

BYLAWS
OF
HERITAGE GROVE AT LOS GATOS
HOMEOWNERS ASSOCIATION
(A California Nonprofit Mutual Benefit Corporation)

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ARTICLE 1 - Definitions

The definitions contained in **Article 1** of the Heritage Grove Declaration of Restrictions (CC&Rs) that was recorded in Santa Clara County, California, in connection with the residential development for which this Association was established are incorporated by reference and shall apply to those same terms as they may appear in these Bylaws unless the context indicates otherwise.

ARTICLE 2 - Name

The name of the Association is the Heritage Grove of Los Gatos Homeowners Association.

ARTICLE 3 - Principal Office

The principal office of the Association is located at such place as may be designated by the Board from time to time.

ARTICLE 4 - Membership and Voting Rights

The membership and voting rights provisions contained in **Sections 5.3, 5.4 and 5.5** of the Declaration are incorporated by reference.

ARTICLE 5 - Meetings of Members

5.1 Place of Meetings. All meetings of the Members, annual and special, shall be held at a place within the Development as designated by the Board, provided that if there is not an available and appropriate place within the Development, the Board shall designate a meeting place

as close as possible to the Development but in no event outside the County unless unusual conditions exist. In the absence of any designation, the meetings of Members shall be held at the principal office of the Association.

5.2 Annual Meetings. The first annual meeting of Members of the Association shall be held no later than six months after the closing and recording of the sale of the first Lot. Thereafter, annual meetings shall be set by the Board to occur at such date and time as may be fixed by the Board.

5.3 Special Meetings. Special meetings of the Members may be called for any lawful purpose by the Board, the president, or by written request signed by Members representing at least 5% of the total voting power of the Association. A special meeting called by any Person (other than the Board) entitled to call a meeting shall be made by submitting a written request specifying the general nature of the business to be transacted to the president, any vice president or secretary of the Association. The officer receiving the request shall promptly cause notice to be given to the Members in the manner required by **Section 5.4** that a meeting will be held at a date, time and place fixed by the Board, which meeting shall be held not less than 35 days nor more than 90 days after receipt of the request. If the notice is not given within 20 days after the receipt of the request, the Person or Persons requesting the meeting may give the notice.

5.4 Notice of Meetings. Notice of all Members' meetings, annual or special, shall be given not less than ten or more than 90 days before the date of the meeting to each Member and to any Mortgagee who has requested in writing to receive such notice. Any Mortgagee, or its designated representative, shall be entitled to attend any such meeting but shall not be entitled to vote at the meeting. The notice shall be given personally or by first-class, registered or certified mail addressed to the Member or Mortgagee at the address of such Member or Mortgagee appearing on the books of the Association or be given by the Member or Mortgagee to the Association for purpose of notice. If no address appears or is given for any Member, notice may be given at the Association's principal office or by publication at least once in a newspaper of general circulation. The notice shall state the place, date and time of the meeting and shall specify those matters the Board intends to present for action by the Members, provided that except as otherwise provided by law, any proper matter may be presented at the meeting for action. If directors are to be elected at the meeting, the notice shall include the names of all those who are nominees at the time notice is given. In the case of a special meeting, the notice shall state the general nature of the business to be transacted and no other business may be transacted. In the case of the annual meeting, the notice shall state those matters that the Board intends, at the time the notice is given, to present to the Members for action; but any matter may be presented at the meeting for action subject to the special notice requirements described in **Section 5.5** of these Bylaws. Notwithstanding the foregoing, the Members may vote only on those matters for which notice was given in any meeting where the quorum requirement as described in **Section 5.8** of these Bylaws is less than one-third of the voting power of the Association and Members holding less than one-third actually attend.

5.5 Special Notice Requirements. Approval by the Members of any of the following proposals, other than by unanimous approval of those Members entitled to vote, shall not be valid unless the general nature of the proposal was stated in the notice or in any written waiver of the notice:

- (i) removing a director without cause;
- (ii) filling vacancies on the Board;
- (iii) amending the Articles;

(iv) approving a contract or transaction between the Association and one or more directors, or between the Association and any entity in which a director has a material financial interest;

(v) electing to wind up and dissolve the Association; or

(vi) approving a plan of distribution of assets, other than money, not in accordance with the liquidation rights of any class of Members (applicable only if the Association is in the process of winding up and there is more than one class of membership outstanding at the time).

