

**BYLAWS OF
DONNER VILLAGE TOWNHOMES ASSOCIATION**

TABLE OF CONTENTS

ARTICLE I. PLAN OF CONDOMINIUM OWNERSHIP

- Section 1.01. Name.
- Section 1.02. Principal Office.
- Section 1.03. Application.
- Section 1.04. Definitions.
- Section 1.05. Membership Rights.

ARTICLE II. MEETINGS OF MEMBERS

- Section 2.01. Place of Meetings.
- Section 2.02. Annual Meetings.
- Section 2.03. Special Meetings.
- Section 2.04. Notice of Meetings
- Section 2.05. Waiver of Notice or Consent of Absentees.
- Section 2.06. Voting Rights.
- Section 2.07. Record Date of Membership.
- Section 2.08. Quorum.
- Section 2.09. Parliamentary Procedure.
- Section 2.10. Proxies.
- Section 2.11. Action Taken Without a Meeting.
- Section 2.12. Approval by Members Required by Statute.

ARTICLE III. BOARD OF DIRECTORS.

- Section 3.01. Number.
- Section 3.02. Nomination.
- Section 3.03. Election.
- Section 3.04. Special Election Procedure.
- Section 3.05. Term.
- Section 3.06. Removal.
- Section 3.07. Vacancies.
- Section 3.08. Compensation
- Section 3.09. Powers and Duties.
- Section 3.10. Limitations on Powers.

ARTICLE IV. MEETINGS OF DIRECTORS.

- Section 4.01. Regular Meetings.
- Section 4.02. Special Meetings.
- Section 4.03. Emergency Meetings
- Section 4.04. Quorum.
- Section 4.05. Open Meetings.
- Section 4.06. Executive Session.
- Section 4.07. Adjournment.

- Section 4.08. Minutes.
- Section 4.09. Action Taken Without a Meeting.

ARTICLE V. OFFICERS.

- Section 5.01. Enumeration of Officers.
- Section 5.02. Appointment and Term.
- Section 5.03. Resignation **and** Removal.
- Section 5.04. Compensation.

ARTICLE VI. PRESIDENT.

- Section 6.01. Election.
- Section 6.02. Duties.

ARTICLE VII. VICE-PRESIDENT.

- Section 7.01. Election.
- Section 7.02. Duties.

ARTICLE VIII. SECRETARY.

- Section 8.01. Election.
- Section 8.02. Duties.

ARTICLE IX. CHIEF FINANCIAL OFFICER

- Section 9.01. Election.
- Section 9.02. Duties.

ARTICLE X. SUBORDINATE OFFICERS.

- Section 10.01. Appointment.
- Section 10.02. Duties.

ARTICLE XI. BOOKS AND RECORDS.

- Section 11.01. Required **Books** and Records.
- Section 11.02. Inspection **Rights**.

ARTICLE XII. NONLIABILITY AND INDEMNIFICATION.

- Section 12.01. Definition of **Agent**.
- Section 12.02. Nonliability.
- Section 12.03. Indemnification.
- Section 12.04. Approval **by** Board.
- Section 12.05. Payments.
- Section 12.06. Insurance.

ARTICLE XIII. AMENDMENTS.

Section 13.01. Amendment of Bylaws.

Section 13.02. Prior Approval of Commissioner.

ARTICLE XIV. TAX-EXEMPT STATUS.

Section 14.01. Tax-Exempt Status.

Section 14.02. Filing.

ARTICLE I. PLAN OF PLANNED UNIT OWNERSHIP

Name

Section 1.01. The name of the association is **DONNER VILLAGE TOWNHOMES ASSOCIATION** ("Association").

Principal Office

Section 1.02. The principal office of the Association is located _____, California. The Board of Directors is hereby granted full power and authority to change the principal office of the Association from one location to another in California. Any such change shall be noted by the Secretary in these Bylaws, but shall not be considered an amendment of these Bylaws.

Application

Section 1.03. These Bylaws are applicable to the residential Townhome project known as Donner Village Townhomes ("Project"), located at _____, in Nevada County, California. These Bylaws are also applicable to all Members of the Association and all tenants, employees, and other persons who use the facilities of the Project in any manner.

Definitions

Section 1.04. Unless otherwise specified in these bylaws, the definitions set forth in Article I of the Declaration for *Donner Village Townhomes* ("Declaration") recorded or to be recorded in the Office of the Recorder of Nevada County, California, apply to these Bylaws.

Membership Rights

Section 1.05. The qualification for membership provisions of Section 3.02 of the Declaration are hereby incorporated by reference.

