

**SECOND AMENDED AND RESTATED BYLAWS
OF
FIRST WALNUT CREEK MUTUAL**

TABLE OF CONTENTS

	Page
ARTICLE 1 NAME AND LOCATION.....	1
ARTICLE 2 PURPOSES	1
ARTICLE 3 DEFINITIONS	1
3.1 Articles.....	1
3.2 Annual Assessments	1
3.3 Assessments	1
3.4 Board of Directors.....	1
3.5 Bylaws	2
3.6 Carrying Charges	2
3.7 Cash Requirements.....	2
3.8 Certificate	2
3.9 Civil Code	2
3.10 Common Area	2
3.11 Corporations Code	2
3.12 Designated Occupant.....	2
3.13 Development	2
3.14 District	2
3.15 Election Rules	2
3.16 Exclusive Use Common Area	2
3.17 Foundation	3
3.18 Governing Documents.....	3
3.19 Maintenance Policies.....	3
3.20 Manor	3
3.21 Member	3
3.22 Membership.....	3
3.23 Member in Good Standing.....	3
3.24 Occupancy Agreement	3
3.25 Policies	3

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

TABLE OF CONTENTS
(continued)

	Page
3.26 Reimbursement Assessment.....	4
3.27 Resident	4
3.28 Rules	4
3.29 Senior Housing Residency Restrictions.....	4
3.30 Share Loan.....	4
3.31 Special Assessment	4
3.32 Total Voting Power	4
3.33 Unit.....	4
ARTICLE 4 SENIOR HOUSING.....	4
ARTICLE 5 MUTUAL; FOUNDATION.....	5
5.1 Management and Operation; Bylaws.....	5
5.2 Relationship to Foundation.....	5
5.3 Membership in the Foundation	5
ARTICLE 6 MEMBERSHIP	5
6.1 Eligibility for Membership; Approval.....	5
6.1.1 In General.....	6
6.1.2 Approval of Purchase or Transfer of Membership	6
6.1.3 Occupancy Agreement; Designated Occupant	6
6.1.4 Revocable Trusts	6
6.1.5 Change in Designated Occupant.....	7
6.2 Membership Appurtenant to Occupancy Agreement.....	7
6.3 Application for Membership	7
6.4 Authorized Memberships.....	7
6.5 Membership Certificates	7
6.6 Lost or Destroyed Membership Certificates.....	8
6.7 Mutual's Lien/Assessments	8
6.8 Transfer of Membership	9
6.8.1 Transfer Into Revocable Trust During Member's Lifetime	9

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

TABLE OF CONTENTS
(continued)

	Page
6.8.2 Death of Member or Trustee.....	9
6.9 Termination of Membership for Cause	10
6.10 Liquidation Rights	11
6.11 Third-Party Financing (“Share Loans”)	11
6.11.1 In General.....	11
6.11.2 Maximum Amount of Share Loan	11
6.11.3 Effect on Corporation’s Lien on Membership.....	11
6.11.4 Recognition of Mutual’s Interests in the Membership and Occupancy Agreement	12
6.11.5 Subordination to Blanket Mortgage.....	12
6.11.6 Costs	12
6.12 Members Rights and Obligations.....	12
ARTICLE 7 MEMBER MEETINGS AND VOTING	12
7.1 Annual Meeting	12
7.2 Special Meetings	12
7.3 Notice of Meetings.....	12
7.4 Conduct of Meetings.....	13
7.5 Place of Meetings	13
7.6 Voting	13
7.7 Record Date for Voting	13
7.8 Quorum	13
7.8.1 Quorum for Votes on Assessment Increases.....	14
7.8.2 Quorum for Election of Directors.....	14
7.8.3 Quorum for Removal of Directors	14
7.8.4 Quorum for Valid Action on Other Matters	14
7.9 Proxies	14
7.10 Approval of the Members	14
7.11 Voting by Ballot (Corporations Code section 7513).....	14
7.11.1 Ballot Requirements	14

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

TABLE OF CONTENTS
(continued)

		Page
	7.11.2 Solicitation Rules	15
ARTICLE 8	BOARD OF DIRECTORS; ELECTION; TERM OF OFFICE	15
	8.1 Number of Directors; Residency Requirements	15
	8.2 Districts.....	15
	8.3 Qualifications of Candidates.....	16
	8.4 Nomination	16
	8.5 Election.....	16
	8.6 Election by Acclamation	17
	8.7 Term of Office.....	17
	8.8 Term Limits.....	17
	8.9 Removal	17
	8.10 Disqualification of Directors	17
	8.11 Vacancies.....	17
	8.12 Filling Vacancies.....	18
	8.13 Compensation	18
ARTICLE 9	MEETINGS OF DIRECTORS	18
	9.1 Organizational Meetings.....	18
	9.2 Regular Meetings	19
	9.3 Special Meetings.....	19
	9.4 Notice to Directors	19
	9.5 Notice to Members	19
	9.6 Open Meetings; Telephone and Remote Participation	19
	9.6.1 Open to Members	19
	9.6.2 Time Limit for Members	19
	9.6.3 Teleconference and Remote Participation.....	19
	9.7 Executive Session	20
	9.8 Restrictions on Board Action Outside of Meeting; Board Meetings Via E-mail.....	20
	9.9 Quorum	20