5.6 Waiver of Notice or Consent. The transactions of any meeting of Members, however called or noticed and wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if: (i) a quorum is present either in person or by proxy; and (ii) either before or after the meeting each Member entitled to vote, not present in person or by proxy, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice, consent or approval need not specify either the business to be transacted or the purpose of any meeting of Members, except that if action is taken or proposed to be taken for approval of any of those matters specified in **Section 5.5** of these Bylaws, the waiver of notice, consent or approval shall state the general nature of the proposal. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Attendance of a Member at a meeting shall also constitute a waiver of notice of the meeting unless the Member objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in a notice of the meeting but not so included if that objection is expressly made at the meeting.

5.7 Proof of Membership and Record Date. No person shall exercise the rights of membership in the Association until satisfactory proof of membership has been furnished the Association. Such proof may consist of either a duly-executed and acknowledged grant deed or title insurance policy showing that the person has an ownership interest in a Lot in the Development that would entitle the person to membership in the Association as provided in **Section 5.3** of the Declaration. Such deed or policy shall be deemed conclusive proof of the person's membership in the absence of a conflicting claim based on a later deed or policy. For purposes of determining the members entitled to notice of any meeting, to vote, or to exercise any of the rights in respect of any lawful action, the Board may fix in advance a record date as follows:

(i) the record date for notices shall be not more than 90 nor less than ten days before the date of the meeting;

(ii) the record date for voting shall not be more than 60 days before the date of the meeting or before the date on which the first written ballot is mailed or solicited; and

(iii) the record date for any other actions shall not be more than 60 days before the date of such action. If no record date is fixed by the Board, the record date shall be determined in accordance with the Corporations Code section 7611. A person holding a membership as of the close of business on the record date shall be a Member of record.

5.8 Quorum. The presence at any meeting in person or by proxy of Members entitled to cast at least 40% of the total votes of all Members shall constitute a quorum. Any Members meetings, whether or not a quorum is present, may be adjourned from time to time for any reason by a vote of the Members representing a majority of the voting power of the Members present at

the meeting, either in person or by proxy, to another time not less than five days nor more than 30 days from the original meeting. If the time and place of the adjourned meeting is announced prior to the adjournment of the original meeting, no notice of the adjourned meeting is required, provided that if a new date is fixed for the adjourned meeting after the adjournment of the original meeting, notice of the date, time and place of the adjourned meeting shall be given to Members in the manner described in **Section 5.4** of these Bylaws. Any business that might have been transacted at the original meeting may be transacted at the adjourned meeting. In the absence of a quorum, no business may be transacted at the meeting other than to adjourn the meeting to another time. If a meeting is adjourned because a quorum is not present, the quorum requirement for the rescheduled meeting shall be reduced to 33 1/3% of the total voting power of all Members.

The Members present at a duly-called or -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.

Notwithstanding anything herein to the contrary, a quorum for purposes of approving assessment increases as required under **Section 6.6** of the Declaration shall satisfy the quorum requirements described in **Section 6.6** of the Declaration.

5.9 **Proxies.** Each Member entitled to vote shall have the right to do so either in person or by one or more agents authorized by written proxy, signed by the person and filed with the secretary of the Association. A proxy shall be considered signed if the Member's name is placed on the proxy (whether by manual signature, typewriting, telegraphic transmission or otherwise) by a Member or the Member's attorney-in-fact.

Any validly-executed proxy shall continue in full force and effect until: (i) written notice is received by the Association of the death or incapacity of the Member executing the proxy; or (ii) the Member executing the proxy revokes it before the vote is cast under that proxy by (a) delivering a written revocation to the Association, (b) executing a subsequent proxy that is presented to the meeting; or (c) attending and voting in person at any meeting. Unless the proxy indicates otherwise, it shall not be valid after 11 months from the date of execution; and in no event shall any proxy be valid after three years from the date of execution. Notwithstanding any of the foregoing, all proxies shall be revocable and shall automatically terminate when the Member's membership in the Association terminates as provided in **Section 4.3** of the Declaration. A suspension of any Member's voting rights for the Association shall automatically suspend any proxy executed by that Member.

