

**BY-LAWS OF SORRENTO OAKS HOMEOWNERS ASSOCIATION, INC.**

**February 2022**

ARTICLE I – GENERAL .....	1
Section 1. NAME AND LOCATION .....	1
Section 2. PURPOSE.....	1
ARTICLE II – MEMBERSHIP.....	1
Section 1. MEMBERSHIP .....	1
Section 2. QUALIFICATION OF MEMBERS. APPLICATION FOR MEMBERSHIP .....	1
Section 3. VOTING .....	1
Section 4. LIEN .....	1
Section 5. TRANSFER OF MEMBERSHIP .....	2
Section 6. DEFAULT OF MEMBER.....	4
ARTICLE III – MEETING OF MEMBERS.....	5
Section 1. ANNUAL MEETING .....	5
Section 2. SPECIAL MEETINGS.....	5
Section 3. NOTICE OF MEETINGS .....	6
Section 4. VOTING RIGHTS .....	6
Section 5. QUORUM .....	6
Section 6. ACTION BY BALLOT WITHOUT A MEETING .....	7
ARTICLE IV – BOARD OF DIRECTORS.....	8
Section 1. BOARD OF DIRECTORS.....	8
Section 2. ELECTION OF MEMBERS TO THE BOARD OF DIRECTORS.....	8
Section 3. NOMINATIONS .....	9
Section 4. TERM .....	9
Section 5. RESIGNATION AND REMOVAL.....	9
Section 6. FILLING OF VACANCIES.....	9
Section 7. EXCULPATION .....	9
Section 8. POWERS AND DUTIES .....	9
ARTICLE V – MEETINGS OF BOARD OF DIRECTORS.....	14
Section 1. REGULAR MEETINGS .....	14
Section 2. SPECIAL MEETINGS.....	14
Section 3. QUORUM .....	15
Section 4. OPEN MEETING, EXECUTIVE SESSIONS.....	15
Section 5. TAKING ACTION.....	15
Section 6. BOARD OFFICERS.....	15
Section 7. ACTION TAKEN WITHOUT A MEETING.....	15
Section 8. CONDUCT OF BOARD MEETINGS.....	15
Section 9. TELECONFERENCE .....	15
Section 10. MINUTES OF MEETINGS .....	15
Section 11. RECORDING OF MEETINGS.....	15
ARTICLE VI – OFFICERS AND THEIR DUTIES.....	16
Section 1. ENUMERATION OF OFFICERS .....	16
Section 2. ELECTION OF OFFICERS .....	16

Section 3. TERM .....	16
Section 4. RESIGNATION AND REMOVAL .....	16
Section 5. VACANCIES .....	16
Section 6. DUTIES .....	16
ARTICLE VII – COMMITTEES .....	17
ARTICLE VIII – MONTHLY OPERATING CHARGES .....	17
Section 1. OPERATING CHARGES .....	17
Section 2. CREATION OF THE LIEN AND PERSONAL OBLIGATION .....	18
Section 3. PURPOSE OF CHARGES .....	18
Section 4. ANNUAL OPERATING CHARGES .....	18
Section 5. SPECIAL CHARGES .....	18
Section 6. INDIVIDUAL SPECIAL CHARGES .....	18
Section 7. DELINQUENCY OF OPERATING CHARGE .....	19
Section 8. PROCEDURE FOR PERFECTION OF LIEN FOR CHARGES .....	19
Section 9. ENFORCEMENT OF LIEN FOR CHARGES .....	19
Section 10. EXPIRATION AND SATISFACTION OF LIEN .....	19
ARTICLE IX – MISCELLANEOUS .....	19
Section 1. BOOKS AND RECORDS .....	19
Section 2. FINANCIAL STATEMENTS .....	20
Section 3. ALLOCATION OF PROPERTY TAXES AND INTEREST .....	21
Section 4. NOTICES .....	22
Section 5. PROHIBITION AGAINST SHARING IN CORPORATE EARNINGS. ....	22
Section 6. SIGNING OF CHECKS .....	22
Section 7. RESERVE STUDY .....	22
Section 8. DISCLOSURES .....	23
Section 9. RULES ENFORCEMENT AND DISPUTE RESOLUTION .....	24
ARTICLE X – CONDEMNATION .....	24
Section 1. CONDEMNATION .....	24
ARTICLE XI – AMENDMENTS .....	25
Section 1. SPECIAL MAJORITY .....	25
Section 2. INTERPRETATION .....	25
Section 3. NOTICE OF PROPOSED AMENDMENT .....	25

**BY-LAWS OF SORRENTO OAKS HOMEOWNERS ASSOCIATION, INC.**

**FEBRUARY 2022**

**ARTICLE I – GENERAL**

**Section 1. NAME AND LOCATION.** The name of this corporation is Sorrento Oaks Homeowners Association, Inc. (hereinafter referred to as “Association”). Its principal office is located at 800 Brommer Street, Santa Cruz, California 95062.

**Section 2. PURPOSE.** The purpose of this Association is to own and operate a 92-unit Mobile Home Park (“Park”) and to operate it as a nonprofit mutual benefit association, consistent with the provisions set forth in its Articles of Incorporation (“Articles”), and these By-laws.

**ARTICLE II – MEMBERSHIP**

**Section 1. MEMBERSHIP.** Each person or group of persons who qualify to purchase and occupy a mobile home in the park shall automatically become a member (“Member”) of the Association upon obtaining a publicly recorded ownership interest in a mobile home and shall own a membership (“Membership Share”) in the Association. There shall be one class of Members of the Association, and except as otherwise provided, the rights, powers and privileges of all Members shall be equal. Members shall be subject to the terms and provisions of the Articles of Incorporation, these By-Laws, the Rules & Regulations, and the Occupancy Agreement (collectively, “Governing Documents”). Membership rights and privileges, including voting rights and access to common amenities, may be temporarily suspended as provided for in these By-Laws.

**Section 2. QUALIFICATION OF MEMBERS. APPLICATION FOR MEMBERSHIP.**

First priority will be given to any natural person who applies for membership and who has been approved for membership by the Association’s Board of Directors. Applicants will be required to provide proof of age to comply with the age requirement and a credit report to show the applicant’s history of financial responsibility. The applicant shall become a Member following payment of the membership fee as set by the Board of Directors, and upon execution of an Occupancy Agreement in the usual form employed by the Association, covering the space occupied by a specific mobile home. Application for membership shall be presented to a Member of the Board of Directors or agent of the Board of Directors on a form prescribed by the Board of directors.

**Section 3. VOTING.** Each Member shall be entitled to one vote. When more than one person owns a mobile home, all such owners shall be Members of the Association. However, the vote for each Space must be cast as a unit. Fractional votes shall not be allowed and in no event shall more than one vote be cast with respect to any one Space. The total number of voting memberships shall not exceed the total number of mobile home Spaces in the Park. Members owning more than one mobile home are limited to one vote.

**Section 4. LIEN.** The Association shall have a lien on the outstanding Membership Shares in order to secure payment of any sums which shall be due or become due from the holders thereof, for any reason whatsoever, including any sums due under the Occupancy Agreement. The lien is declared to be enforceable in any matter permitted by law.

**Section 5. TRANSFER OF MEMBERSHIP.** Except as provided in this Section, Membership Shares shall not be transferable and, in any event, no transfer of Membership Shares shall be made upon the books of the Association within ten (10) days immediately before the annual meeting of the Members. In all transfers of Membership Shares, the Association shall be entitled to impose a fee it deems appropriate to compensate it for the processing of the transfer.

(a) **DEATH OF A MEMBER.** Upon the death of a Member during the probate or disposition of his or her estate, the deceased Member's rights shall be suspended and they do not automatically transfer to such deceased Member's estate and/or heirs. The rights of any surviving Member or occupant shall not be suspended. A spouse, heir or other non-member of the deceased Member shall have the ability to acquire the deceased Member's Membership Share only if they meet the Association's membership requirements and are otherwise approved for membership. Any such spouse, heir or other non-member shall, within fifteen (15) days of the deceased Member's death, apply to the Board of Directors for membership in the Association. The Board of Directors shall have fifteen (15) days following receipt of the application for membership to approve or disapprove the application.