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

TABLE OF CONTENTS
(continued)

	Page
9.10 Minutes of Meetings of Directors	20
ARTICLE 10 POWERS OF THE BOARD OF DIRECTORS	21
10.1 Policies	21
10.2 Contracts	21
10.3 Collect Assessments	21
10.4 Sanctions; Hearings; Continuing Violations.....	21
10.5 Manager	22
10.6 Professional Advisors	22
10.7 Investment of Reserve Funds.....	22
10.8 Right of Entry.....	22
10.9 Property Taxes	23
10.10 Mutual Property; Common Area	23
10.11 Indemnification of Agents	23
10.12 Bank Accounts	23
10.13 Loans.....	23
10.14 Consider Membership and Occupancy Applications	23
10.15 Terminate Memberships and Occupancy Rights.....	24
10.16 Subleases.....	24
10.17 Authorize Third-Party Financing for Members	24
10.18 Other Powers and Duties	24
10.19 Limitations on Powers	24
ARTICLE 11 DUTIES OF THE BOARD OF DIRECTORS	24
11.1 Records and Minutes.....	24
11.2 Supervision.....	24
11.3 Insurance.....	24
11.4 Maintenance.....	25
11.5 Enforcement of Governing Documents and Occupancy Agreements	25
11.6 Reserve Study and Annual Review	25

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

TABLE OF CONTENTS
(continued)

	Page
11.7 Reserve Funds	25
11.8 Investment of Reserve Funds.....	25
11.9 Annual Financial Statement.....	26
11.10 Statement Concerning Members' Pro Rata Share of Taxes and Mortgage Interest	26
11.11 Review of Accounts	26
11.12 Levy Assessments.....	26
11.13 Notice and Collection of Assessments	26
11.14 Annual and Periodic Disclosures	27
11.15 Results of Membership Votes.....	27
ARTICLE 12 OFFICERS AND THEIR DUTIES.....	27
12.1 Enumeration of Officers.....	27
12.2 Election of Officers	27
12.3 Term.....	27
12.4 Special Appointments.....	27
12.5 Resignation and Removal	27
12.6 Vacancies.....	28
12.7 Multiple Offices.....	28
12.8 President	28
12.9 Vice Presidents	28
12.10 Secretary	28
12.11 Treasurer.....	29
ARTICLE 13 COMMITTEES	29
ARTICLE 14 ASSESSMENTS	29
14.1 Creation of Lien and Personal Obligation for Assessments.....	29
14.2 Purpose of Assessments.....	30
14.3 Annual Assessments.....	30
14.3.1 In General.....	30
14.3.2 Cash Requirements	30

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

TABLE OF CONTENTS
(continued)

	Page
14.3.3 Allocation of Annual Assessments.....	31
14.4 Special Assessments	31
14.5 Reimbursement Assessments.....	31
14.6 Delinquent Assessments	32
ARTICLE 15 INSURANCE.....	32
15.1 Liability and Fidelity Insurance	32
15.1.1 Commercial General Liability Policy	32
15.1.2 Directors and Officers Liability Policy.....	33
15.1.3 Crime Insurance	33
15.2 Mutual Property Insurance	33
15.2.1 Property Covered.....	33
15.2.2 Covered Cause of Loss	34
15.2.3 Dollar Limit.....	34
15.2.4 Primary	34
15.2.5 Endorsements.....	34
15.2.6 Waiver of Subrogation	34
15.2.7 Deductible.....	34
15.3 FNMA, FHLMC and FHA Requirements.....	35
15.4 Insurance Rating and Cancellation.....	35
15.5 Board's Insurance Authority.....	35
15.6 Members' Individual Insurance Requirements.....	36
15.7 Conflict with Occupancy Agreements.....	37
ARTICLE 16 BOOKS, RECORDS AND FUNDS.....	37
16.1 Mutual Records	37
16.2 Directors' Inspection Rights.....	37
16.3 Checks, Drafts, and Evidences of Indebtedness	37
16.4 Funds and Deposits.....	37
16.5 Fiscal Year	37
ARTICLE 17 SUBLEASING OF MANORS	38

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

TABLE OF CONTENTS
(continued)