ARTICLE II. MEETINGS OF MEMBERS

Place of Meetings

Section 2.01. All meetings of the Members shall be held at a place designated by the Board. This meeting place shall be ~~withiu~~ the Project or as close to it as possible. If no meeting place is designated, the meetings shall be held at the principal office of the Association. No meeting of the Members shall, unless unusual conditions exist, be held outside of Nevada County, California.

Annual Meetings

Section 2.02. The **first** meeting of the Members of the Association shall be held within ~~withiu~~ *six* months after the closing of the sale of the **first** Unit ~~withiu~~ the Project. Thereafter, the annual meeting of the Members shall be held on the second Tuesday of July of each succeeding calendar year at the hour of 7:00 P.M. If the day for the annual meeting of the Members is a legal holiday, the meeting shall be held at the same hour on the next day that is not a Saturday, Sunday, or legal holiday.

Special Meetings

Section 2.03. Special meetings of the Members may be called for any lawful purpose by a majority of a quorum of the Board, the President of the Association, or by a written request signed by Members representing at least **5** percent of the total voting power of the Association. The special meeting shall be held **not less than 35** or more than 90 days after adoption of the resolution or receipt of the request. **Only** that business stated in the notice of meeting given pursuant to Section 2.04 of ~~these~~ Bylaws shall be transacted at the special meeting.

Notice of Meetings

Section 2.04. The Secretary of the Association shall **give** written notice **of** any Members' meeting to each Member of record. Except as provided below, the notice shall be given at least 10 but not more than 90 days before the meeting, by **first class mail** or by personal delivery. If a special meeting is called by Members pursuant to Section 2.03 of these Bylaws, the notice shall be given within 20 days after receipt of the request for the meeting. If that 20-day requirement is not satisfied, the Members who called the meeting **may** give the notice. Any notice of meeting shall be addressed to the Member at ~~the~~ address appearing on the books of the Association, or the address

supplied by the Member to the Association for this purpose. If there is no such address, notice shall be given at the principal office of the Association or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. The notice shall state the place, date, and time of the meeting. The notice shall also specify those matters the Board intends to present for action by the Members. In the case of a special meeting, the only matters that may be voted on are those matters that were mentioned in the notice of meeting. In the case of an annual meeting, **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 the notice is given.

Waiver of Notice or Consent of Absentees

Section 2.05. The transactions of any meeting of Members, however called and noticed, shall be as valid as though taken at a duly called, noticed, and held meeting, if: (1) a quorum is present either in person or by proxy; and (2) either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, or a consent to the holding of the meeting, or an approval of the Minutes of the meeting. Any such waiver, consent, or approval shall be filed with the corporate records or made a part of the Minutes of the Meeting.

Voting Rights

Section 2.06. The voting of membership provision set forth in Section **3.04** of the Declaration is hereby incorporated by reference.

Record Date of Membership

Section 2.07. The Board shall **fix**, in advance, a record date or dates for the purpose of determining the Members entitled to notice of and to vote at any meeting of Members. The record date for notice of a meeting shall not be more than 90 nor less than 10 days before the date of the meeting. 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. The Board may also **fix**, in advance, a record date for the purpose of determining the Members entitled to exercise any rights in connection with any other action. Any such date shall not be more than 60 days prior to the action.

Quorum

Section 2.08. At any meeting, the presence either in person or by proxy of Members entitled to cast at least **51** percent of the total voting power of the association shall constitute a quorum for any action except as otherwise provided in the Articles, Bylaws, or this Declaration. 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 the action taken, other than adjournment, is approved by at least a majority

of members required to constitute a quorum ~~If a~~ quorum is not present at any time at a duly called meeting, a majority of those Members present in person or by proxy may adjourn the meeting to a time is not less than five days nor more than 30 days ~~from~~ the meeting date, but no other business may be transacted. ~~An~~ adjourned meeting may be held without written notice, provided that notice is given by announcement at the original meeting. ~~If no~~ such announcement is made, or if the selected date is changed after adjournment, notice of the time and place shall be given to Members in the manner provided in Section 2.04 of these' Bylaws. The quorum for the adjourned meeting shall be **25** percent.

Parliamentary Procedure

Section 2.09. All meetings ~~of the Members shall~~ be conducted ~~in~~ accordance with **(1)** a recognized system of parliamentary procedure, or **(2)** any parliamentary procedures adopted by the Association.

Proxies

Section 2.10. At all meetings of Members, each Member may vote in person or by proxy. ~~All~~ proxies shall be in writing and filed with the Secretary of the Association. Every proxy shall be revocable and shall automatically cease upon conveyance of its maker's membership, or upon receipt of written notice by the Secretary of the maker's death or judicially declared incapacity. No proxy shall be valid after the expiration of **11** months ~~from~~ its date of execution, unless otherwise provided in the proxy. However the maximum term of any proxy shall be three years ~~from~~ its date of execution. The maker of a proxy may revoke it by delivering a written revocation to the Association, by executing a subsequent proxy and presenting it to the meeting, or by attending any meeting and voting in person.