If the applicant is approved, or, if the spouse, heir(s) or non-member(s) are co-owners of the deceased Member's Membership Share, said person(s) shall within sixty (60) days following the deceased Member's death take all the following actions:

(1) if applicable, notify the deceased Member's estate's legal representative ("Estate Representative") of his, her or their intention to exercise the option to purchase the deceased Member's Membership Share;

(2) tender to the Estate Representative the transfer value (less amounts owed by the deceased Member to the Association) of the deceased Member's Membership Share in the Association;

(3) tender to the Association any amounts owed by the deceased Member to the Association; and,

(4) assume in writing the terms of the Articles of Incorporation, these By-laws, and the Occupancy Agreement. If the deceased Member's heir(s) or non-member(s) take such deceased Member's Membership Share by joint tenancy or through a bequest of community property such person(s) are not required to tender to the Estate Representative the transfer value of the deceased Member's Membership Share as outlined in (1) above. Rather, such person(s) shall, during the sixty (60) day period, take whatever legal action (including initiation of a legal proceeding) is necessary to transfer title of the Membership Share. Upon a Member's death, if the heir(s) or non-member(s) fail to exercise the above-described option in accordance with the foregoing requirements, the Association shall have an option to purchase the deceased Member's Membership Share from his or her estate in the manner provided in paragraph (b) of this Section. If the Association does not exercise its option, the provisions of paragraph (c) of this Section shall be applicable. The references to "Member" in that paragraph shall refer to the Estate Representative, if any.

**(b) OPTION OF THE ASSOCIATION TO PURCHASE.** If the Member desires to terminate his or her Membership Share, he or she shall notify the Association in writing of such intention and the Association shall have an option for a period of thirty (30) days from the time notice was given to exercise its right to purchase such Membership Interest. The value of such Membership Share shall be determined by the Association and be based on the transfer value of the Membership Share minus the following:

(1) any amounts due by the Member to the Association under the Occupancy Agreement, and

(2) any costs needed to repair and replace the mobile home as required by the Governing Documents. The purchase by the Association of the Membership Share on a date mutually agreed to by the Member and Association will immediately terminate the Member's rights and the Member shall forthwith vacate the premises.

**(c) PROCEDURE WHERE ASSOCIATION DOES NOT EXERCISE OPTION.** If the Association waives in writing its right to purchase the Membership share under the option, or if the Association fails to exercise the option within the thirty (30) day period, the Member may sell his or her Membership Share to any person who has been duly approved by the Association for membership and occupancy. When the transferee has been approved for membership and has executed the agreement prescribed above in paragraph (a), the retiring Member shall be released of his or her obligations under the Occupancy Agreement, provided he or she has paid all amounts due the Association to date. If a Member sells his or her Membership Share, the Member must provide the purchaser with a copy of the Governing Documents of the Association and a copy of the most recent annual disclosure package including financial statement that was distributed to the Member. Upon written request, the Association shall, within ten (10) days provide a copy of these items, however, the Association may charge a reasonable fee for this service, which shall not exceed its cost to prepare and reproduce the requested items.

**(d) TRANSFER VALUE.** Whenever used in these By-laws, the term "transfer value" shall mean the following: The fair market value of the Membership Share involved as established by a qualified local real estate appraiser or licensed real estate broker for the sale of the mobile home at issue, together with any assessments due pursuant to these By-laws. If the parties are unable to come to an agreement as to the fair market value of the Membership Share, the parties agree to each select their preferred individual to create a fair market valuation and those two individuals will then select a third local real estate appraiser or licensed real estate broker who will establish the fair market value of the mobile home, which such valuation shall be binding on the parties. The costs of this additional process shall be borne equally by the parties.

**(e) SALE OF A MOBILE HOME.** When a Member sells, the seller will pay the Association the balance of any note payable or any amount owed to the Association in connection with the specific Membership Share.

**(f) SALE OR TRANSFER OF MEMBERSHIP INTEREST.** Excepting transfers to persons permitted by Article II sections 1 and 2 to become Members, no Member shall make, execute or deliver any transfer, assignment, contract to sell, bill of sale, deed, mortgage or lease to any person other than a Member; provided, however, that a Member may make, execute or

deliver a transfer, assignment, contract to sell, bill of sale, deed or mortgage with respect to his or her membership interest: (1) to a trust or other estate planning entity; or (2) to a person who is not a Member for the purpose of refinancing an existing loan with respect to his or her mobile home or for the purpose of effecting the purchase of his or her mobile home, all in accordance with such rules and regulations as shall hereafter be adopted by the Board of Directors, in the exercise of its discretion, subject to all of the following conditions:

1. any lender seeking to secure a loan against the Membership Share of the borrowing Member shall, following a foreclosure (or other legal process) for any default by the borrowing Member, be recognized as a “non-resident owner” who is not a Member, and shall be bound by the Articles, By-Laws, the Rules and Regulations and the occupancy agreement; and
2. shall be responsible for the payment of space rent and any other applicable charges, and shall be required to maintain the mobile home and any appurtenant landscaping associated with the given space in good condition; and
3. any such lender, having the status of a non-resident owner who is not a Member, shall not be able to vote on membership matters, be counted as part of a quorum for general membership meetings, be counted as part of the number of Members with respect to which any minimum voting requirement is required, and shall not be able to rent or sublet the space occupied by the mobile home; and
4. such lender can only transfer the mobile home and the Membership Share to a person eligible to become a Member after any outstanding fees and rents due and owing are paid to the Association and the Board of Directors approves the transfer in accordance with any rules and regulations it may adopt in this regard.

The Board of Directors shall adopt such rules and regulations pertaining to this subject matter (consistent with the provisions of this Section) as it deems appropriate in the exercise of its discretion. The term “mobile home” shall include a “manufactured home” and shall apply to existing mobile homes or manufactured homes in the Park as well as new mobile homes or manufactured homes. The provisions of this section are intended to apply to persons who are Members, as well as a person seeking to become a member in the Park by purchasing a mobile home in the Park and the associated units of Membership Share pertaining thereto, and to lenders (including, but not limited to, persons, partnerships, corporations, or associations) seeking to obtain a lien against the Membership Share of the affected Member.

**Section 6. DEFAULT OF MEMBER.** Except with respect to a default in the payment of any operating charges, assessments or other such costs imposed by the Association against the Member (Article VIII shall govern such defaults), in the event that Member or Members owning a particular Membership Share certificate have defaulted under the Occupancy Agreement, and, as a result the Association terminates the rights of the Member or Members as permitted under the Occupancy Agreement or applicable law, the Member or Members shall be required to deliver promptly to the Association his, her or their Membership Share, and Occupancy Agreement, both endorsed in such manner as may be required by the Association. The Association shall thereupon at its election either (1) repurchase said Membership Share at its Transfer Value or (2) proceed with reasonable diligence to affect a sale at the Transfer Value of the Membership Share to a new Member. The retiring Member or Members shall be entitled to receive the amount so determined, less the following amounts (the determination of such amounts by the Association to be conclusive):

- (a) any amounts due to the Association from the Member or Members as permitted in the Occupancy Agreement.
- (b) the cost of any repairs and replacements required by the Governing Documents in order for the Association to place the mobile home and space into a suitable condition for another occupant; and
- (c) attorneys' fees and costs and other such expenses incurred by the Association in connection with the default of such Member or Members and the resale of his, her or their Membership Share. In the event the retiring Member or Members for any reason should refuse or otherwise not return within ten (10) days after the Association's written demand to deliver such endorsed Membership Share certificate, said Membership Share certificate, shall be deemed to be canceled and may be reissued by the Association to a new purchaser.
- (d) Any amounts, including the Association's reasonable estimate of any such amount as may then be due, or thereafter become due by reason of real estate property taxes assessed against the Space occupied by the retiring member.