	Page
ARTICLE 18 CHANGE OF STRUCTURE OF THE MUTUAL	38
ARTICLE 19 AMENDMENTS.....	38
19.1 Amendment by the Members	38
19.2 Amendment by the Board of Directors.....	38
ARTICLE 20 MISCELLANEOUS.....	39
20.1 Conflict Between Documents	39
20.2 Amendment to Referenced Statutes.....	39

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

SECOND AMENDED AND RESTATED BYLAWS
OF
FIRST WALNUT CREEK MUTUAL

ARTICLE 1

NAME AND LOCATION

The name of the corporation is FIRST WALNUT CREEK MUTUAL, which is hereinafter referred to as the "Mutual." The principal office of the Mutual shall be located in Contra Costa County, California or such other place reasonably convenient to the Development as the Board of Directors may from time to time establish.

ARTICLE 2

PURPOSES

The purpose of the Mutual is to provide its Members, as defined herein, with housing on a nonprofit basis consonant with the provisions set forth in its Articles of Incorporation.

ARTICLE 3

DEFINITIONS

3.1 Articles. "Articles" shall mean the Amended Articles of Incorporation of First Walnut Creek Mutual, as they may be amended from time to time, and as filed with the Office of the Secretary of State of California.

3.2 Annual Assessments. "Annual Assessments" shall have the meaning set forth in Section 14.3.

3.3 Assessments. "Assessments" shall mean, collectively, Annual Assessments, Special Assessments, and Reimbursement Assessments. "Assessment" shall mean any of the following: Annual Assessments, Special Assessments, and Reimbursement Assessments.

3.4 Board of Directors. "Board of Directors" or "Board" shall mean the governing body of the Mutual.

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

3.5 Bylaws. "Bylaws" shall mean these Second Amended and Restated Bylaws of First Walnut Creek Mutual and any duly-adopted amendments thereto.

3.6 Carrying Charges. "Carrying Charges" shall mean Assessments.

3.7 Cash Requirements. "Cash Requirements" shall have the meaning set forth in Section 14.3.2.

3.8 Certificate. "Certificate" or "Membership Certificate" shall mean a Membership Certificate, issued by the Mutual to one or more Members and recorded in the books and records of the Mutual which represent a Membership in the Mutual and the particular Manor allocated to such Membership. Each Certificate, and the Membership represented thereby, shall be appurtenant to a particular Manor in the Development. A Certificate and the appurtenant Membership and Occupancy Agreement shall not be separately transferred, assigned, or conveyed.

3.9 Civil Code. "*Civil Code*" shall mean the California Civil Code as amended from time to time.

3.10 Common Area. "Common Area" shall mean the entire Development excluding the Manors. The Mutual owns the entire Development, including the Common Area and the Manors.

3.11 Corporations Code. "*Corporations Code*" shall mean the California Corporations Code as amended from time to time.

3.12 Designated Occupant. "Designated Occupant" shall have the meaning set forth in Section 6.1.3.

3.13 Development. "Development" shall mean the First Walnut Creek Mutual stock cooperative, as the term "stock cooperative" is defined in *Civil Code* section 4190. The term "Development" shall include (i) all of the real property owned by the Mutual, including all improvements now or hereafter existing or erected thereon, and (ii) all personal property owned by the Mutual.

3.14 District. "District" shall have the meaning set forth in Section 8.2.

3.15 Election Rules. "Election Rules" shall mean the Rules adopted by the Board, as required by *Civil Code* section 5105, to govern elections and other membership votes.

3.16 Exclusive Use Common Area. "Exclusive Use Common Area" shall mean any portion of the Common Area, the exclusive use of which is set aside, allocated, assigned, and restricted to the exclusive use of the Residents of a particular Manor. "Exclusive Use Common Area" includes the patio, deck,

veranda, balcony, storage space, parking space and carport (as applicable) assigned and/or appurtenant to such Manor.

3.17 Foundation. "Foundation" shall mean the Golden Rain Foundation of Walnut Creek, a California nonprofit mutual benefit corporation.

3.18 Governing Documents. "Governing Documents" shall mean the Articles, Bylaws and Policies adopted by the Board and distributed to the Members.

3.19 Maintenance Policies. "Maintenance Policies (as defined in Section 3.19)" shall mean the Policies adopted by the Board from time to time concerning and governing the respective responsibilities of the Mutual and the Member as to maintenance, repair and replacement of Common Area, Exclusive Use Common Area, and the Manors.

3.20 Manor. "Manor" shall mean an individual dwelling unit located in the Development. Each Manor and the right of its exclusive use pursuant to an Occupancy Agreement shall be appurtenant to a specified Membership and the Certificate represented thereby.