Any revocable proxy covering any of the following matters that require a vote of the members' is not valid as to those matters unless it sets forth the general nature of the matter to be voted upon:

- (a) Removing a director without cause, pursuant to Section 3.06(b) of these Bylaws;
- (b) Filling Director vacancies pursuant to Section **3.07** of these Bylaws,
- (c) Entering into or approving a contract or ~~transaction~~ between the Association and one or more of the Directors, or between the Association and any entity in which one or more of the Directors has a material financial interest, when the material facts of the contract or transaction are **fully** disclosed pursuant to Section 7233 of the California Corporations Code;
- (d) Amending the articles or bylaws to repeal restrict, create, or expand proxy rights;
- (e) Amending the Articles after approval by the Board, in accordance with Section **7812** of the California Corporations Code;

(f) ~~Disposing~~ of assets other ~~than~~ in the usual and regular course of corporate activities pursuant to Section 7911(a)(2) of the California Corporations Code;

(g) Approving merger terms pursuant to Section 8012 of the California corporations Code;

(h) Adopting an amendment to a merger agreement that changes any of the principal terms pursuant to Section 8015(a) of the California Corporations Code;

(i) Electing to dissolve the Association, by approval of a majority of all members or by approval of both the Board and Members pursuant to Section 8610 of the California Corporations Code.)

(j) if the association has more than one class of memberships outstanding upon dissolution, approving a plan of distribution of assets which is not in accordance with the liquidation rights of those classes, pursuant to Section 8719(a) of the California Corporations Code.

Action Taken Without a Meeting

Section 2.11. Any action that may be taken at a meeting of the Members, except for the election of Directors, may be taken without a meeting provided the following ballot requirements are satisfied:

(a) The Corporation shall distribute a written ballot to every Member entitled to vote on the matter. The ballot shall be solicited in the same manner as provided in Section 2.04 of these Bylaws for the giving of notice of meetings of Members. If the Association has 100 or more Members and the ballots are distributed to 10 or more Members, the ballot shall comply with the additional requirements set forth in Section 7514 of the California Corporations Code.

(b) The ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, provide a reasonable time within which to return the ballot, indicate the number of responses needed to meet the quorum requirement, and state the percentage of approvals necessary to pass the measure submitted.

(c) The proposed action shall be considered approved if:

(1) The number of votes cast by ballot within the specified time period equals or exceeds the quorum required to be present at a meeting authorizing the action; and

(2) 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.

(d) No written ballot shall be revoked.

Approval by Members Required by Statute

Section 2.12. Any approval by the Members of the following proposals, other than unanimous

approval by those entitled to vote, shall be valid only if the general nature of the approved proposal was stated in the notice of meeting or any waiver of notice of meeting:

- (a) Removing a director without cause pursuant to Section 3.06(c) of these Bylaws;
- (b) Filling vacancies on the Board pursuant to Section 3.07 of these Bylaws;
- (c) Entering into or approving a contract or transaction between the Association and one or more of the Directors, or between the Association and any entity in which one or more of the Directors has a material financial interest, when the material facts of the contract or transaction are fully disclosed pursuant to, Section 7233 of the California Corporations Code;
- (d) Amending the Articles after approval by the Board, in accordance with Section 7812 of the California Corporations Code;
- (e) Electing to dissolve the Association, by approval of a majority of all members or by approval of both the Board and Members pursuant to Section 8610 of the California Corporations Code; or
- (f) If the corporation has more than one class of memberships outstanding upon dissolution, approving a plan of distribution of assets which is not in accordance with the liquidation rights of those classes, pursuant to Section 8719 of the California Corporations Code.

ARTICLE III BOARD OF DIRECTORS

Number

Section 3.01 The affairs of this Association shall be managed and its duties and obligations performed by an elected Board of Directors, consisting of **3** persons.

Nomination

Section 3.02. Except in the case of Initial Directors, nominations for election to the Board of Directors may be made by any of the following:

- (a) A nominating committee appointed by the Board at least 90 days prior to an annual meeting of Members, provided the Board receives the committee's nomination or nominations at least 30 days prior to the ~~annual~~ meeting of Members.
- (b) A written petition signed within 11 months preceding the annual meeting by Members representing 25 percent of the "voting power" of the Association as that term is defined in the Nonprofit Mutual Benefit Corporation Law of the State of California. The petition shall identify the nominee, contain that person's written consent to serve as a Director, and be delivered to the Secretary of the Association at least 30 days prior to the annual meeting.

(c) Any Member who is present in person, or by the proxy of any Member who is present by proxy, at the annual meeting of Members at which the Director is to be elected.