Any form of proxy distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon. The proxy shall provide that, where the Member specifies a choice, the vote shall be cast in accordance with that choice. The proxy also shall identify the person or persons authorized to exercise the proxy and the length of time it will be valid.

No proxy shall be valid with respect to a vote on the following proposals to be approved by the Members unless the general nature of the matter was set forth in the proxy:

- (i) removing a director without cause;
- (ii) filling vacancies on the Board;
- (iii) amending the Articles;

(iv) the sale, lease, conveyance, exchange, transfer or other disposal of all or substantially all of the Association's assets, or the approval of the principal terms of a merger or the amendment to the principal terms of the merger;

(v) approving a contract or transaction between the Association and one or more directors, or between the Association and any entity in which a director has a material financial interest;

(vi) electing to wind up and dissolve the Association; or

(vii) approving a plan of distribution of assets, other than money, not in accordance with the liquidation rights of any class of Members (applicable only if the Association is in the process of winding up and there is more than one class of membership outstanding at the time).

5.10 Order of Business. The order of business of all meetings of the Members shall be as follows:

- (i) proof of notice of meeting or waiver of notice;
- (ii) reading of minutes of preceding meeting;
- (iii) reports of Board and officers;
- (iv) election of directors if any are to be elected;
- (v) unfinished business; and
- (vi) new business.

5.11 Parliamentary Procedure. All questions of parliamentary procedure shall be decided in accordance with Robert's Rules of Order or such other parliamentary procedures as the Board may adopt.

5.12 Action by Unanimous Written Consent. Any action required or permitted to be taken by the Members may be taken without a meeting if all of the Members consent in writing to the action. The written consent shall have the same force and effect as the unanimous vote of the Members. The written consents shall be filed with the minutes of the proceedings of the Members.

5.13 Action by Written Ballot. Any action that may be taken at any meeting of the Members, except the election of directors, may be taken by written ballot if the following requirements are satisfied:

(i) The Association distributes a written ballot to each Member entitled to vote on the matter. The ballot shall be given personally or by first-class mail addressed to the Member at the address of such Member appearing on the books of the Association or given by the Member to the Association for purpose of notice. The ballots shall provide a reasonable time within which to be returned.

(ii) Each ballot shall set forth:

- (a) the proposed action;
- (b) an opportunity to specify approval or disapproval of any proposal;

(c) confirmation that if the Member specifies a choice, the vote shall be cast in accordance with that Member's choice;

(d) the time by which the ballot must be received by the Association in order to be counted;

(e) the number of responses needed to meet the quorum requirement; and

(f) the percentage of approvals necessary to approve the proposed action.

(iii) The proposed action shall be considered approved by written ballot if: (a) within the time period specified, the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action; and (b) the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(iv) A written ballot may not be revoked.

ARTICLE 6 - Election and Term of Office of Members of the Board of Directors

6.1 Number. The Board shall consist of three directors who need not be Members of the Association.

6.2 Nomination. Except for the initial directors selected by the incorporators or the Members as provided in **Section 6.3** of these Bylaws, a nomination for election to the Board may be made by a nominating committee consisting of three persons. The nominating committee shall consist of a Chairman, who shall be a director, and two other persons who may either be 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 thereon shall be filled by the Board. The nominating committee may make as many nominations as it desires but not less than the number of positions to be filled. Nominations may be made from among Members or non-members.

Notwithstanding the foregoing, any Member present in person or by proxy at a meeting in which any directors are to be elected may place a name in nomination at the meeting prior to the vote.

The Board shall adopt procedures that provide for a reasonable opportunity for nominees to communicate their qualifications and reasons for candidacy to the Members and to solicit votes, and for a reasonable opportunity for all Members to choose among the nominees. Without authorization of the Board, no Association funds may be expended to support a nominee for director after there are more nominees than can be elected.

6.3 Election of Directors. The initial directors shall be elected either by the incorporator of the Association or by the Members as soon as practical after the incorporation of the Association and shall hold office until the first annual meeting of the Members as specified in **Section 5.2** of these Bylaws. At the first annual meeting, the Members shall elect directors to fill all positions on the Board. Unless the office is vacated sooner as provided in **Section 6.6**, each director shall hold office until his or her term expires and a successor has been elected and qualified. The term shall be for one year. Successor directors shall be elected at each annual meeting thereafter.