3.21 Member. "Member" shall mean the owner (or owners, if more than one) of a Membership in the Mutual pursuant to these Bylaws.

3.22 Membership. "Membership" shall mean the property, voting and other rights and privileges of Members, together with the correlative duties and obligations contained in the Articles, Bylaws, Policies and Occupancy Agreement. Each Membership and the corresponding Certificate shall be appurtenant to a particular Manor in the Development.

3.23 Occupancy Agreement. "Occupancy Agreement" shall mean the agreement entered into between the Mutual and each of its Members and entitling each Member to the exclusive use and occupancy of the Manor allocated to his or her respective Membership. Each owner of a Membership (and the corresponding Certificate) shall be entitled to a possessory interest in his or her Manor as set forth in the Occupancy Agreement.

Deleted: ~~<#>Member in Good Standing~~. "Member in Good Standing" shall mean a Member of the Mutual who: is current in the payment of all Assessments, fines, penalties, and other charges imposed in accordance with the Governing Documents and the Occupancy Agreement; is otherwise free from sanctions imposed by the Mutual; and is in compliance with all provisions of the Governing Documents and the Occupancy Agreement.¶

3.24 Policies. "Policies" shall mean the rules, regulations and policies governing the use, occupancy, management, administration, and operation of the Development or any part thereof as adopted and published by the Board of Directors from time to time. The term "Policies" includes, without limitation, Election Rules (as defined in Section 3.15), Maintenance Policies (as defined in Section 3.19) and Senior Housing Residency Restrictions (as defined in Article 4).

Deleted: 13

Deleted: 17

3.25 Reimbursement Assessment. "Reimbursement Assessment" shall have the meaning set forth in Section 14.5.

3.26 Resident. "Resident" shall mean any person who resides in a Manor within the Development whether or not such person is a Member as defined in Section 3.21, above.

3.27 Rules. "Rules" shall mean "Policies."

3.28 Senior Housing Residency Restrictions. "Senior Housing Residency Restrictions" shall mean the residency Policy described in Article 4.

3.29 Share Loan. "Share Loan" shall have the meaning set forth in Section 6.11.

3.30 Special Assessment. "Special Assessment" shall have the meaning set forth in Section 14.4.

3.31 Total Voting Power. "Total Voting Power" shall mean the total number of votes of all Members entitled to vote at a particular time, calculated on the basis of one vote for each Membership.

3.32 Unit. "Unit" shall mean "Manor."

Deleted: , excluding any Membership as to which a Member is not then a Member in Good Standing

ARTICLE 4

SENIOR HOUSING

The Development is a "senior citizen housing development" as defined in California *Civil Code* section 51.3(b)(3) and is operated as "Housing for Older Persons" as defined in the United States Fair Housing Amendments Act of 1988, 42 U.S.C.S. section 3607(b)(2). Residents, including guests, of each Manor shall be subject to the age and other restrictions set forth in the "Senior Housing Residency Restrictions" and other policies adopted by the Board in compliance with applicable federal and state law as those laws may be amended from time to time, and all such persons shall cooperate with the Board as required to verify the Mutual's compliance with such laws. Notwithstanding any contrary provision in the Senior Housing Residency Restrictions, this Article 4 shall at all times be deemed to restrict residency and occupancy to "older persons" or "senior citizens" to the fullest extent permitted by applicable federal and state law.

ARTICLE 5

MUTUAL; FOUNDATION

5.1 Management and Operation; Bylaws. The Mutual is an "association" as that term is defined in *Civil Code* section 4080 and, as such, shall have the power and authority to manage and operate the Development in accordance with the Governing Documents and the provisions of applicable law. The Mutual shall have all of the powers set forth in the Governing Documents and the Occupancy

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

Agreement together with general power to do any and all things that a nonprofit mutual benefit corporation may lawfully do under the laws of the State of California, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents, the Occupancy Agreement and applicable law. Provisions concerning the operation of the Mutual as a nonprofit mutual benefit corporation are set forth in these Bylaws.

5.2 Relationship to Foundation. The Development is one of several common interest developments (collectively, “the Rossmoor developments”) located within a senior citizen housing community known as “Rossmoor.” The Rossmoor developments are managed and operated by various associations known within Rossmoor as “mutuals.” The mutuals (including First Walnut Creek Mutual) are beneficiaries under a certain trust agreement. The Foundation is the trustee under the trust agreement. By the terms of the Foundation’s articles of incorporation and the trust agreement currently in effect, the primary purpose of the Foundation is to act as trustee with respect to all land and improvements owned by the Foundation and to provide services and furnish community facilities to the mutual and for the benefit of the residents of the Rossmoor developments. Among other things, the Foundation is required by the trust agreement to collect for the costs of such services and facilities, such costs to be allocated pro rata among the mutuals that are the beneficiaries under the trust based on the number of members of the respective mutual. The portion of these costs of the Foundation allocable to the Mutual are included as a component of the Annual Assessment imposed by the Mutual, as provided in Section 14.3, below.