Election

Section 3.03. As soon as possible after the filing of Articles of Incorporation for the Association, Declarant shall elect Initial Directors who shall serve until the first annual meeting of the Members. At the first annual meeting of the Association, the Members shall fill, by election, all positions on the Board of Directors. Subsequent elections shall also be held at the annual meetings. However, if an annual meeting is not held or does not include an election, the election may be held at a special meeting of members called for that purpose. Voting for Directors shall be by secret written ballot. At an election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of these By-laws. Each Member entitled to vote on the election may cumulate his or her votes and give one candidate a number of votes equal to the number of Directors to be elected multiplied by the number of votes to which the Member is entitled, or distribute the Member's votes on the same principle among as many candidates as the Member thinks fit. No Member shall be entitled to cumulate votes for a candidate or candidates unless the candidate's name or candidates' names have been placed in nomination prior to voting and a Member has given notice at the meeting prior to the voting of the Member's intention to cumulate votes. If any one Member has given this notice, all Members may cumulate their votes for candidates in nomination. The persons receiving the highest number of votes shall be elected.

Special Election Procedure

Section 3.04. Notwithstanding any other provision of these Bylaws, for so long as a majority of the voting power of the Association resides in Declarant, or so long as there are two classes of membership in the Association, at least one Director shall have been elected solely by the votes of Members other than Declarant. If, at any election; Members other than Declarant do not have a sufficient percentage of the voting power to satisfy that requirement, the one position on the Board shall be filled by the candidate[s] receiving the highest number of votes cast by Members other than Declarant. Any remaining positions on the Board shall be filled in accordance with normal voting procedures.

Term

Section 3.05. Each Director shall hold office until the election of his or her successor or until the Director's death, removal, or judicial, adjudication of mental incompetence. The term of office of each Director shall be three years. Thereafter, at each annual meeting, any vacancies on the Board created by death, resignation, removal, judicial adjudication of mental incompetence, or expiration of term shall be filled. The term of office of each Director elected to fill a vacancy created by the expiration of the term of office of the preceding Director shall be the same length as his or her predecessor's term. The term of office of any Director elected or appointed to fill a vacancy created by any event other than the expiration of the predecessor Director's term shall be

the balance of the unserved term of the predecessor. Any person serving as a Director may be re-elected, and there shall be no limitation on the number of terms a Director may serve.

Removal

Section 3.06. Directors may be removed as follows:

(a) The Board may declare vacant the office of a Director on the occurrence of any of the following events:

- (1) The Director is declared of unsound mind by a final order of court;
- (2) The Director is convicted of a felony;
- (4) The Director has failed to attend three meetings of the Board.

(b) One or more Directors **may** be removed prior to the expiration of their terms, without cause, at an annual or special meeting of the Members. Any removal without cause shall be approved (1) by a majority of the total voting power of the Association for so long as the Development consists of fewer than 50 lots, or (2) by the vote of Members representing a majority of a quorum of Members if the Development consists of 50 or more Lots. Notwithstanding the foregoing, unless the entire Board is removed from office by the vote of the Members, an individual Director **shall** not be removed prior to the expiration of his or her term of office if the number **of votes** cast against the removal, or not consenting in writing to the removal, would be sufficient to elect the Director if voted cumulatively at an election at which the same total number of votes were cast (or, if the action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of Directors authorized at the time of the Director's most recent election were then being elected. A Director who has been elected to office solely by the votes of Members other than Declarant as required by Section 3.04 of these Bylaws may be removed from office prior to the expiration of his or her term of office only by the vote of at least 51 percent of the voting power of Members other than Declarant. If a Director is removed at a meeting, a new Director may be elected at the same meeting.

Vacancies

Section 3.07. Any vacancy on the Board caused by the death or resignation of a Director shall be filled by the remaining Directors. The successor shall serve for the unexpired term of his or her predecessor. The Board shall not **fill** a vacancy on the Board created by the removal of a Director, except with the vote or written assent of a majority of each class of Members.

Compensation

Section 3.05. No Director shall receive any compensation for any service he or she may render to the Association; provided, however, that a Director may be reimbursed for actual out of pocket expenses incurred by the Director in the performance of his or her duties.

Powers and Duties

Section 3.09. The Board's powers and duties shall include, but shall not be limited to, the following:

(a) Enforcing the applicable provisions of this Declaration, the Articles, Bylaws, and any other instruments governing the ownership, management, and control of the Project.

(b) Paying taxes and assessments that are, or could become, a lien on or a portion of the Common Area.

(c) Contracting for casualty, liability, and other insurance on behalf of the Association.

(d) Contracting for goods and services for the Common Area, facilities, and interests of the Association, subject to the limitations set forth in Section 3.10(a) of these Bylaws.