The election of directors shall be by secret written ballot; and, subject to the provision regarding specially-elected directors in **Section 6.5** of these Bylaws, the persons receiving the highest number of votes up to the number of positions to be filled shall be elected.

Any director may resign at anytime. The resignation shall be effective upon giving written notice to the president, secretary or Board unless the notice specifies a later effective date.

6.4 Cumulative Voting. The election of directors may be by cumulative voting as described herein, provided a Member has placed a candidate's name in nomination prior to the voting and given notice at the meeting prior to the voting of the Member's intention to cumulate votes. If any Member has given such notice, then all Members shall have the right to cumulate their votes for candidates and nomination. Under cumulative voting, each Member, either in person or by proxy, may give a single candidate the number of votes equal to the number of directors to be elected multiplied by the number of votes the Member is entitled to exercise under the Declaration; or the Member may distribute these cumulative votes among any two or more candidates as the Member desires. Unless the entire Board is removed by a vote of the Members, an individual director may not be removed prior to the expiration of his or her term if the votes against removal would have been sufficient to elect that director cumulatively at an election at which the same number of votes were cast and all directors authorized at the time of the most recent election of that director were being elected. These cumulative voting provisions do not apply to the election of special directors by Owners other than Declarant under the provisions set forth in **Section 6.5** of these Bylaws.

6.5 Specially-Elected Directors. As long as a majority of the voting power of the Association resides in the Declarant, or as long as there are two outstanding classes of membership in the Association, no less than 20% and at least one of the directors shall be elected by Members other than Declarant. If Members other than Declarant are unable to elect at least 20% of the directors by the exercise of cumulative voting or otherwise, the number of positions on the Board necessary to meet the 20% requirement shall be filled by the nominees elected by Members other than Declarant (the "Specially-Elected Directors"). Nominations for Specially-Elected Directors shall be made by any Member other than Declarant by submitting a written nomination before the meeting to the secretary of the Association or by placing a name in nomination at the meeting prior to the vote. A Specially-Elected Director may be removed prior to the expiration of his or her term only by the vote or written consent of the Members other than Declarant who hold a majority of the voting rights other than the voting rights held by a Declarant. In the case of the death, resignation or removal of a Specially-Elected Director, a successor shall be elected by Members other than Declarant to hold office for the unexpired term of his or her predecessor and until a successor has been elected and qualified. Except as otherwise provided in this section, the provisions of the Declaration, the Articles and the Bylaws applicable to directors, including their election, removal, rights and duties, shall apply to Specially-Elected Directors.

6.6 Vacancies. A vacancy or vacancies on the Board shall exist on the occurrence of any of the following:

- (i) the death of any director;
- (ii) the effective date of any director's resignation;
- (iii) the removal of a director by vote of the Members or by vote of a majority of all the votes entitled to be cast of all Members if the Association has less than 50 Members, provided that, if applicable, the vote for removal satisfies the requirements contained in cumulative voting and Specially-Elected Director provisions in **Sections 6.4 and 6.5** of these Bylaws;

(iv) the Declaration by resolution of the Board of a vacancy in the office of a director who has been declared of unsound mind by an order of court or convicted of a felony;

(v) the increase in the authorized number of directors; or

(vi) the failure of the Members, at any meeting of the Members at which any director or directors are to be elected, to elect the number of directors required to be elected at that meeting.

Any vacancy on the Board may be filled by a majority of the directors then in office whether or not less than a quorum, or by a sole remaining director, except for a vacancy created by a removal of a director by a vote of the Members or a vacancy of a Specially-Elected Director position, which vacancy shall be filled by the Members. In addition, the Members may fill any vacancy not filled by the directors. Any director elected to fill a vacancy shall hold office until the expiration of the term of his or her predecessor and until a successor has been elected and qualified.

6.7 Compensation. A director shall not receive any compensation for any services rendered to the Association as a director, provided the directors may be reimbursed for actual out-of-pocket expenses incurred in the performance in his or her duty, provided such expenses were approved in advance by the Board.