### **ARTICLE III – MEETING OF MEMBERS**

**Section 1. ANNUAL MEETING.** There shall be a meeting of the Members each year for the purpose of electing or announcing the outcome of the election of Directors and conducting any other business of the Association and such meeting shall be held on the second Saturday of February of each year at 2:00 p.m. on the Association property, or at such other reasonable place within the County of Santa Cruz and at such time which is (not more than sixty (60) days before or after such prior meeting date, as may be designated by written notice of the Board of Directors (hereinafter "Board") and delivered to the Members not fewer than thirty (30) days prior to the date fixed for the annual meeting so as to allow for the mailing of secret ballots as provided in this By-laws.

**Section 2. SPECIAL MEETINGS.** Special meetings of the Members may be called at any time for any lawful purpose by any of the following: (i) President of the Board; (ii) majority of the Board; or (iii) Members constituting at least five percent (5%) of the voting power of the Association. If a special meeting is called by Members of the Association, the request shall be submitted to the Board in writing and shall specify the nature of the business to be transacted. The Director or Officer receiving the request shall promptly deliver the request to the remaining Directors.

- (a) *Notice of Special Meetings Called by the Board.* Notice of special meetings called by the Board shall be given not less than ten (10) days nor more than ninety (90) days before the date of the meeting. If action is to be taken at the meeting, secret ballots shall be mailed to every member not less than 30 days prior to the deadline for voting as provided for in these By-Laws.
- (b) *Notice of Special Meetings Called by Petition of the Members.* Notice of special meetings called by the Members shall be given by the Board within twenty (20) days after the Board's receipt of such request. If the Board fails to give notice, the persons calling the special meeting may give notice consistent with these By-Laws. The special meeting must be held not less than thirty-five (35) days nor more than ninety (90) days following the Board's receipt of the request. If action is to be taken at the meeting,

secret ballots shall be mailed to every member not less than 30 days prior to the deadline for voting as provided for in these By-Laws.

**Section 3. NOTICE OF MEETINGS.** It shall be the duty of the Secretary to deliver or mail a notice of each annual or special meeting stating the purpose thereof as well as the date, time and place where it is to be held, to each Member of record, at his or her address as it appears on the membership book of the Association prior to the meeting date.

A declaration of the mailing or other means of giving any notice of any membership meeting may be executed by the Secretary, President, or any other party giving notice, and shall be prima facie evidence of the effective transmittal of the notice. Notice of any membership meeting shall be given either personally, or if the Member has consented in writing, then by way of email, facsimile or other electronic means as permitted by Law (which such consent can be revoked, in writing, by the Member), or by first-class mail, charges prepaid, and addressed to each Member: (i) at the address appearing on the books of the Association; (ii) at the address given by the Member for the purpose of notice; or (iii) at the address pertaining to the Member's Membership Share, if no address appears on the Association's books and no other address has been given. Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail. Notice may also be given by any other method provided for by law.

**Section 4. VOTING RIGHTS.** In all matters submitted for a membership vote, Members shall be entitled to one (1) vote per Membership Share (regardless of the number of Members having an interest in the Membership Share), except for those Members whose voting rights have been properly suspended pursuant to the Governing Documents and applicable law.

- a. *Co-Owners.* Where there is more than one owner of a mobile home, all such co-Owners shall be Members and may attend any meeting of the Association, but only one co-Owner shall be entitled to exercise the vote to which the mobile home is entitled. Fractional votes shall not be allowed. In the event more than one ballot is cast for a particular Membership Share, only the first ballot received shall be opened and counted.
- b. A ballot cannot be denied to a member for any reason other than not being a member at the time when ballots are distributed.

**Section 5. QUORUM.** Quorum is required for Membership meetings, except there shall be no Quorum requirement for the election of Directors as provided for in these By-laws. The approval requirement for all matters shall be a majority of those Members represented and voting at a duly held election at which a Quorum is present.

- a. *Loss of Quorum.* The Members represent at a duly called election at which a Quorum is present may continue to transact business until adjournment, notwithstanding the loss of a Quorum, so long as the business is approved by enough Members to constitute at least a majority of a Quorum, had a Quorum been present.
- b. *Adjourned Meetings.* Any Membership meeting, whether or not a Quorum is present, may be adjourned from time to time by the vote of the majority of the Members represented at the meeting; provided, however, an adjournment for lack of a Quorum shall be to a date not less than five (5) days nor more than

thirty (30) days from the date the original meeting was called. In the absence of a Quorum, no business may be transacted, except to adjourn the meeting to another date and time. If a new date for the adjourned meeting is announced prior to adjournment, no further notice need be given to the membership. If, however, a new date is not announced prior to adjournment, the Board President (or the remaining Directors, in the President's absence or failure to act) may set the date for a subsequent meeting and shall cause written notice of the date, time, and place of such meeting to be given to the Members at least four (4) days in advance of the meeting.

**Section 6. ACTION BY BALLOT WITHOUT A MEETING.** All ballots mailed to the Membership shall include a double-envelope system for returning the ballots as provided by Law and set forth in the Association's Election Rules. Any action, which may be taken at any Member meeting may be taken without a meeting if the Association distributes a written ballot to every Member entitled to vote on the matter.

- a. Approval Requirement. Approval by written ballot shall be valid only when: (i) the number of votes cast by ballot by the specified deadline equals or exceeds the Quorum required to be present at a meeting authorizing the action; and (ii) the number of votes cast equals or exceeds the number of votes that would be required to approve the action at a meeting. There shall be no Quorum requirement for the election of Directors.
- b. Form of Ballot. Ballots and two (2) preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered to every Member not less than thirty (30) days prior to the deadline for voting. In order to preserve voter confidentiality, a voter may not be identified by name, address, or unit or parcel on the ballot. Ballots shall: (i) set forth the proposed action; (ii) provide an opportunity to approve or disapprove each item submitted for a vote; (iii) set forth the number of ballots needed to satisfy the Quorum requirement; (iv) specify the percentage of votes required to pass the proposal; and (v) state a deadline by which the ballot must be returned in order to be counted.
- c. Return of Ballot. The ballots may be mailed or delivered by hand to the location or locations specified by the Inspectors of Election. Once a secret ballot has been received by the Inspectors of Election, it shall be irrevocable.
- d. Inspectors of Election. Prior to the date ballots are sent to the membership, the Board shall, at an open meeting of the Board, select either one (1) or three (3) independent Inspectors of Election to: (i) oversee all ballot measures and elections, including the election of Directors; (ii) hear and determine all challenges and questions regarding any aspect of the election; (iii) collect and maintain custody of all ballots; (iv) supervise the opening and counting of ballots; (v) certify the election results; and (vi) do such other acts as may be proper to conduct the election. Per Davis-Stirling member election statutes and California Civil Code related to voting procedure.
- e. Counting Ballots. Inspectors of Election shall oversee the opening and tabulating of all ballots before the membership at a properly noticed open meeting of the Board or membership as provided for in the Election Rules. No person shall open or otherwise review any ballot prior to the time and place at which the ballots are

opened and counted.

- f. Announcement of Results. The results of the election shall be announced immediately after all the ballots have been counted. Within fifteen (15) days of the election, the Board shall publicize the results of the election in a communication to all Members.
- g. Storing Election Materials. All election materials shall be stored in a secure place for no less than one (1) year after the date of the election

#### **ARTICLE IV – BOARD OF DIRECTORS ELECTION, TERM, POWERS AND DUTIES**

**Section 1. BOARD OF DIRECTORS.** The Board of Directors shall consist of seven (7) persons. They shall be elected by the Members from the membership of the Association. Each Director shall serve for a term of two (2) years or until a qualified successor is elected to fill his/her seat. Four (4) Directors shall be elected in odd-numbered years and three (3) Directors shall be elected in even-numbered years. Members must continuously meet the following requirements in order to be nominated for and to maintain a position on the Board:

- a. Ownership in Development. He/she must be the record Owner of at least a ten percent (10%) fee simple interest in a Membership Share for a period of at least one year, proof of which shall be a recorded deed. Persons holding a fee simple interest in a Membership Share merely as security for the performance of an obligation shall not be eligible to serve on the Board.
- b. Co-Owners Eligible for Only One Position. He/she must not have a record fee simple ownership interest in a Membership Interest, which is part of the Development with another person who is concurrently serving as a Director. Where two or more co-Owners concurrently seek election to the Board, only the first nomination will be effective.
- c. Candidate Disqualifications, Effective 1/1/20  
Members will be disqualified from board director candidacy if the following applies:
  - 1. Member is delinquent in the payment of regular and special assessments unless (i) paid under protest, (ii) entered into a payment plan, (iii) not provided Internal Dispute Resolution.
  - 2. Member for less than 1 year.
  - 3. A past criminal conviction that would either prevent the association from purchasing the required fidelity bond coverage or termination of the association's existing fidelity bond coverage.

