member of the board, and two (2) other persons who may be either members of the Association or representatives of Declarant. Each member of the nominating committee shall be appointed by the Board to serve for a period of one year and vacancies shall be filled by the Board. The nominating committee shall make as many nominations for election to the Board as it may, in its discretion, determine, but not less than the number of vacancies to be filled. Nominations may be made from among members or nonmembers.

6.2 Election. Election to the Board shall be by secret ballot. At the election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to cast under the provisions of the Declaration. The candidates receiving the highest number of votes shall be deemed elected. From the first election of the governing body and thereafter for so long as a majority of the voting power of the Association resides in the subdivider, or so long as there are two outstanding classes of membership in The Association, not less than 20 percent (20%) of the incumbents on the governing body shall have been elected solely by the votes of owners other than the subdivider.

## 7. MEETINGS OF DIRECTORS

7.1 Regular Meetings. Regular meetings of the Board shall be held monthly, without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should any such meeting fall on a legal holiday, then that meeting shall be held at the same time on the next day that is not a legal holiday. Notice of the time and place within the subdivision of any such meeting shall be posted at a prominent place or places within the Common Area.

7.2 Special Meetings. Special meetings of the Board shall be held when called by the president of the Association, or by any two (2) Directors, after not less than three (3) days advance notice to each Director, which notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be posted in the manner prescribed for notice of regular meetings not less than seventy-two (72) hours before the scheduled time of the meeting.

7.3 Quorum. A majority of the number of Directors constitutes a quorum for the transaction of business at a meeting of the Board. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

7.4 Conduct of Meetings. Regular and special meetings of the Board shall be open to all members of the Association; provided however, that Association members who are not on the board may not participate in any deliberation or discussion unless expressly authorized by the vote of the majority of a quorum of the Board. The Board may, with the approval of a majority of a quorum of the members of the Board, adjourn a meeting and reconvene in executive session to discuss and vote on personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar or otherwise sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

7.5 Action Taken Without a Meeting. The Directors have the right to take any action in the absence of a meeting that they could take in a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

## 8. POWER AND DUTIES OF THE BOARD

8.1 Powers. The Board has all powers conferred upon the Association that are specified here and in the Declaration except those powers expressly reserved to the members.

8.2 Duties. It shall be the duty of The Board:

- 8.2.1 to cause to be kept a complete record of all of its acts and doings and to present a statement of them to the members at each annual meeting of the members, or at any special meeting when such statement is requested in writing by members representing one-fourth (1/4) of the Class A members;
- 8.2.2 to supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed; and
- 8.2.3 to delegate its powers as provided in the Declaration.

## 9. OFFICERS AND THEIR DUTIES

9.1 Enumeration of Offices. The officers of the Association shall be a president and vice president, who shall at all times be members of the Board, a secretary, a treasurer, and such other officers as the Board may create from time to time by resolution.

9.2 Election of Officers. The election of officers shall take place at the organizational meeting of the board and at each meeting of the board that follows each annual meeting of the members.

9.3 Term. The officers of this Association shall be elected annually by the board and each shall hold office for one year unless he resigns, is removed, or becomes otherwise disqualified to serve.

9.4 Special Appointments. The board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the board may from time to time determine.

9.5 Resignation and Removal. Any officer may be removed from office with or without cause by the board. Any officer may resign at any time by giving written notice to the board, the president, or the secretary. The resignation shall take effect on the date of receipt of such notice or at any later time specified in the notice, and, unless otherwise requested by the notice, the acceptance of the resignation shall not be necessary to make it effective.

9.6 Vacancies. A vacancy in any office may be filled by appointment by the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

9.7 Multiple Offices. The offices of the secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created under Section 9.4 of these By-Laws.

9.8 Duties. The duties of the officers are as follows:

9.8.1 President. The president shall preside at all meetings of the board, shall see that orders and resolutions of the board are carried out, shall sign all leases, mortgages, deeds, and other written instruments, and shall cosign all checks and promissory notes.

9.8.2 Vice President. The vice president shall act in place of the president in case of his absence, or his inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.

9.8.3 Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the board and of the members, shall serve notices of meetings of the board and of the members, shall keep appropriate current records showing the members of the Association and their addresses, and shall perform such other duties as required by the board.

9.8.4 Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all money of the Association and shall disburse such funds as directed by resolution of the board, shall cosign all checks and promissory notes of the Association, shall keep proper books

of account, shall cause an annual operating statement reflecting income and expenditures of the Association for its fiscal year to be prepared, and shall cause copies of the statement to be distributed to each member within ninety (90) days after the end of such fiscal year, and shall cause an annual budget to be prepared and presented to each member.

9.9 Compensation. An officer shall not receive any compensation for any service he may render to the Association; provided, however, that any officer may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

10 COMMITTEES

10.1 Subject to any contrary provisions of the Declaration and these By-Laws, the board may appoint a nominating committee as provided in these By-Laws. In addition, the board may appoint such other committees as it deems appropriate to carry out its purposes.

11. ASSESSMENTS

11.1 Liability for Assessments; Collection. As more fully provided in Section 5 of the Declaration, each member is obliged to pay to the Association annual and special assessments to be collected as described in that Section, all of which is incorporated here by reference.

12. AMENDMENTS

12.1 These By-Laws can be amended only with the vote or written consent of members entitled to cast at least fifty-one percent (51%) of the voting power of the Association, other than the subdivider.

12.2 The adoption of any amendment to these By-Laws must comply with the provisions of California Business and Professional Code Section 11018.7 to the extent that said section is applicable.

13. GENERAL PROVISIONS

13.1 Conflicting Provisions. In case of any conflict between any provisions of the Declaration and these By-Laws, the provisions of the Declaration control.

13.2 Fiscal Year. The fiscal year of the Association shall be a calendar year unless a different fiscal year is adopted by the members of a duly constituted meeting.

13.3 Proof of Membership. No person can exercise the rights of membership in the Association until satisfactory proof of membership has been furnished to the secretary. Such proof may consist of either a copy of a duly executed and acknowledged grant deed or title insurance policy showing said person to be the owner of an interest in a condominium entitling him to membership. The deed or policy is conclusive in the absence of a conflicting claim based on a later deed or policy.

13.4 Absentee Ballots. The board may make such provisions as it considers necessary or desirable for absentee ballots.

13.5 Consent to Waiver of Notice. The transactions at any meeting of the board, however noticed, shall be as valid as though they occurred at a meeting held after regular notice if a quorum is present, and if either before or after the meeting each absent director signs a written waiver of notice or a consent to the holding of such meeting or an approval of its correct minutes. All such waivers, consents, or approvals shall be filed with the records of the board and made a part of its minutes.

13.6 Reserves. Any amounts collected by or paid to the Association in excess of operational needs shall be set aside as reserves for future financial needs in the manner described in the Declaration and shall be deposited into insured interest-bearing accounts. These sums may include amounts collected by Declarant from owners through the purchase escrows that represent capital contribution by owners to the Association.