ARTICLE 7 - Meetings of Directors

7.1 Place of Meetings. Meetings of the Board shall be held at any place within the Development designated by the Board or described in the notice of meeting. Meetings shall be held within the Development unless in the Board's judgment a larger meeting room is required than is available within the Development, in which case the Board shall select a meeting place as close as possible to the Development.

7.2 Regular Meetings. Regular meetings of the Board shall be held monthly at such time or place within the Development as may be fixed from time to time by resolution of the Board, provided that if the business to be transacted by the Board does not require monthly meetings, regular meetings may be held less frequently but no less than one regular meeting every six months. If the regular meeting falls on a holiday, the meetings shall be held at the same time on the next business day. Notice of the time and place of any regular meetings shall be posted at a prominent place or places within the Common Area and shall be given to each director not less than four days prior to the meeting.

7.3 Special Meetings. Special meetings of the Board may be called by written notice signed by the president of the Association, or by any two directors other than the president. The notice shall specify the time and place of the meeting and the nature of any special business to be considered, shall be posted in a manner prescribed for notice of regular meetings, and shall be sent to all directors not less than 96 hours prior to the scheduled time of the meeting.

7.4 Emergency Meetings. An emergency meeting of the Board may be called by the President of the Association or by any two members of the Board, other than the President, if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board and which of necessity make it impractical to provide notice as required by Section 7.5.

7.5 Notice to Members. Members shall be given notice of the time and place of any Board meeting, except for an emergency meeting, at least four days prior to the meeting. Notice may be given by posting the notice in a prominent place or places within the Common Area, by mail or delivery of the notice to the Member's address of record, or by newsletter or similar means of communication. For purposes of the notice requirements, a "meeting" of the Board includes any congregation of a majority of the members of the Board at the same time and place to hear, discuss or deliberate upon any item of business scheduled to be heard by the Board except those matters that may be discussed in executive session.

7.6 Open Meetings. Regular and special meetings shall be open to all Members. Members shall be allowed to speak at the meeting during that portion of the meeting that is opened for Members' comments. Other than during the open portion of the meeting, only Board members may participate in the deliberations except as otherwise directed by the Board. The Board, with the approval of the majority of its members present at a meeting in which a quorum for the transaction of business has been established, may adjourn a meeting and reconvene in executive session to discuss a vote on personnel matters, matters that relate to the formation of contracts with third parties, Member discipline or litigation. If requested by a Member who may be subject to a fine, penalty or other form of discipline imposed by the Association, the Board shall meet in executive session; and the Member shall be entitled to attend the executive session. The nature of any and all business to be considered in executive session shall first be announced in open session. Any matter discussed in executive session shall be generally noted in the minutes of the Board.

7.7 Quorum Requirements. A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum was present shall be regarded as an act of the Board, subject to the requirements of Corporations Code section 7211(a)(8), including, without limitation, the requirements relating to: (i) approval of contracts or transactions between the Association and one or more directors, or between the Association and any entity in which a director has a material financial interest; (ii) creation of and appointments to committees of the Board; and (iii) indemnification of directors. A meeting at which a quorum was initially present may continue to transact business, notwithstanding the withdrawal of directors if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

7.8 Adjourned Meetings. A majority of the directors present, whether or not a quorum was present, may adjourn any meeting to another time and place. Notice of the time and place of the holding of an adjourned meeting need not be given unless the original meeting is adjourned for more than 24 hours. If the original meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given before the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

7.9 Action Taken Without a Meeting. To the extent authorized by law, any action that the Board is required or permitted to take may be taken without a meeting if all of the members of the Board consent in writing to that action. Such action by written consent shall have the same force and effect as any other validly-approved action of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

7.10 Waiver of Notice. Notice of a meeting need not be given to any director who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents and approvals shall be filed with the Association's records or made a part of the minutes of the meetings. Notice of the meeting

need not be given to any director who attends the meeting and does not protest, before or at the commencement of the meeting, the lack of notice to that director.

7.11 Telephone Meetings. To the extent authorized by law, any meeting, regular or special, may be held by conference telephone or similar telephone communication equipment so long as all directors participating in the meeting can hear one another. All such directors participating in such a meeting shall be considered to be present in person at such meeting. An explanation of the action taken shall be posted in a prominent place within the Common Area within three days after the meeting.