#### **Section 2. ELECTION OF MEMBERS TO THE BOARD OF DIRECTORS.**

Annual Meeting: At each annual meeting the Members shall elect from the Membership the Board of Directors for the forthcoming two- (2) year term. Election shall be by secret written ballot on forms prepared by the Association and validated by the election inspectors. No more than one (1) Member of the Board of Directors shall be elected from any one (1) mobile home.

**Section 3. NOMINATIONS.** Each year prior to the annual meeting, the Board shall, by written notice to all Members, solicit nominations of candidates for election to the Board of Directors. The notice shall include the qualifications for election to the Board of Directors and a cutoff date for close of nominations. Qualified candidates may nominate themselves, provided they submit their nomination prior to or on the date set for close of nominations.

**Section 4. TERM.** Directors shall serve for a term of two (2) years except as provided in this Article IV, Section 2, or until their death, resignation or removal, whichever is the earlier. For resignation, see Section 6, Filling of Vacancies.

**Section 5. RESIGNATION AND REMOVAL.** Any Director may resign at any time by giving written notice to the Board. The entire Board or any individual Director may be removed from office by a majority of those Members represented and voting at a duly held election at which a Quorum is present. In the event that any or all Directors are so removed, new Directors shall be elected as provided for in these By-Laws. The filling of a vacancy on the Board created by the removal of a Board member by a vote of the membership shall be done with the vote or written assent of a majority of the voting power of the Association. A Director who ceases to be a Member shall be disqualified from further service on the Board and shall be replaced as provided in Section 6.

**Section 6. FILLING OF VACANCIES.** The remaining members of the Board of Directors shall select a Member to fill a vacancy except as provided in Section 5 above. The new member of the Board shall remain on the Board until the next general Association meeting. At that time, if there is a balance remaining on the term, a new Board member shall be elected for one (1) year. At that election, after members are chosen for full terms, the person receiving the next highest number of votes shall fill the one-year term.

**Section 7. EXCULPATION.** Directors shall have no liability on contracts entered into on behalf of the Association, nor shall any Director be liable to any Member of the Association for any acts performed or done as a Director in good faith. The Association shall hold the Directors harmless from any loss, cost, damage, injury or expense arising out of or in any way related to claims against a Director or Directors for which exculpation and exoneration is provided herein. The indemnity provided for in this Section shall include, but without limitation, costs of defense such as court costs and attorneys' fees.

**Section 8. POWERS AND DUTIES.** The Board shall exercise and perform for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-laws, or the Articles of Incorporation including the below outlined powers. In addition to the powers and duties set forth in the Association's Governing Documents, the Board shall have the power to perform any and all other acts that a nonprofit mutual benefit corporation is empowered to do in the administration of the Association's affairs and to protect and advance the general welfare of the Association.

**(a) OBTAIN SERVICES.** The Board shall obtain the following:

**(1) UTILITIES.** Water, sewer, garbage, electrical, telephone, gas, and other necessary utility service for the Association property, and to the extent not separately metered or charged, for the Units.

- (2) **FIRE AND CASUALTY INSURANCE.** A policy or policies of fire insurance, with extended coverage endorsement and coverage against vandalism and malicious mischief, for the full insurance replacement value (based upon the insurer's appraisal with no deduction for depreciation) of the Association property exclusive of foundations and excavations, either by direct exclusion or percentage reflecting an assumed valuation (or equivalent coverage under prevailing practice in the area and industry), or such other fire and casualty insurance as the Board shall determine gives substantially equal or greater protection to the Members, and their mortgagees, as their respective interests may appear. Said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagees, shall provide for a full waiver of subrogation against the insureds and a full waiver of all defenses based upon acts of the insureds, and shall further provide that said policy or policies cannot be cancelled or modified without at least ten (10) days prior written notice to the Members and their mortgagees.
- (3) **LIABILITY INSURANCE.** A policy or policies insuring the Board, the Members, and any manager appointed hereunder against any liability to the public or to the Association property, or incident to the ownership and/or use of the property, and including the personal liability exposure of the Members with respect to activities conducted in, upon, or in connection with the Association. Limits of liability under such insurance if available at a reasonable cost shall not be less than Three Million Dollars (\$3,000,000.00) for bodily injury or death and One Hundred Thousand Dollars (\$100,000.00) for property damage for each occurrence with Comprehensive Personal Liability of Three Million Dollars (\$3,000,000.00) including, without limitation, fire, legal liability and water damage legal liability (such limits and coverage to be reviewed at least annually by the Board and increased at its discretion). Said policy or policies shall be issued on a comprehensive liability basis and shall be cross liability endorsed so that the rights of named insureds under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured. Said policy or policies cannot be cancelled or modified without at least ten (10) days prior written notice to the Association, any Mortgagees of the Association, or to individual Members.
- (4) **MANAGER.** If the Association's Membership so chooses, the services of a person or firm to manage the operations of the Park may be selected (herein called "the Manager"). The Board may hire or contract for personnel to perform other services as needed.
- (5) **LEGAL AND ACCOUNTING SERVICES.** Legal and accounting services necessary or desirable to conduct the affairs of the Association or to enforce the provisions hereof.
- (6) **FIDELITY BOND.** A fidelity bond in a commercial blanket fidelity form, obtained at the discretion of the Board naming such persons as may be designated by the Board as principals, and the Members as obliges, in an amount to be determined by the Board.
- (7) **WORKER'S COMPENSATION.** Worker's Compensation insurance to the extent required under any applicable law.

**(8) BOARD MEMBERS' AND OFFICERS' LIABILITY.** At the discretion of the Board, a policy or policies insuring the Members, individually or collectively, against claims arising out of or based upon negligent acts, errors, omissions, or alleged breaches of duty of any member of the Board, or any officer, while acting in their capacity as such, subject to the availability of such coverage, in an amount deemed appropriate by the Board. Said policy or policies shall provide for a full waiver of subrogation against the insureds, a full waiver of all defenses based upon acts of insureds and shall further provide that said policy or policies cannot be cancelled or modified without at least ten (10) days prior written notice to the Board.

**(9) ASSOCIATION PROPERTY MANAGEMENT.** Exterior painting, maintenance, repair and all of the landscaping of the Association property and such furnishings and equipment for said property as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same except as expressly otherwise provided herein.

**(10) OPERATING REQUIREMENTS.** Any other material, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes (subject to the provisions of Article VIII hereof) or assessments which the Board is required to secure pursuant to the terms of these By-laws or by law or the operation of the Association in a first-class manner.

**(11) DISCHARGE OF LIENS.** Any amount necessary to bond or discharge any claim which may be or become a lien or encumbrance levied against the Association property as a whole or part thereof may be paid by the Board from Association funds.

**(b) RULES AND REGULATIONS AND BY-LAWS.** Adopt and publish rules and regulations governing the use of the Association property and facilities, and the personal conduct of the Members/Residents and their guests thereon, and to establish penalties for the infraction thereof. The Board shall use the following procedure for adopting Rules and Regulations and By-Law changes:

**(1)** Establish a Rules/By-Laws Committee to propose possible changes, deletions or additions.

**(2)** The Rules/By-Laws Committee shall invite the membership to submit possible changes; post agendas and meeting schedules; and provide a welcoming committee meeting environment.

**(3)** The Rules/By-Laws Committee shall keep the membership informed of discussions and recommendations through agendas, flyers, committee meeting minutes, oral reports to the Board, and Board minutes.