(e) Delegating its powers to any committees, Officers, or employees of the Association expressly authorized by the Governing Instruments.

(f) Preparing budgets and financial statements for the Association as prescribed in the Governing Instruments.

(g) Formulating Rules and Regulation for the use and operation of the Common Area and facilities owned or controlled by the Association.

(h) Initiating and executing disciplinary proceedings against Members for violations of provisions of the Governing Instruments in accordance with procedures set forth in the Governing Instruments.

(i) Entering any Unit to perform necessary construction, maintenance, or emergency repair work for the benefit of the Common Area or the Members in the aggregate.

(j) Electing the Officers of the Association.

(k) Filling vacancies on the Board of Directors, except for a vacancy created by the removal of a Director.

(l) Reviewing the following on at least a quarterly basis:

(1) A current reconciliation of the operating accounts of the Association.

(2) A current reconciliation of the reserve accounts of the Association.

(3) The actual reserve revenues and expenses for the current year compared to the budget for the current year.

(4) The most current account statements prepared by the financial institution where the

Association has its operating and reserve accounts.

(5) **An** income and expense statement for the operating and reserve accounts of the Association.

(m) ~~Withdrawing moneys from the~~ Association's reserve accounts.

(n) Causing studies of the reserve account requirements of the Project to be conducted, when necessary, and reviewing those studies in accordance with Civ. Code § 1365.5(e).

(o) Performing any act reasonably necessary to resolve any civil claim or action through alternative dispute resolution proceedings such as mediation, binding arbitration, or non-binding arbitration proceedings. To this end, the Board is authorized, but not required to do the following:

- (1) Provide, or in good faith attempt to provide, one hundred twenty (120) days' advance notice of its intent to initiate any civil action and of the nature and basis of the claim to every member of the Association and every entity or person who is a prospective party to the civil action; provided that notice can be given (A) more than one hundred twenty (120) days before any pertinent statute of limitations expires, and (B) without prejudice to the Association's right to enforce the governing documents; and further provided that no notice is required before filing an action in small claims court, or an action solely to enforce assessment obligations.
- (2) Before initiating a civil action solely for declaratory relief or injunctive relief to enforce the governing documents, or for declaratory relief or injunctive relief to enforce the governing documents in conjunction with a claim for monetary damages not in excess of five thousand dollars (\$5,000), to attempt to submit the matter to alternative dispute resolution in compliance with the provisions of Civ. Code § 1354(b).
- (3) Immediately after initiating the prosecution or defense of any civil action, making a reasonable, good faith effort to meet and confer with every person who is a party concerning: (a) appropriate processes for resolving the action, including available alternative dispute resolution proceedings; (b) appropriate processes for avoiding or reducing costs or losses by the parties associated with the action; (c) providing an opportunity to cure any alleged defect in common areas or facilities that is the basis for the action; and (d) providing for the scope of discovery, if any, to be conducted before beginning any alternative dispute resolution procedure.
- (4) Considering diverting the prosecution or defense of any civil action to alternative dispute resolution proceedings such as mediation, non-binding arbitration, or binding arbitration.
- (5) Agreeing to participate and participating fully and in good faith in resolving any civil action through any alternative dispute resolution proceedings, including but not limited to mediation, non-binding arbitration, and binding arbitration, and paying costs reasonably incurred by the Association on account of those alternative dispute resolution Proceedings.

(p) The authorization detailed in (o) does not require the Board to do any of the following:

- (1) As a prerequisite to ~~initiating~~ any civil action, to conduct inspections, maintain inspection records, exhaust applicable casualty insurance coverage maintained by the Association, provide an opportunity to cure, meet with members, or obtain the consent of the members.
- (2) Except in compliance with Civ. Code § 1354(b) or 1366.3(a), to submit civil claims of any kind to binding or non-binding alternative dispute resolution procedures.

Limitations on Powers

Section 3.10. Notwithstanding the provisions of Section 3.09, the Board shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of each class of Members, or when Class B membership no longer exists, with the approval of a **majority** of the total voting power of the Association as well as the approval of a majority of the total voting power residing in Members other than Declarant:

(a) Entering into a contract with a third person under which the third person will furnish goods or services for the Common Area or the Association for a term longer than one year, with the following exceptions:

- (1) A management contract approved by the Federal Housing Administration or Veterans Administration;
- (2) A contract with a public utility if rates charged are by the Public Utilities Commission, provided that the term shall not exceed the shortest term for which the utility will contract at the regulated rate;
- (3) Prepaid casualty and/or liability insurance of not more than three years duration, provided that the policy provides for short rate cancellation by the insured;
- (4) Lease agreements for laundry room fixtures and equipment of not more ~~than~~ five years duration, provided ~~that~~ the lessor under the agreement is not an entity in which the Declarant has a direct or indirect ownership interest of 10 percent or more;
- (5) Agreements for cable television services and equipment or satellite dish television services and equipment for a term of up to five years, provided that the supplier is not ~~an~~ entity in which the Declarant has a direct or indirect ownership interest of 10 percent or more; and
- (6) Agreements for the sale or lease of burglar alarm and fire alarm equipment, installation, ~~and~~ services for a term of up to five years, provided that the supplier or suppliers are not

entities in which the Declarant has a direct or indirect ownership interest of 10 percent or more.