7.12 Availability of Minutes. The minutes, minutes proposed for adoption that are marked to include draft status, or a summary of the minutes, of any meeting of the Board, other than an executive session, shall be available to Members within 30 days of the meeting. The minutes, proposed minutes or summary shall be distributed to any Member on request and on reimbursement of the Association's costs in making that distribution.

Members of the Association shall be notified in writing at the time that the pro forma operating budget described in **Section 4.10** of the Declaration is distributed or at the time of any general meeting of all the Members of each Member's right to have copies of the minutes of the Board's meetings as authorized herein and how and where these minutes may be obtained.

ARTICLE 8 - Powers and Duties of the Board

8.1 Powers. The Board shall have all the powers conferred on the Association as set forth in the Declaration and these Bylaws except those powers expressly reserved to the Members and subject to the requirements to obtain approval of the Members before certain actions may be taken. In addition, the Board shall appoint and remove at its pleasure all officers, agents and employees of the Association and shall prescribe powers and duties for them that are consistent with the Declaration, the Articles, these Bylaws and any applicable laws.

8.2 Duties. The Board shall be responsible for the performance of the duties of the Association as set forth in the Declaration and shall supervise all officers, agents and employees of the Association for the proper performance of their duties.

8.3 Standard of Care. Each director shall perform his or her duties as a director, including the duties as a member of any committee of the Board on which a director serves in good faith, in a manner such director believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

8.4 Committees of the Board. The Board, by resolution adopted by a majority of the directors then in office, provided a quorum is present, may create one or more committees, each consisting of at least one director. No committee may: (i) take any final action in any matter which under the Declaration or the California Nonprofit Mutual Benefit Corporation Law also requires approval of the Members or approval of a majority of the Members; (ii) fill vacancies on the Board or on any committee which has the authority of the Board; (iii) amend or repeal these Bylaws or adopt new bylaws; (iv) amend or repeal any resolution of the Board which by express terms is not so amendable or repealable; (v) appoint any other committees of the Board or the Members of those committees; or (vi) expend corporate funds to support a nominee for director after there are more nominees than can be elected.

The Board may adopt Rules for the governing of any committee not inconsistent with the provisions of these Bylaws; or in the absence of Rules adopted by the Board, the committee may adopt such rules.

8.5 Due Process Requirements. Before the Board imposes any monetary penalties (other than late fees on delinquent assessments) or suspension of membership rights or Common Area use privileges against any Member for failure to comply with the Declaration, these Bylaws or the Association Rules for reason other than a failure to pay assessments, the Board must act in good faith and satisfy each of the following requirements:

(i) the Member must be given 15 days' prior notice of the discipline to be imposed and the reasons for the imposition of the discipline. Notice may be given by any method reasonably calculated to give actual notice. If the notice is given by mail, it must be sent by first-class or registered mail to the last address of the Member as shown on the Association's records; and

(ii) the effective date of the imposition of the discipline shall not occur until at least five days after the Member has been given an opportunity to be heard, orally or in writing, by the Board. Members shall have the opportunity to present witnesses on the Member's behalf, to cross-examine any witnesses that may testify against the Member, and to be represented by legal counsel.

8.6 Financial Review Requirements. The Board shall review on at least a quarterly basis a current reconciliation of the Association's operating and reserve accounts, the current year's actual reserve revenues and expenses compared to the current year's budget, and an income and expense statement from the Association's operating and reserve accounts. In addition, the Board shall review the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts.

ARTICLE 9 - Officers and Their Duties

9.1 Officers of the Association. The officers of the Association shall be a president, a secretary and a chief financial officer. The Association may also have, at the discretion of the Board, one or more vice presidents, one or more assistant secretaries, one or more assistant chief financial officers, and such other officers as may be appointed in accordance with the provisions of **Section 9.3** of these Bylaws. Any number of offices may be held by the same person.

9.2 Election of Officers. The officers, except those appointed under **Section 9.3** of these Bylaws, shall be chosen annually by the Board and shall serve at the pleasure of the Board. The Board shall appoint one of its directors as president and one as a chief financial officer; the other officers need not be directors.