**(4)** All potential proposals are submitted to the Board for approval before being placed on the ballot.

**(5)** Rules/By-Laws Committee meeting minutes will routinely be presented to the Board. Minutes shall include all discussion topics along with the reasons why topics resulted in a proposal or did not result in a proposal.

**(6)** The Board shall receive a draft election ballot that will include all board-approved proposals for final board approval.

In the case of updating rules and regulations and by-laws to align with current laws/statutes or to eliminate health and safety concerns the Board shall use the following procedures to change, add or delete rules and regulations:

- (1) *Distribution to Members.* The proposed Rules shall be distributed to the membership at least thirty (30) days before an open Board meeting at which the Board will vote on adopting the policy. The distribution shall include a notice of the meeting and a description of the purpose and effect of the proposed Rules.
- (2) *Vote on Rules.* At the scheduled Board meeting, the Board shall vote on adoption, amendment, or repeal of the Rules after considering any comments received from Members on this issue.
- (3) *Approved Rules.* Within fifteen (15) days of approving the Rules, the Board shall distribute notice of the Rules change to the membership.
- (4) *Member Vote to Reverse Rule Change.* A Rule for which adoption is subject to this Section may be overturned by the affirmative vote of at least fifty percent (50%) of the membership at a special meeting called for that purpose. A Rule, which is reversed pursuant to this Section may not be re-adopted for one (1) year after the date of the membership vote reversing the rule change. However, the Board may at any time adopt a different Rule on the same subject as the Rule change that had been reversed.

**(c) SUSPENSION OF VOTING RIGHTS AND TERMINATION OF MEMBERSHIP.** Suspend the voting rights of a Member or terminate the Member's membership if such Member shall be in default in the payment of any installments, fees, or assessments levied by the Association or if a Member has violated any published rules or regulations of the Association. In either event, the accused Member must be given ten (10) days' written notice prior to the Board taking any action against the Member. The notice must state the reason why an action is being considered, and provide the date, time and location of the hearing. The Member must be given the opportunity to be heard in person at the hearing. In addition to a Member's right to appear at a hearing, the Association affords Members with a right to submit a written response to the Association's charges, such response must be received by the Board at least five (5) days in advance of the hearing on this matter. Suspension of voting rights shall not be longer than the time in which Member fails to pay installments, fees or assessments (if discipline is based thereon) or if discipline is based upon violation of any published rules or regulations until such continuing violation is cured. The Board shall provide written notice of its hearing decision to the Member within fifteen (15) days of such hearing.

**(d) DECLARING A BOARD VACANCY.** By vote at a duly noticed meeting of the Board, a majority of the Board may declare vacant the office of any Director for any of the reasons listed below. However, before any such removal may occur, the Board shall, at its next open meeting or a special open meeting called for this purpose, review evidence and make a finding of whether the Director should be removed and, if the Board makes such finding, the Board shall remove the Director from the Board and shall record its findings and action in the minutes of the meeting.

**(1)** Ceases to meet the qualifications of a Director;

- (2) Has been declared of unsound mind by a final order of court;
  - (3) Has been absent from three (3) consecutive regular meetings of the Board or four (4) regular meetings within any twelve (12) month period; or
  - (4) Allows a proposed contract or other transaction to be put to a vote by the Board or membership without disclosing that he or she will receive a financial benefit from the transaction.
- (e) **FILLING A BOARD VACANCY.** Fill, by a majority vote of a quorum of the Board, a vacancy on the Board created by resignation of a Board member or a declaration of vacancy by the Board pursuant to (d) immediately above.
- (f) **SETTING OPERATING CHARGES.** The Board shall establish a budget and set monthly operating charges.
- (g) **APPROVE APPLICATIONS FOR MEMBERSHIP.** The Board shall consider applications for membership in the Association. No applicant shall become a Member without the written approval of the Board.
- (h) **APPROVE THE RENTAL OF A MOBILE HOME OR SPACE.** If the Board determines that it is in the best interests of the Association, a mobile home or space may be rented on terms and conditions determined by the Board of Directors.
- (i) **PROHIBITIONS.** The Board shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of the Association:
- (1) Entering into a contract with a third person wherein the third person will furnish goods or services to or for the Association for a term longer than one (1) year, with the following exceptions:
    - (i) A contract with a public utility company if the rates charged for the materials are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.
    - (ii) Prepaid casualty and/or liability insurance policies not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured.
  - (2) Levy special assessments to defray costs of any action or undertaking which in the aggregate exceeds five percent (5%) of the budgeted gross expenses for that fiscal year without approval of a majority of a quorum of the voting power of the Association; provided, however, that nothing in this Section 8 shall preclude the Board, in accordance with the provisions of these By-laws, from levying a special assessment for the express purpose of paying any escaped assessment levied against the Association by reason of the reassessment of such property by the Santa Cruz County Assessor in accordance with applicable law.
  - (3) Incurring aggregate expenditures (not including planned Reserve expenditures) for capital improvements to the Association property in any fiscal year in excess of ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year.

- (4) Impose a regular annual assessment which is more than twenty percent (20%) greater than the regular assessment for the immediately preceding fiscal year without approval of a majority of a quorum of the voting power of the Association; provided, however, that nothing contained in this Section 8 shall preclude the Board from imposing a regular annual assessment which is more than twenty percent (20%) greater than the regular annual assessment of the immediately preceding fiscal year where that portion of the regular annual assessment which exceeds one hundred twenty percent (120%) of the regular annual assessment for the immediately preceding year is solely attributable to the need to raise funds for the purpose of paying taxes assessed against the Association's real estate by reason of escaped assessments thereon or the reassessment of such real property by the Santa Cruz County Assessor by reason of the sale of one (1) or more Membership Shares.
  - (5) Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.
  - (6) Paying compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.
  - (7) Filling of a vacancy on the Board created by removal of the Board member by a vote of the Membership.
- (j) **PROPERTY TAX RESERVE.** Establish annually, commencing with the Santa Cruz County fiscal year 2002-2003, a property tax reserve in such amount as the Board shall deem appropriate, to assure sufficient funds to cover taxes, penalties and interest assessed against the Association's real property by the Santa Cruz County Assessor by reason of the sale of one or more Membership Shares.

## **ARTICLE V – MEETINGS OF BOARD OF DIRECTORS**

**Section 1. REGULAR MEETINGS.** Regular meetings of the Board shall be held at intervals of not greater than ninety (90) days or as determined by a majority vote of the members, at such place within the Association property and at such hour as may be fixed by resolution of the Directors. Notice of the time and place of such meeting shall be posted at a prominent place or places within the Association and shall be communicated to Members no fewer than four (4) days prior to the meeting for an open Board meeting and no fewer than two (2) days prior to the meeting if for an executive session Board meeting. The notice and agenda may be given by posting the notice in a prominent place or places within the common area that is accessible to all Members and that has been designated for the posting of notices by the Association in the annual policy statement, by mail or delivery of the notice to each Membership Share, by newsletter, inclusion in a billing statement or other properly delivered document, or by broadcast television programming, as provided for in the Davis-Stirling Act or any successor statute. An emergency meeting of the Board may be called if there are circumstances that could not have been reasonably foreseen, which require immediate attention by the Board. In such instances, the Board shall give notice, as may be reasonable and practical.

**Section 2. SPECIAL MEETINGS.** Special meetings of the Board may be called by written notice signed by the President or by any two (2) Directors other than the President. The notice

By-Laws of Sorrento Oaks Homeowners Association, February 2022

shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be sent to all Directors and Members and posted in a manner prescribed for notice of regular meetings no fewer than four (4) days prior to the scheduled time of the Meeting if for an open meeting and no fewer than two (2) days prior to the scheduled time of the meeting if for an executive session.

**Section 3. QUORUM.** The presence at the meeting of the Board of fifty-one percent (51%) of the members of the Board shall constitute a quorum for any action except as otherwise provided herein.

**Section 4. OPEN MEETING, EXECUTIVE SESSIONS.** Regular and Special meeting of the Board shall be open to all Members. The Board may, with the approval of the majority of a quorum, adjourn the meeting and reconvene in Executive Session to discuss and vote upon personnel matters, litigation which may affect the Association, the Board, or any Members, and orders of business of a similar nature. The Board may receive in Executive Session any information that may be the subject of a claim of privilege in any judicial or administrative proceeding. The nature of any and all business to be considered in Executive Session shall first be announced in open session.