5.3 Membership in the Foundation. Membership in the Foundation is distinct from membership in the Mutual and shall be as determined by the Foundation pursuant to its duly-adopted articles of incorporation, bylaws, and/or other applicable instruments.

ARTICLE 6

MEMBERSHIP

6.1 Eligibility for Membership; Approval.

6.1.1 In General. Any natural person or persons and any trustee under a revocable trust (irrespective of whether there is a corporate fiduciary), approved by the Board of Directors, shall be eligible to purchase or acquire a Membership in the Mutual provided that such person or persons, or trustee (i) satisfies the Mutual’s requirements for Membership set forth in these Bylaws and applicable Policies, and (ii) executes an Occupancy Agreement in the usual form prescribed by the Mutual covering a specific Manor.

6.1.2 Approval of Purchase or Transfer of Membership. The Mutual, in approving a proposed purchaser or transferee of a Membership, shall

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

not act contrary to any applicable federal, state or local law or regulation prohibiting discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, medical condition or genetic information. Upon the Board-approved purchase or other acquisition of a Membership in the Mutual, such natural person (or persons) or trustee shall become a Member of the Mutual.

6.1.3 Occupancy Agreement; Designated Occupant. The Member shall execute an Occupancy Agreement and designate a natural person who has been approved by the Board as a qualifying occupant (“Designated Occupant”). The Designated Occupant shall be at least fifty-five (55) years of age (the “Qualifying Resident,” as defined in the “Senior Housing Residency Restrictions” and described in Article 4, above) or a “Qualified Permanent Resident” (as defined in the Senior Housing Residency Restrictions). Such Designated Occupant, if not the Member, shall also execute the Occupancy Agreement. If the Member is not also the Designated Occupant, the Member shall waive, in a manner prescribed by the Mutual, the Member’s rights and privileges to (i) sublet the Manor, (ii) occupy the Manor, (iii) permit or enable any other person to occupy the Manor on a permanent or temporary basis, and (iv) use and enjoy the community and recreational services and facilities provided by the Mutual. Notwithstanding anything contained in this Section 6.1.3 or the Bylaws or Policies to the contrary, any Member who purchases a Membership with the intention of keeping the Manor vacant while owning the Membership shall not be required to appoint a Designated Occupant, but shall be required to leave the Manor vacant during such Member’s ownership of the Membership and waive, in a manner prescribed by the Mutual, the Member’s rights and privileges to (i) sublet the Manor, (ii) occupy the Manor, (iii) permit or enable any other person to occupy the Manor on a permanent or temporary basis, and (iv) use and enjoy the community and recreational services and facilities provided by the Mutual.

6.1.4 Revocable Trusts. If a trustee of a revocable trust is the Member, such trustee shall (i) upon the Mutual’s request, execute and provide a “Certification of Trust” in accordance with California *Probate Code* section 18100.5, (ii) provide and/or execute such other documents as may be required by the Mutual, which may include a “Trust Recognition Agreement” executed in favor of the Mutual, and (iii) execute the Occupancy Agreement. If a Certification of Trust is required by the Mutual, such document shall not be required to contain the dispositive provisions of the trust which set forth the distribution of the trust estate. The Trust Recognition Agreement, if required by the Mutual, shall be in such form as may be determined by the Mutual from time to time, shall be executed and provided to the Mutual at or prior to acquisition of the Membership, and shall provide that the trustee recognizes the Mutual’s interests in the Membership and the appurtenant Occupancy Agreement. If the person who is the trustee is not also the Designated Occupant, the Designated Occupant shall also execute the Occupancy Agreement, and the trustee shall waive, in a manner prescribed by the

Mutual, any rights to occupy the Manor, and any and all rights to use and enjoy the community and recreational services and facilities provided by the Mutual.

6.1.5 Change in Designated Occupant. A new Occupancy Agreement, in the form then utilized by the Mutual, shall be executed upon any change in the Designated Occupant of a particular Manor.

6.2 Membership Appurtenant to Occupancy Agreement. A Membership in the Mutual shall entitle the Member to occupy the Manor specified in the appurtenant Occupancy Agreement or identify a Designated Occupant to occupy such Manor, subject to the provisions of these Bylaws and the Policies, and further subject to the covenants, conditions and agreements contained in such Occupancy Agreement. Memberships in the Mutual which are reacquired by the Mutual shall be reissued only in connection with the execution and delivery by the Mutual of an Occupancy Agreement.