9.3 Other Officers. The Board may appoint and may authorize the president or another officer to appoint any other officers that the Association may require. Each officer so appointed shall have the title, hold office for the period, and have the authority to perform the duties specified in these Bylaws as determined from time to time by the Board.

9.4 Removal or Resignation of Officers. Any officer may be removed with or without cause by the Board and also, if the officer is not chosen by the Board, by any officer on whom the Board may confer that power of removal. Any officer may resign at anytime by giving written notice

to the Board. Any such resignation shall take effect as of the date the notice is received or at any later date specified in the notice; and, unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective.

9.5 Vacancies. A vacancy in any office because of the death, resignation, removal, disqualification or any other cause shall be filled in the manner provided in these Bylaws for regular appointments to the office, provided, however, that a vacancy need not be filled on an annual basis.

9.6 Duties. The duties of the officers shall be as follows:

(i) President. The president shall be the general manager and chief executive officer of the Association and generally supervise, direct and control the Association's activities, affairs and officers. The president shall preside at all meetings of Members and at all meetings of the Board. The president shall have such other powers and duties as prescribed by the Board or these Bylaws.

(ii) Vice Presidents. In the absence or disability of the president, the vice presidents, if any, in order of their rank as fixed by the Board or, if not ranked, a vice president designated by the Board shall perform all of the duties of the president. When so acting, a vice president shall have all of the powers of and be subject to all of the restrictions on the president. The vice president shall have such other powers and perform such other duties as prescribed by the Board or these Bylaws.

(iii) Secretary. The secretary shall keep or cause to be kept at the Association's principal office the following:

(a) a book of minutes of all meetings, proceedings and actions of the Board, committees of the Board and of meetings of Members. The minutes of meetings shall include the time and place of holding, whether annual, regular or special, and, if special, how authorized, the notice given, the names of those present at Board and committee meetings, and the number of Members present or represented at Members' meetings;

(b) a copy of the Declaration, Articles and Bylaws as amended to date; and

(c) a record of the Members showing the names of all Members, their addresses, telephone numbers, and the class of memberships held by each.

Except as otherwise provided in these Bylaws, the secretary shall give or cause to be given the notices required by these Bylaws for meetings of members of the Board and of committees of the Board. The secretary shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

(iv) Chief Financial Officer. The chief financial officer shall keep and maintain or cause to be kept and maintained adequate and correct books and accounts of the properties and transactions of the Association and shall send or cause to be sent to the Members and directors such financial statements and reports as are required by law, the Declaration, these Bylaws or the Board. The books of account shall be open to the inspection by any director at all reasonable times.

The chief financial officer shall deposit or cause to be deposited all money and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board, shall disburse the funds of the Association as may be ordered by the Board, shall render to the president and the Board when requested an account of all transactions

made on behalf of the Association 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 these Bylaws.

9.7 Joint Signatures. Unless the Board authorizes otherwise, any check or other negotiable instrument issued by the Association shall require the signatures of any of the following officers: the president, the chief financial officer, or the secretary, provided that under all circumstances the withdrawal of any money from the Association reserve account shall require the signatures of at least two people, who shall either be members of the Board, or one member of the Board and one officer who is not a member of the Board. For all purposes herein, "reserve accounts" shall mean money that the Association's Board has identified from its annual budget for use to defray the future repair of, replacement of, or additions to those major components that the Association is obliged to maintain.

9.8 Compensation. Officers shall not receive any compensation for any service rendered to the Association as an officer, provided that any officer may be reimbursed for actual out-of-pocket expenses reasonably incurred in the performance of his or her duties for which the officer received prior written approval or subsequently approved by the Board.

ARTICLE 10 - Indemnification and Insurance

10.1 Indemnification. The Association shall indemnify any present or former director, officer, or employee, or other agent of the Association to the fullest extent authorized under Corporations Code section 7237 or any successor statute, and may advance to any such person funds to pay expenses that may be incurred in defending any action or proceeding on receipt of an undertaking by or on behalf of such person to repay the Association such amount unless it is ultimately determined that such Person was entitled to indemnification hereunder.