**Section 5. TAKING ACTION.** In order for any action of the Board of Directors to be an act of the Association, a majority of all of the members of the Board of Directors must approve of the measure. In the event of an emergency, the Board may meet with no notice, but must post such notice to the membership and must note in the minutes of the meeting the reason why more notice could not be given.

**Section 6. BOARD OFFICERS.** The Board, from the Board members, shall elect a President, who shall preside over all meetings of the Association. The Board shall also designate the officers referred to in Article VI.

**Section 7. ACTION TAKEN WITHOUT A MEETING.** The members of the Board shall have the right without a meeting to take action in a case of emergency (if they would otherwise be authorized to take such action at a meeting). The minutes of the next open meeting must include the results of the Board's action(s) taken and include the written consents of the directors who must unanimously consent to conduct the vote by written assent (email included).

**Section 8. CONDUCT OF BOARD MEETINGS.** The Board may establish Rules for the orderly conduct of its meetings. Board meetings shall be conducted by the Association's President or, in the President's absence, by the Vice president, or in the absence of both, by an Officer or Director designated by the Board.

**Section 9. TELECONFERENCE.** Members of the Board may participate in a meeting through use of a conference telephone, electronic video screen, or similar communications equipment, so long as all Directors participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

**Section 10. MINUTES OF MEETINGS.** The minutes proposed for adoption that are marked as draft, or a summary of the minutes of Board meetings, other than executive session meetings, shall be distributed to all Members within thirty (30) days of the meeting

**Section 11. RECORDING OF MEETINGS.** Audio and video recording of meetings are

prohibited by anyone other than a person authorized by the Board to record the meetings for the sole purpose of preparing official Association minutes.

## ARTICLE VI – OFFICERS AND THEIR DUTIES

**Section 1. ENUMERATION OF OFFICERS.** The officers of the Association shall be elected by the Board from the membership of the Board and shall be a President, Vice-President, Secretary, Treasurer, and other officers as the Board may, from time to time, designate or create by resolution.

**Section 2. ELECTION OF OFFICERS.** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

**Section 3. TERM.** Each officer of the Association shall be elected annually by the Board and each shall hold office until election of a successor unless he or she shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

**Section 4. RESIGNATION AND REMOVAL.** An 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. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein; the acceptance of such resignation shall not be necessary to make it effective.

**Section 5. VACANCIES.** A vacancy in any office, because of death, resignation, removal, disqualification, or any other cause, shall be filled in the manner prescribed these By-laws for regular appointments to such office. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 6. DUTIES.** The duties of the officers are as follows:

- (a) **PRESIDENT.** The President shall be the principal executive Officer of the Association and shall, subject to the control of the Board, supervise, direct, and control all of the business and affairs of the Association. The President shall preside at all meetings of the Board, shall have the general powers and duties of management usually vested in the office of the President of a corporation, and shall have such other powers and duties as may be prescribed by the Board or these By-Laws. The President shall act as the spokesperson (or liaison) between the Manager and the Board, unless the Board directs otherwise.
- (b) **VICE-PRESIDENT.** The Vice-President shall act in the place and stead of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.
- (c) **SECRETARY.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meeting of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board. The Secretary shall give or cause to be given notice of all meetings of the Members and of the Board that are required by the By-Laws or by law and shall have such other powers and perform such other duties as may be prescribed by the Board or by these By-Laws.

**(d) TREASURER.** The Treasurer shall keep or cause to be kept accounts of the monies, properties, and business transactions of the Association. The Treasurer shall cause to be deposited all monies and other valuables, in the name and to the credit of the Association, with such depositories, as may be designated by the Board. The Treasurer shall cause to be disbursed the funds of the Association as may be ordered by the Board, shall render to the President and Directors, whenever they request it, an account of the Association's transactions and the financial condition of the Association, which shall be made a part of the minutes of Board meetings, and shall have such other powers and perform such other duties as may be prescribed by the Board or these By-Laws.

## **ARTICLE VII – COMMITTEES**

**Section 1.** The Board may from time to time designate committees for special studies or needs. The members of such committees need not be Members of the Association. The duties and responsibilities of any committee may not be inconsistent with these By-laws or the Articles. A "Policy on Committees" containing the procedures for the yearly reinstatement of committees was approved by the Board of Directors August 25, 2010 and is filed in the Board Policy binder in the Clubhouse.

## **ARTICLE VIII – MONTHLY OPERATING CHARGES**

**Section 1. OPERATING CHARGES.** The Board of Directors shall establish the amount of the operating expenses annually but may do so at more frequent intervals, should circumstances so require. Except as provided in subsection (c) of this Section 1, no Member shall be charged with more than his/her proportionate share of the operating expenses.

The monthly operating expenses are equal to one-twelfth (1/12) of the Space's proportionate share of the sum required by the Association, as estimated by its Board of Directors to meet its annual expenses, including but not limited to the following items:

- (a) OPERATING EXPENSES.** The cost of all operation expenses of the Park and services furnished;
- (b) ADMINISTRATION.** The cost of all management and administration;
- (c) TAXES** Property taxes levied by Santa Cruz County on the assessed valuation of the Space occupied by the Member, such taxes to be allocated solely to such Member and payable by such Member as part of his or her monthly operating charge. Taxes for Common Areas and County fees and other charges are equally divided into 92 equal amounts and added to the monthly charges.
- (d) INSURANCE.** The cost of fire and extended-coverage insurance on the Park and such other insurance as the Association may effect or as may be required by any loan secured by the Park;
- (e) UTILITIES.** The cost of furnishing water, electricity, heat, gas, garbage, and trash collection, and other utilities, if furnished by the Association;
- (f) RESERVES.** All reserves, including the general operating reserve and the reserve for replacements, set by the Board of Directors;
- (g) MAINTENANCE.** The estimated cost of repairs, maintenance, and replacements of the

Park property to be made by the Association; and

**(h) OTHER EXPENSES.** Any other expenses of the Association approved by the Board of Directors.

**Section 2. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR OPERATING CHARGES.** Each member, by acceptance of the Occupancy Agreement, shall be deemed to covenant and agree to pay to the Association: (1) Annual Operating Charges, (2) Special Charges, and (3) Individual Special Charges as the same are established and payable as hereinafter provided. Each Member, by acceptance of the Occupancy Agreement, shall be further deemed to have granted to the Association a lien in and on the Member's Membership Share and Occupancy Agreement to secure the Member's payment of the ongoing charges. Such lien shall also secure the payment to the Association of any late charges, interest, costs and reasonable attorneys' fees incurred in connection with the collection of such charges. The personal obligation for delinquent charges shall pass to any successors. No holder of an Occupancy Agreement may exempt himself or herself from liability for his or her contribution towards the Common Expenses of waiver of the use or enjoyment of any of the Common Area or by the abandonment of his or her Space.

**Section 3. PURPOSE OF CHARGES.** The charges levied by the Association shall be used exclusively to promote the health, safety and welfare of all of the Members of the Association, for the improvement and maintenance of the common area, and for the common good of the Association.

**Section 4. ANNUAL OPERATING CHARGES.** Each Member shall pay Annual operating Charges based upon the operating expense budget approved by the Board of Directors. Such budget shall be based on the estimated operating expenses to be paid during the year by the Association in the performance of its duties (plus a reasonable provision for replacement and operating reserves), and shall be assessed to each Member according to the provisions of the By-Laws of the Association.

**Section 5. SPECIAL CHARGES.** In addition to the Annual Operating Charges authorized above, the Association may levy, in any fiscal year, a Special Charge applicable to that year for the purposes of defraying, in whole or in part, the common expenses of the Association for any fiscal year (including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacement or reconstruction of capital improvements in or on the Common Area, including fixtures and personal property related thereto). Any Special Charge other than an Individual Special Charge shall be levied against each of the Members in the same proportion as Annual Operating Charges and may be enforced in the same manner as an annual operating charge.