(b) Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of 5 percent of the budgeted gross expenses of the Association for that fiscal year.

(c) Selling during any fiscal year property of the Association having an aggregate fair market value in excess of 5 percent of the budgeted gross expenses of the Association for that fiscal year.

(d) Paying compensation to Directors or to Officers of the Association for services rendered in the conduct of the Association's business; provided, however, that the Board may reimburse a Director or Officer for expenses incurred in carrying on the business of the Association.

(e) Filling a vacancy on the Board of Directors created by the removal of a Director.

ARTICLE IV. MEETINGS OF DIRECTORS

Regular Meetings

Section 4.01. Regular meetings of the Board of Directors shall be held semiannually at a time and place within the Development fixed by resolution of the Board. Notice of the time and place of the meeting shall be communicated to the Directors not less than four days before the meeting; provided, however, that notice need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting. Notice of the time and place of the meeting shall also be posted at a prominent place or places within the Common Area. However, if the Common Area is unsuitable for such a posting, the Board shall communicate the notice of the time and place by any means it deems appropriate.

Special Meetings

Section 4.02. Special meetings of the Board shall be held when 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. Notice of any special meeting must be given to each Director not less than five days or more than 20 days before the date fixed for the meeting; provided, however, that notice need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting. A copy of the notice shall also be posted in a prominent place or places in the Common Area of the Project.

Emergency Meetings

Section 4.03. Emergency meeting's of the Board of Directors 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 that require immediate attention and possible action by the Board, and that of necessity make it impracticable to provide notice is otherwise required for meetings of the Board.

Quorum

Section 4.04. A majority of the Board shall constitute a quorum and, if a quorum is present, the decision of a majority of the Directors present shall be the act of the Board.

Open Meetings

Section 4.05. Regular and special meetings of the Board shall be open to all Members of the Association. The Board must permit any Member to speak at any of the Board's meetings, except for meetings held in executive session. To this end, the Board must establish a reasonable time to allow Members to speak to the Board at its meetings.

Notice of regular and special meetings of the Board **must** be given to Members at least four days before the meeting. Notice may be given by posting in a prominent place or places within the Common Area, by mail or delivery to each Unit, or by Association newsletter.

Executive Session

Section 4.06. The Board may, **with** the approval of a **majority** of the Directors present at a meeting at which a quorum for the transaction of business has been established, adjourn a meeting and reconvene in executive session to discuss and vote on (1) litigation in which the Association is or may become involved, (2) matters that relate to the formation of contracts with third parties, (3) personnel matters, (4) member discipline matters, and (5) orders of business of a similar nature. In any matter relating to **the** disciplining of a Member, the Board **shall** meet in executive session if requested to do so by that Member, and the Member shall be entitled to attend the executive session. In all other cases, Members who are not on the Board may not attend **an** executive session. The nature of **any** business to be considered in executive session shall **first** be announced in open session. Further, any matter discussed in executive session shall be generally noted in the minutes of the Board.

Adjournment

Section 4.07. A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of the adjournment shall be given, prior to the time of the adjourned meeting, to the Directors who were not present at the time of the adjournment.

Minutes

Section 4.08. Written minutes shall be kept of all meetings of the Board. The minutes, minutes proposed for adoption that are marked to indicate draft status, or a *summary* of the minutes, of any meeting of the Board, other than an executive session, shall be made available to Members within 30 days of the meeting. Further, the minutes, proposed minutes, or summary minutes shall be distributed to any Member on request. Any Member making such a request shall reimburse the Association for its costs in **making** that distribution. Members shall be notified in writing at the time that the pro forma budget required by Civil Code Section 1365 is distributed, or at the time of any general mailing to the entire membership of the Association, of their right to have copies of the minutes of meetings of the Board and of how and where those minutes may be obtained.

Action Taken Without a Meeting

Section 4.09. The Board may take actions without a meeting if all of the Directors consent in writing to the action to be taken. If the Board resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the Common Area within three days **after** the written consents of all Directors have been obtained. However, if the Common Area is unsuitable for such a posting, the Board shall communicate the explanation of the action taken by any means it deems appropriate.