6.3 Application for Membership. Applications for Membership shall be presented to the Mutual on a form prescribed by the Board of Directors, together with such information as may be required by the Board. All such applications shall be acted upon promptly by the Board of Directors.

6.4 Authorized Memberships. The number of authorized Memberships of the Mutual is One Thousand Eight Hundred Seventy-Eight (1,878).

6.5 Membership Certificates. A Membership Certificate shall be issued to each Member in such form as shall be approved by the Board of Directors. The Membership Certificate shall state (i) that the Mutual is organized under the laws of the State of California as a nonprofit mutual benefit corporation, (ii) the name of the registered holder of the Membership represented thereby, (iii) the Mutual's lien rights as against such Membership as set forth in Section 6.7, below, and (iv) the preferences and restrictions applicable thereto. Membership Certificates shall be consecutively numbered, and shall be issued upon certification as to full payment. Every Membership Certificate shall be signed by the President or a Vice President, and the Secretary or Treasurer, or Assistant Secretary or Assistant Treasurer, and if the Mutual has a corporate seal, the Certificate may be sealed with the corporate seal. The owner or owners of a Membership shall, for the purposes of these Bylaws, regardless of the number of owners, be deemed to be the holder of one Membership.

6.6 Lost or Destroyed Membership Certificates. The holder of any Membership Certificate shall immediately notify the Mutual of any loss or destruction of such Certificate. The Board of Directors may, but is under no obligation to, direct a new Certificate of Certificates to be issued in place of any Certificate or Certificates previously issued by the Mutual and alleged to have been destroyed or lost upon the making of an affidavit of that fact by the person claiming the Certificate to be lost or destroyed. When authorizing such issuance of a new

Certificate of Certificates, the Board of Directors may, in its sole discretion, and as a condition precedent to the issuance thereof, require the registered owner or owners of such lost or destroyed Certificate or Certificates, or such owner's or owners' legal representative, to advertise the same in such manner as the Board of Directors shall require and to give the Mutual a bond in such sum as the Board of Directors may require as indemnity against any claims that may be made against the Mutual.

6.7 Mutual's Lien/Assessments. The Mutual shall at all times have a lien on the outstanding Memberships in order to secure payments of any sums which shall be due or become due from the holders thereof for any reason whatsoever and whether arising from the Assessments levied upon such Memberships, or otherwise arising, and including any sums due under any Occupancy Agreement. Any Assessment levied upon the Memberships shall constitute a lien upon such Memberships assessed from the time such Assessment is levied by the Mutual.

Unless and until the Member shall default in the payment of Assessments or other charges, or in the performance of any of the covenants or conditions of these Bylaws, the Occupancy Agreement, or the Policies, or shall default in the payment of any other indebtedness or obligation of such Member to the Mutual, said Membership shall continue to stand in the name of the Member upon the books of the Mutual, and the Member shall be entitled to exercise the right to vote said Membership as though said lien did not exist.

The Mutual shall have the right, but not the obligation, to issue to any purchaser of a Membership, upon the enforcement by the Mutual of such lien, a new Certificate evidencing the Membership so purchased and thereupon, the Certificate for said Membership theretofore issued to such defaulting Member shall become void and, if not then in the possession of the Mutual, shall be surrendered to the Mutual; but the failure of a defaulting Member to surrender such Certificate shall not affect the validity of the new Certificate issued in replacement thereof.

6.8 Transfer of Membership. Except as provided in this Section 6.8 and Section 6.11 below (entitled "Third-Party Financing"), Memberships and Membership Certificates shall not be transferred or otherwise assigned, pledged or hypothecated without the prior written consent of the Mutual.

6.8.1 Transfer Into Revocable Trust During Member's Lifetime. Notwithstanding any other provisions of these Bylaws or of the Occupancy Agreement applicable to a Manor, a Member may transfer his or her Membership to a revocable trust during that Member's lifetime, and assign the appurtenant Occupancy Agreement to such trust without the prior consent of the Board provided (i) prior written notice of the Member's intention to transfer is given to the Corporation together with a Certification of Trust (as described in Section 6.1.4(i), above) if a Certification of Trust is required by the Mutual, (ii) such other documents as may be required by the Mutual are provided, which may include a "Trust

Recognition Agreement” executed in favor of the Mutual, and (iii) such Member executes a new Occupancy Agreement, which Agreement shall also be executed by the trustee and Designated Occupant. If the person who is the trustee is not also the Designated Occupant, such person shall waive, in a manner prescribed by the Mutual, any rights to occupy the Manor and any and all rights to use and enjoy the community and recreational services and facilities provided by the Mutual. The Trust Recognition Agreement, If required by the Mutual, shall be in such form as may be determined by the Mutual from time to time, shall be executed and provided to the Mutual prior to transfer of the Membership into the revocable trust and execution of a new Occupancy Agreement, and shall provide that the trustee recognizes the Mutual’s interests in the Membership and the appurtenant Occupancy Agreement. The Member shall be responsible for any charges levied by the Mutual’s managing agent and any attorneys’ fees and costs incurred by the Mutual in connection with the transfer of his or her Membership into a revocable trust.