**Section 6. INDIVIDUAL SPECIAL CHARGES.** The Association may levy an Individual Special Charge against a Member in order to obtain reimbursement of funds expended by the Association, provided that such an Individual Special Charge may only be levied to reimburse the Association for costs incurred in bringing the Member(s) and his or her Membership Share into compliance with provisions of the By-laws of the Association and the Articles of Incorporation, and provided further that the notice and hearing requirement set forth in the By-Laws are first applied. When levied, such an Individual Special Charge shall be immediately due and payable and may be enforced in the same manner as an Annual Operating Charge.

**Section 7. DELINQUENCY OF OPERATING CHARGE.** All Annual Operating Charges, Special Charges, and Individual Special Charges, or monthly Installments thereof, levied pursuant to this Declaration are delinquent if not received by close of business on the fifth (5th) business day of the month they become due. For each delinquent charge, or monthly installment thereof, the Association may recover: (a) reasonable costs incurred in collecting the delinquent charge, or part thereof, including reasonable attorneys' fees, (b) a late fee not to exceed ten percent (10%) of the delinquent charge or five dollars (\$5.00), whichever is greater, and (c) interest on all sums imposed herein, including the delinquent charge, reasonable costs of collection, and late fees at twelve percent (12%) annual percentage rate interest, commencing thirty (30) days after the charge becomes due.

**Section 8. PROCEDURE FOR PERFECTION OF LIEN FOR CHARGES.** In the event any Annual Operating Charge, Special Charge, or Individual Special Charge, or monthly installment thereof is not paid within fifteen (15) days after the day upon which it becomes due, the Board may deliver a "notice of Delinquent Charge" to the Member assessed and may cause a copy of said Notice to be recorded in the Official Records of the County of Santa Cruz. Said Notice shall state the amount of the charge then due and unpaid, a description of the Space against which such charge has been levied, the name of the record holder of the Occupancy Agreement on such Space, and the name and address of the trustee authorized by the Association to enforce the lien by judicial or nonjudicial foreclosure (in the event the Association so elected), and shall be signed by a representative designated by the Board. When such a Notice has been recorded, the Charge described therein shall constitute a lien upon the Member's Membership Share and the Occupancy Agreement identified therein, which lien shall be prior in right to all other liens thereafter arising, except all taxes, assessments or other levies which, by law, would be prior thereto except for the lien of any such mortgage on the Property recorded prior to the date any such charge became due. Such charge line shall be in favor of the Association and shall be for the benefit of all members.

**Section 9. ENFORCEMENT OF LIEN FOR CHARGES.** A lien for unpaid charges may be enforced by sale by the trustee designated in the "Notice of Delinquent Charges," or by a trustee substituted pursuant to Section 2934a of the California Civil Code, after failure of the Member to pay such charge in accordance with its terms. Any such sale shall be conducted in accordance with the provisions of Sections 2924, 2924b, and 2924c of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust. The lien may also be enforced by the Association, its attorney or any other person in any other manner permitted by law, including judicial foreclosure. The Association, acting on behalf of the Members, shall have the power to bid for the interest at a foreclosure or trustee's sale and to acquire or take by deed in lieu of foreclosure, and hold, lease, mortgage and convey the same. The Association's lien rights pursuant to this Article VIII shall be in addition to other rights and remedies of the Association pursuant to the Articles, By-laws, this Declaration and California law, including the right to terminate Membership and occupancy rights of Members for cause and to evict Members and repossess Spaces by unlawful detainer proceedings.

**Section 10. EXPIRATION AND SATISFACTION OF LIEN.** Upon the payment of amounts secured by a lien the Association shall promptly cause a "Notice of Release of Lien" to be recorded stating the satisfaction and release of such lien.

## ARTICLE IX – MISCELLANEOUS

**Section 1. BOOKS AND RECORDS.** The membership register, books of account, and

minutes of meetings of the Board, and of any committees of the Members or of the Board shall be made available for inspection and copying by any Member or by his or her duly appointed representative, at any reasonable time, at the Association property as the Board shall prescribe. The Board shall establish reasonable rules with respect to:

- (a) Notice to be given to the custodian of the records by a Member desiring to make such an inspection;
- (b) Hours and days of the week when such an inspection may be made; and
- (c) Payment of the cost of reproducing copies of documents requested by a Member.
- (d) Such other records as enumerated under the Davis-Stirling Act.
- (e) Records availability and copies to be provided as defined under the Davis-Stirling Act.
- (f) The following records are not subject to inspection:
  - i. Executive session minutes of the Board;
  - ii. Personnel records (other than payroll records);
  - iii. Litigation files or records protected by the attorney-client privilege;
  - iv. Pending contracts;
  - v. Legal invoices (however, Members do have the right to know how much money is being spent on legal matters);
  - vi. Records likely to lead to identity theft;
  - vii. Records likely to lead to fraud;
  - viii. Records reasonably likely to compromise the privacy of an individual Member (such as owner records, including goods or services provided to Members for which the Association received monetary consideration other than assessments);
  - ix. Disciplinary actions, collection activities, or payment plans of other owners;
  - x. Personal information, including a social security number, tax id number, driver's license number, credit card account numbers, bank account number, or bank routing number; and
  - xi. Interior architectural plans for individual homes.

Every Director 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 Directors shall include, without limitation, the right to make extracts and copies of documents at Association expense.

**Section 2. FINANCIAL STATEMENTS.** Financial statements for the Association shall be prepared on a schedule approved by the Board and copies shall be distributed to each Member of the Association as follows:

- (a) A budget for each fiscal year consisting of at least the following information shall be distributed not less than thirty (30) days and not more than ninety (90) days prior to the beginning of the fiscal year.
  - (1) Estimated revenue and expenses on an accrual basis.
  - (2) The amount of the total cash reserves of the Association currently available for replacement or major repair of common facilities and for contingencies.
  - (3) An itemized estimate of the remaining life of, and the methods of funding to defray the costs of repair, replacement or additions to major components of the common areas and facilities for which the Association is responsible. (See section 7 for more details.)
  - (4) A general statement setting forth the procedures used by the governing body in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the common areas and facilities for which the Association is responsible.
- (b) A report consisting of the following shall be distributed within one hundred and twenty (120) days after the close of the fiscal year:
  - (1) A balance sheet as of the fiscal year,
  - (2) An operating (income statement for the fiscal year,
  - (3) A statement of cash flows for the fiscal year, and
  - (4) For any fiscal year in which the gross income to the Association exceeds seventy-five thousand dollars (\$75,000.00), a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.
- (c) If the report referred to in (b) above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared from the books and records of the Association without independent audit or view.
- (d) At least quarterly, the Board of Directors will review the following:
  - (1) The current reconciliations of the Association's operating and reserve accounts as well as the current year's actual reserve revenues and expenses compared to the current year's budget,
  - (2) An income and expenses statement for the Association's operating and reserve accounts,
  - (3) The latest account statement for the operating and reserve accounts.

**Section 3. ALLOCATION OF PROPERTY TAXES AND INTEREST FOR FEDERAL AND STATE INCOME TAX PURPOSES.** By March 15 of each year, the Association shall notify each Member in writing of the amount of property taxes paid by each Member during the

preceding year. The Association shall determine that amount by:

- (i) allocating the total amount of property taxes paid by the Association on all realty owned by the Association except Spaces occupied by Members in proportion to the total amount of carrying charges paid by each Member for the previous calendar year; plus
- (ii) allocating to each member the real property taxes paid with respect to the Space occupied by that Member.
- (iii) The Association shall notify each Member in writing of the amount of original loan interest allocated to each Member for the previous calendar year.

**Section 4. NOTICES.** Any notice permitted or required to be delivered as provided herein may be delivered either to each individual residence or by mail.