ARTICLE V. OFFICERS

Enumeration of Officers

Section 5.01. The Officers of this Association shall be a President, a Vice-President, a Secretary, and a Chief Financial Officer. The Board **may** appoint additional officers pursuant to Article X of these Bylaws. Any number of offices may be held by the same person.

Appointment and Term

Section 5.02. The Officers of this Association, except those Officers appointed in accordance with Article X of this Article, shall be elected annually by the Board. Any vacancies shall be filled by the Board at any time, not necessarily on an annual basis, that it deems proper. Each Officer shall hold his or her office at the pleasure of the Board.

Resignation and Removal

Section 5.03. The Board may remove any Officer from office either with or without cause. An Officer may resign at any time by giving written notice to the Board, the President, or the Secretary. The resignation shall take effect at the date of receipt of the notice or at any later time specified in the notice. Unless otherwise specified in the notice, acceptance of the resignation by the Board shall not be necessary to make it effective.

Compensation

Section 5.04. An Officer shall not receive any compensation for any service he or she may render to the Association; provided, however, that any Officer may be reimbursed for actual out of pocket expenses incurred by the Officer in the performance of his or her duties.

ARTICLE VI. PRESIDENT

Election

Section 6.01. At the first meeting of the Board immediately following the first annual meeting of the Members, the Board shall elect one of its Members to act as President.

Duties

Section 6.02. The President shall:

- (a) Preside over all meetings of the Members and of the Board.
- (b) Sign as President all deeds, contracts, and other written instruments that have been approved by the Board, unless the Board, by duly adopted resolution, authorizes the signature of a lesser Officer.
- (c) Call meetings of the Board whenever he or she deems it necessary, in accordance with rules and notice requirements imposed by the Board and the Governing Instruments. The notice period shall not be less than three days except in the case of emergencies.
- (d) Have, subject to the advice of the Board, general supervision, direction, and control of the affairs of the Association.
- (e) Discharge any other duties required of him or her by the Board.

ARTICLE VII. VICE-PRESIDENT

Election

Section 7.01. At the **first** meeting of the Board immediately following the **first** annual meeting of the Members, the Board shall elect one of its Members to act as Vice-President.

Duties

Section 7.02. The Vice-President shall:

- (a) Act in the place and in the stead of the President in the event of his or her absence, inability, or refusal to act; and
- (b) Exercise and discharge any other duties required of him or her by the Board. In connection with any such additional duties, the Vice-President shall be responsible to the President.

ARTICLE VIII. SECRETARY

Election

Section 8.01. At the **first** meeting of the Board immediately following the **first** annual meeting of the Members, the Board shall elect one of its Members to act as Secretary.

Duties

Section 8.02. The Secretary shall:

- (a) Keep a record of all meetings and proceedings of the Board and of the Members;
- (b) Keep the seal of the Association, if **any**, and **affix** it on all papers requiring the seal;
- (c) Serve all required notices of meetings of the Board and the Members;
- (d) Keep current records showing the names and addresses of all Members; and
- (e) Sign as Secretary **all** deeds, contracts, and other Written instruments that have been approved by the Board, if the instruments require a second Association signature and the Board has not passed a resolution authorizing another Officer to sign in the place and stead of the Secretary.

ARTICLE IX. CHIEF FINANCIAL OFFICER

Election

Section 9.01. At the **first** meeting of the Board immediately following the **first** annual meeting of the Members, the Board shall elect a Chief Financial Officer.

Duties

Section 9.02. The Chief Financial Officer shall:

- (a) Receive and deposit all of the funds of the Association in any bank or banks selected by the Board;
- (b) Be responsible for and supervise the maintenance of books and records to account for Association funds and other Association assets;
- (c) Disburse and withdraw Association funds in the manner specified by the Board; and
- (d) Prepare and distribute the financial statements for the Association required by the Declaration.

ARTICLE X. SUBORDINATE OFFICERS

Appointment

Section 10.01. The Board may appoint, at any time, any subordinate Officers that the Association may require.

Duties

Section 10.02. The Board shall prescribe the term of office, authority, and duties of subordinate Officers. These duties may include the right to act in the place and stead of any Officer other than the President.

ARTICLE XI. BOOKS AND RECORDS

Required Books and Records

Section 11.01. The Association shall maintain at its principal office:

- (a) Copies of the Governing Instruments as last amended;
- (b) Adequate and correct books and records of account;

(c) Written minutes of the proceedings of its Members, of its Board, and of committees of its Board; and

(d) A Membership Register containing the following information about each Member: name, mailing address, telephone number, and class of membership.

Inspection Rights

Section 11.02. The above books and records shall be made available for inspection as follows:

(a) Any Member shall have the right to inspect the Governing Instruments at the principal office of the Association, at any reasonable time during office hours.