6.8.2 Death of Member or Trustee. Membership rights including, but not limited to the rights of occupancy, shall not inure to any heir, devisee or trust beneficiary who may inherit the Membership unless the heir, devisee or trust beneficiary qualifies for Membership pursuant to Section 6.1, above, and is approved for Membership by the Board. Should any person who is ineligible for membership inherit a Membership, that person shall be entitled to retain the Membership and exercise the rights of a Member for a period not to exceed one (1) year from the date of death of the Member or trustee (if title to the Membership is held in trust) in order to enable the heir, devisee or trust beneficiary to sell the Membership; provided such heir, devisee or trust beneficiary complies with the terms of the Occupancy Agreement between the Mutual and the deceased Member, these Bylaws and the Policies, and pays all Assessments and other charges levied by the Mutual against the Membership. The Board of Directors may agree to extend the one (1) year period in which the heir, devisee or trust beneficiary may hold a Membership if the heir, devisee or trust beneficiary demonstrates, to the satisfaction of the Board, extenuating circumstances necessitating a longer period of time. Failure to sell the Membership within the one (1) year period set forth above or within any extension of time granted by the Board shall result in termination of the Membership pursuant to Section 6.9, below. During the one (1) year period (or extended term approved by the Board, if applicable) in which an heir, devisee or trust beneficiary holds a Membership, such heir, devisee or trust beneficiary shall be permitted to (i) reside in the Manor if he or she is at least fifty-five (55) years of age or is otherwise permitted by the Senior Housing Residency Restrictions to reside in the Manor or (ii) sublease the Manor, subject to compliance with these Bylaws and the Policies, including but not limited to the Subleasing Policy.

6.9 Termination of Membership for Cause. A default under the Occupancy Agreement, including a default by a Designated Occupant, shall be

grounds for termination of a Membership. As provided in Section 6.8.2, above, the failure of an heir, devisee or trust beneficiary to sell a Membership within one (1) year of the date of death of the Member or trustee (if title to the Membership is held in trust) or within any extension of time granted by the Board shall also be grounds for termination of a Membership. In the event of such a default, no Membership may be terminated unless the Member has been provided an opportunity to be heard before the Board of Directors. At least fifteen (15) days before the hearing date, the Mutual shall notify the Member in writing of the nature of the default, the effective date of termination of the Membership, and the hearing date. Notice of the hearing shall be provided in the manner required by law. Such hearing shall be held not less than five (5) days prior to the effective date of termination of the Membership. Termination of a Membership by the Mutual for cause under this Section 6.9 does not constitute a disciplinary measure under Section 10.4, below.

If the Board terminates the Membership, the Member shall be required to deliver promptly to the Mutual the Membership Certificate (if any) and Occupancy Agreement, both endorsed in such manners as may be required by the Mutual, and possession of the Manor. If the Membership is thus terminated, no party so affected shall have any rights to use any of the Mutual's facilities. The Mutual shall thereupon, at its election proceed with reasonable diligence to effect a sale of the Membership to a purchaser and at a sale price acceptable to the Mutual. The terminated Member shall be entitled to receive the amount so determined, less the following amounts (with the determination of such amounts by the Mutual to be controlling and conclusive):

(a) Any amounts due the Mutual from the Member under the Occupancy Agreement;

(b) The cost or estimated cost of all deferred maintenance, including painting, redecorating, floor finishing, and such repairs and replacements as are deemed necessary by the Mutual to place the Manor in suitable condition for another occupant; and

(c) Legal and other expenses incurred by the Mutual in connection with the default of such Member, and the resale of the Membership.

If for any reason such Member should fail for a period of ten (10) days after demand to deliver to the Mutual such Member's endorsed Membership Certificate, said Membership Certificate shall forthwith be deemed to be canceled and may be reissued by the Mutual to a new purchaser.

6.10 Liquidation Rights. In the event of any voluntary or involuntary dissolution of the Mutual, the fair market value of each parcel shall be determined by the Board. The fair market value of each Manor shall be determined by the Board through an independent appraisal conducted by a Member of the Appraisal Institute ("MAI") and shall include any existing mortgage indebtedness attributable

to that Manor. The fair market value of all parcels shall then be aggregated to calculate the total fair market value of the entire Mutual. The appropriate percentage of the total fair market value shall then be attributed to each separate parcel and distributed among the Members having Manors in that parcel in the manner determined by the Board in its sole and reasonable discretion, after payment of any amount(s) that may remain due under any mortgage obligation on that parcel.