**Section 5. PROHIBITION AGAINST SHARING IN CORPORATE EARNINGS.** No Member, Director, officer, employee or person connected with the Association, or any other private individual shall receive, at any time, any of the earnings or pecuniary profit from the operations of the Association; provided, however, that this shall not prevent the payment to any such person of such reasonable compensation as shall be fixed by the Board of Directors for services rendered to, for or on behalf of the Association in effecting any of its purposes as shall be fixed by the Board of Directors. No such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Association, except that Members shall be entitled to receive in dissolution an amount up to the transfer value of each Membership Share. The "Corporate Equity," which is defined as the excess of the current fair market value of the Association's real property over the sum of the current transfer values of all Membership Shares, reduced by the principal balance of outstanding encumbrances upon the corporate real property as a whole, shall be applied as follows:

- (a) The corporate equity shall be used only for the following purposes, and only to the extent authorized by the Board, subject to the provisions and limitations of the Articles of Incorporation and By-laws:
  - (1) For the benefit of the Association, by the improvement of the real property,
  - (2) For expansion of the Association, by acquisition of additional real property,
  - (3) For the mutual benefit of the members.
- (b) Upon sale of the property or dissolution of the Association, the Corporate Equity shall be divided pro-rata among and distributed to the Members

**Section 6. SIGNING OF CHECKS.** All checks must be signed by two (2) people as designated by the Board, one of which shall be the President, the Vice-President, or the Treasurer.

**Section 7. RESERVE STUDY.** The reserve study shall be reviewed annually and at least once every three (3) years, the Board shall cause a site-review study of the reserve account to be performed. The study shall, at a minimum, include:

- a. *Major Components.* Identification of those major components of the common areas which the Association is obligated to repair, replace, restore, or maintain;

- b. *Remaining Life.* Identification of the probable remaining useful life of the components, as of the date of the study;
- c. *Cost to Repair or Replace.* An estimate of the cost of repair, replacement, restoration, or maintenance of the components during and at the end of their useful life;
- d. *Annual Contribution.* An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components during and at the end of their useful life, after subtracting total Reserve funds as of the date of the study;
- e. *Reserve Funding Plan.* A reserve funding plan that indicates how the Association plans to fund the annual contribution to meet the Association's obligations for the repair and replacement of all major components with an expected remaining life of thirty (30) years or less, not including those components that the Board has determined will not be replaced or repaired. The plan shall include a schedule of the date and amount of any change in regular or special assessments that would be needed to sufficiently fund the reserve funding plan. The plan shall be adopted by the Board of Directors at an open meeting before the membership of the Association. If the Board of Directors determines that an assessment increase is necessary to fund the reserve funding plan, any increase shall be approved in a separate action of the Board.

**Section 8. DISCLOSURES.** The Association shall distribute to the Members by the dates outlined below all of the following information:

- a. *Notice of Enforcement Rights.* The Board shall annually distribute to each Member a schedule of penalties for violation of the Association's Governing Documents (e. g. monetary penalties, suspension of privileges, or injunctive relief).
- b. *Minutes.* The Board shall distribute to the Members the minutes of each meeting, with the exception of executive Board meeting, within 30 days after each meeting.
- c. *Budget.* The Board shall annually distribute the operating budget to all Members thirty (30) to ninety (90) days prior to the beginning of the fiscal year.
- d. *Reserves.* The Board shall annually distribute to all Members, as part of the operating budget: (i) a summary of the Association's reserves; (ii) a statement of the procedures used for calculating the reserves; (iii) whether special assessments will be needed for repairs or to replenish reserves; and (iv) a summary of the reserve funding plan adopted by the Board of Directors of the Association.
- e. *Financial Statement.* The Board shall annually distribute to the Members a review of the Association's financial statement within one hundred twenty (120) days of the close of the fiscal year. The financial statement may be distributed by electronic transmission (fax, e-mail, or posting on an electronic message board or network designated by the Association for that purpose, coupled with a separate notice to the recipient of the posting).
- f. *Assessment Collection Policies.* The Board shall annually distribute to the Members, not less than thirty (30) days nor more than ninety (90) days prior to the beginning of the fiscal year, the Association's policies and practices for enforcing lien rights or other legal remedies for enforcing delinquencies (e.g., late charges, interest, or suspension of privileges).

- g. Insurance. The Board shall distribute to Members, not less than thirty (30) days nor more than ninety (90) days prior to the beginning of the fiscal year, a summary of the Association's insurance which complies with the Davis-Stirling Act.

## **Section 9. RULES ENFORCEMENT AND DISPUTE RESOLUTION.**

- a. Rules Enforcement Procedures. Privileges and voting rights may not be suspended or fines imposed, except as follows:
  - i. *Notice of Hearing.* The Board shall set a hearing date and notify the Member in writing at least ten (10) days in advance, either personally or by prepaid first-class or registered mail to the most recent address of the Member as shown on the Association's records. The notice shall set forth the date and nature of the violation, and the Member's right to present evidence in his or her defense, either in writing or in person, at the hearing.
  - ii. *Hearing.* The hearing shall be held in executive session, unless the Member requests otherwise.
  - iii. *Notice of Decision.* Within fifteen (15) days after the Board makes a decision on imposition of any penalty or fine, notice of the decision shall be given to the Member, which shall specify the violation and the penalty imposed. In the event the Association suspends voting rights or privileges, the suspension does not take effect until fifteen (15) days after the notice of decision is given to the Member.
- b. Internal Dispute Resolution. If the Association and a Member are involved in a dispute involving their rights, duties, or liabilities under California law or the Governing Documents, either the Association or the Member may request internal dispute resolution, as provided for in the Association's Rules and Regulations, pursuant to the Davis-Stirling Act.
- c. Pre-Litigation Dispute Resolution. Before filing suit for actions for declaratory, injunctive, or writ relief, either alone or in conjunction with a money claim of \$5,000 or less, the party seeking to litigate the matter shall offer alternative dispute resolution, pursuant to the procedures described in the Davis-Stirling Act.

## **ARTICLE X – CONDEMNATION**

**Section 1. CONDEMNATION.** In the event of any taking of the Park, or any part thereof, by eminent domain, the Association shall be entitled to receive the award of such taking. The Association shall use the proceeds of the taking in the following order:

- (a) Payment of any amounts required by any mortgagee under the terms of the agreements between the mortgagee and the Association,
- (b) Establishment of an account in the name of the Association, funded in the amount necessary to repair or rebuild any facilities which have been taken or adversely affected by the taking;
- (c) Purchase of Membership Shares from the Association Members whose space was taken or partially taken such that the space is no longer able to be occupied. If insufficient

Membership Shares so affected, then the proceeds shall be allocated on a proportional basis to each Member so affected;

- (d) The Association shall retain any remaining funds and may use the funds in accordance with the governing instruments of the Association.

## **ARTICLE XI – AMENDMENTS**

**Section 1. SPECIAL MAJORITY.** These By-laws may be amended by the vote or written assent of fifty percent plus one (50% plus 1) of the Members of the Association; except in Article II, Section 6(d) (transfer value), may be amended only by the vote or written assent of seventy-five percent (75%) of the Members of the Association. Votes may be taken at any Regular or Special meeting of the Members called for that purpose. Amendments to the Articles of Incorporation shall be passed by a majority of the Board of Directors and fifty percent plus one (50% plus 1) of the Members.

Notwithstanding anything contained herein, the percentage of the voting power of the Association necessary to amend a specific clause or provision in the Articles of Incorporation or these By-laws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

**Section 2. INTERPRETATION.** In the case of any conflict between these By-laws and the Articles, the Articles shall control. No amendment hereof shall have the effect of producing an amendment of the Articles.

**Section 3. NOTICE OF PROPOSED AMENDMENT.** At any meeting, whether regular or special, where an amendment of the By-laws may be considered, the notice of the meeting (or notice given to all Members in the manner of a notice for a meeting and within the time limits provided) shall so state, and, if a specific amendment is proposed, the notice shall include the text of the proposal.

**CERTIFICATION**

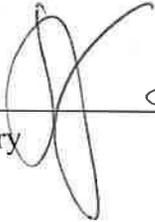
WE CERTIFY this 16th day of February, 2022 that these Restated By-Laws have been duly approved and adopted by the membership of Sorrento Oaks Homeowners Association, Inc.

SORRENTO OAKS HOMEOWNERS ASSOCIATION



KENNETH KIRSCH

\_\_\_\_\_  
President



Joanna Jarvis

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Secretary