Notwithstanding anything herein to the contrary, no modification or elimination of this provision shall be retroactive except to the extent the modification provides greater indemnification protection, and no modification or elimination shall be operative against any director, officers, employee or other agent serving in such capacity at the time the modification or elimination becomes effective until that person has received written notice of the modification or elimination except to the extent the modification provides greater protection.

10.2 Insurance. The Association shall have the power to purchase or maintain insurance on behalf of its agents, against any liability asserted against or incurred by any agent in such capacity arising out of the agent's status as such, whether or not the Association would have the power to indemnify the agent against such liability under **Section 10.1** of these Bylaws.

ARTICLE 11 - Amendments

11.1 Amending the Bylaws. If a two-class voting system is in effect, these Bylaws may be amended by a vote or written consent of a majority of the voting power of the Members of each class. If a one-class voting system is in effect, these Bylaws may be amended by the vote or written consent of a majority of the voting power of the Members and a majority of the voting power of the Members of the Association other than Declarant.

11.2 Amending the Articles. If the two-class voting system is in effect, the Articles may be amended by a vote or written consent of a majority of the of the Board and a majority of the voting power of the Members of each class. If a one-class voting system is in effect, the Articles may be amended by a majority vote of the Board, a majority of the voting power of the Members, and a majority of voting power of the Members other than Declarant.

11.3 Amendment Restrictions. Notwithstanding the amendment requirements contained in Sections 11.1 and 11.2 of these Bylaws, the percentage of the voting power of the Association, or of Members other than the Declarant necessary to amend a specific clause or provision in these Bylaws or the Articles, shall not be less than the prescribed percentage of affirmative votes required for action to be taken under the clause or provision; and, if applicable, any amendment to the Articles or Bylaws shall satisfy the requirements of Business and Professions Code section 11018.7 and any requirements set forth in the Declaration regarding the consent of first mortgagees.

ARTICLE 12 - General Provisions

12.1 Conflict with Declaration. If any of these Bylaws conflict with any provisions of the Declaration, the Declaration shall control to the extent of any such conflict.

12.2 Fiscal Year. Unless the Board determines otherwise, the fiscal year of the Association shall be a calendar year.

12.3 Records. The Association shall maintain the following records:

- (i) adequate and correct books and records of account;
- (ii) written minutes of the proceedings of its Members, Board and committees of the Board, and
- (iii) a record of its Members giving their names, mailing addresses, and telephone numbers. The Association shall keep at its principal office the original or a copy of the Declaration, the Articles, and these Bylaws as amended to date, which shall be open to inspection by the Members at all reasonable times during office hours.

12.4 Inspection Rights. Any Member or any Member's duly-appointed representative shall have access to the Association membership register (including names, addresses and voting rights), books of account, and minutes from any meeting of the Members, the Board and any committee of the Board in order to inspect or copy such records for any purposes reasonably related to his or her interest as a Member. Access shall be at any reasonable time at the office of the Association or at such other place within the Development as the Board prescribes. The Board shall establish Rules regarding the Notice the Member must give to the custodian of the records to obtain access, the hours and days of the week when the records may be inspected and copied, and the charges imposed by the Association for copying records requested by the Member. Any Member at any reasonable time may inspect, copy or make extracts of any books, records and documents of the Association and inspect the physical properties owned or controlled by the Association.

Notwithstanding the foregoing, the Association may provide an alternative method to the foregoing inspection rights pursuant to Corporations Code section 8330(c); and the Association retains the rights described in Corporations Code sections 8331 and 8332.

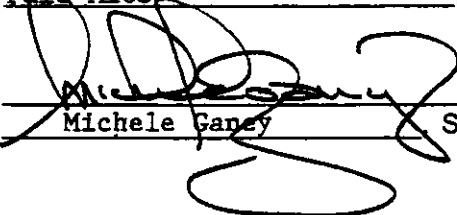
CERTIFICATE OF SECRETARY

I certify that:

I am the duly-elected and acting Secretary of Heritage Grove of Los Gatos Homeowners Association, a California nonprofit mutual benefit corporation; and the above Bylaws consisting of 15 pages are the Bylaws of this Corporation as adopted by the incorporator on October 5, 1999. They have not been amended or modified since that date.

This certificate is executed on October 5, 1999, at

Palo Alto, California.



Michele Ganey Secretary