(b) Any Member shall have the right to inspect the books and records described in Section 11.01(b)-(d) and to copy them at any reasonable time and for a purpose reasonably related to his or her interest as a Member. This right is subject to the power of the Board to set reasonable times for inspection, notice requirements, and fees to cover the cost of **making** copies of the documents requested by a Member.

(c) Every Director shall have the absolute right to inspect **all** books, records, and documents of the Association and the physical properties owned or controlled by the Association at any reasonable time. The right of inspection by a Director includes the right to make extracts and copies of documents.

ARTICLE XII. NONLIABILITY AND INDEMNIFICATION

Definition of Agent

Section 12.01. For purposes of this Article, "Agent" means any present or former Director or Officer or any other employee or agent of the Association.

Nonliability

Section 12.02. Except as provided by law, no right, power, or responsibility conferred on the Board or the Architectural Committee by the Governing Instruments shall be construed as a duty, obligation, or disability charged upon any Agent. No Agent shall be liable to any party (other than the Association or a party **claiming** in the name of the Association) for injuries or damage resulting from the Agent's acts or omissions within what the Agent reasonably believed to be the scope of his or her Association duties ("Official Acts"), except to the extent that the injuries or damage result from the Agent's **willful** or **malicious** misconduct. No Agent shall be liable to the Association (or to any **party** claiming in the name of the Association) for injuries or damage resulting from the Agent's Official Acts, except to the extent that the injuries or damage result from the Agent's negligence or **willful** or malicious misconduct.

Indemnification

Section 12.03. The Association shall pay all expenses actually and reasonably incurred by, and satisfy any judgment or **fine** levied against, any Agent as a result of any action or threatened action against the Agent to impose liability on the Agent for his or her Official Acts, provided that:

(a) The Board determines that the Agent acted in good faith and in a manner the Agent reasonably believed to be in the best interests of the Association;

(b) In the case of a criminal proceeding, the Board determines that the Agent had no reasonable cause to believe his or her conduct was **unlawful**; and

(c) In the case of an action or threatened action by or in the right of the Association, the Board determines that the Agent acted with the care (including reasonable **inquiry**) that an ordinarily prudent person in a like position would use under similar circumstances.

Approval by Board

Section 12.04. Any determination of the Board required under this Article must be approved by a **majority** vote of a quorum consisting of Directors who are not parties to the action or threatened action giving rise to the indemnification. If the Board fails or refuses to make any such determination, the determination may be made by the vote or written consent of a majority of a quorum of the Members, provided that the Agent to be indemnified shall not be entitled to vote.

Payments

Section 12.05. Payments made pursuant to this Article shall include amounts paid and expenses incurred in settling the action or threatened action. This Article shall be construed to authorize payments and indemnification to the fullest extent now or hereafter permitted by applicable law.

Insurance

Section 12.06. The Association may purchase and maintain insurance on behalf of its Agents to the extent and under the circumstances provided in the Declaration.

ARTICLE XIII. AMENDMENTS

Amendment of Bylaws

Section 13.01. So long as a two-class voting system is in effect, any amendment of these Bylaws shall require the vote or written consent of Members representing 51 percent of the vot-

ing power of each class of Members of each class. After conversion of the Class B Membership to Class A Membership, these Bylaws may be amended by the vote or written consent of (1) 51 percent of a quorum and (2) 51 percent of the votes of Members other than the Declarant. Notwithstanding the foregoing, the percentage of a quorum or of the voting power of the Association or of Members other than Declarant necessary to amend a specific clause or provision in these Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or provision.

Prior Approval of Commissioner

Section 13.02. When required under Section 11018.7 of the California Business and Professions Code, the prior written consent of the Real Estate Commissioner shall be obtained prior to submitting a proposed amendment to these Bylaws to the vote of the Members.

ARTICLE XIV. TAX-EXEMPT STATUS

Tax-Exempt Status

Section 14.01. The Board and Members of the Association shall conduct the business of the Association in such a manner that the Association shall qualify and be considered an organization exempt from federal and state income taxes pursuant to Section 528 of the Internal Revenue Code and Section 23701t of the California Revenue and Taxation Code, as amended.


Filing

Section 14.02. The Board shall file or have filed any annual election for tax-exempt status that is required under federal or state law, and shall cause the Association to comply with the federal and state statutes, rules, and regulations pertaining to those exemptions.

**CERTIFICATE OF SECRETARY
OF
DONNER VILLAGE TOWNHOME ASSOCIATION
a California Nonprofit
Mutual Benefit Association**

I hereby certify that I am the duly elected and acting Secretary of the above Corporation and that the foregoing Bylaws, comprising 22 pages, constitute the Bylaws of the Association as duly adopted at a meeting of the Board of Directors of the Corporation held on _____

Dated: 8/29/04


Secretary-