6.11 Third-Party Financing ("Share Loans").

6.11.1 In General. Subject to compliance with all the provisions contained in the Bylaws, including without limitation this Section 6.11, a Member shall have the right to pledge his or her Membership, Membership Certificate, and the Member's leasehold interest in his or her Manor to an institutional lender (meaning a bank, savings and loan association, insurance company, credit union and any other governmentally regulated financial institution) as security for a purchase money loan, a refinance loan, an equity loan or a reverse loan (each of such loans are hereinafter referred to as a "Share Loan").

6.11.2 Maximum Amount of Share Loan. In connection with any approved pledge or encumbrance as part of a financing, the Board of Directors is authorized to recognize the lender's security interest in the Membership which will be pledged and encumbered, and is further authorized to establish, via the Policies, the maximum amount of Share Loans and the "loan to value" ratio that each Share Loan must satisfy.

6.11.3 Effect on Corporation's Lien on Membership. The lender's security interest in the Membership shall be subject and subordinate to the Corporation's lien against the Membership to secure payment of any indebtedness due the Corporation by the Member.

6.11.4 Recognition of Mutual's Interests in the Membership and Occupancy Agreement. Lenders providing Share Loans shall acknowledge and recognize the Mutual's superior rights and interests in the borrower's Membership, Membership Certificate, and appurtenant Occupancy Agreement in a form acceptable to the Mutual, and execute such further documents as may be reasonably required by the Mutual.

6.11.5 Subordination to Blanket Mortgage. Any liens created by Share Loans shall be subordinate and subject to the first mortgage, if any, maintained on the real property on which the Member's Manor is located.

6.11.6 Costs. Any and all costs (including but not limited to attorney's fees and appraisal fees) incurred by the Mutual in connection with any proposed financing shall be borne solely by the Member and shall be reimbursed

to the Mutual through escrow. Further, such costs shall be paid by the Member regardless of whether the proposed financing transaction is consummated.

6.12 Members Rights and Obligations. Members shall have the rights and obligations set forth in these Bylaws, the Policies, the Occupancy Agreement, and as provided by law.

ARTICLE 7

MEMBER MEETINGS AND VOTING

7.1 Annual Meeting. The Annual Meeting of the Members shall be held during the month of October of each year, on a date and at a time and place to be designated by the Board of Directors, upon proper written notice to all Members.

7.2 Special Meetings. Special Meetings of the Members may be called at any time by the President or by a majority of the Board of Directors or by written request of Members having not less than five percent (5%) of the Total Voting Power of the Mutual or otherwise according to law.

7.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by or at the direction of the Secretary or other person authorized to call a meeting. Written notice shall be mailed first class, postage prepaid, or otherwise delivered at least ten (10) but not more than ninety (90) days before such meeting, to each Member entitled to vote at such meeting, except that in the case of a special meeting called pursuant to a written request of Members, notice of such special meeting shall be mailed or otherwise delivered within twenty (20) days after receipt of such written request by the Board, and the date of such special meeting shall be set by the Board and shall be not sooner than thirty-five (35) days nor later than ninety (90) days after the date of the Board's receipt of such written request. Notice of meetings shall be addressed or otherwise delivered to the Member's address last appearing on the books of the Mutual or supplied by such Member to the Mutual for the purpose of notice. Notice of any meeting of Members shall specify the date, hour, and place of the meeting, and the general nature of those matters which the Board intends to present for action by the Members. Any of the foregoing requirements may be modified by the Board if the statute is changed to allow for email or other method of notice.

7.4 Conduct of Meetings. All meetings of Members shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Mutual may adopt. A reasonable time limit for all Members to speak at a meeting of the Members shall be established by the Board of Directors.

7.5 Place of Meetings. Annual and special meetings shall be held at a location within the Rossmoor community.

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

7.6 Voting. Members shall be entitled to cast one (1) vote for each Membership owned. In the event more than one (1) person owns a given Membership, the vote for such Membership shall be exercised as the owners of the Membership determine among themselves, but in no event shall more than one (1) vote be cast with respect to any Membership. If the joint owners of a Membership are unable to agree among themselves as to how their vote or votes are to be cast, they shall lose their right to vote on the matter in question. If any joint owner of a Membership casts a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that such owner was acting with the authority and consent of the other owners of that Membership. The vote at any meeting of Members may be by a show of hands or by ballot; provided, however, that votes of the Members on the following issues must be by secret ballot, conducted by means of a double envelope system pursuant to *Civil Code* sections 5100 *et seq.*: Assessments legally requiring a vote of the Members, election and removal of members of the Board of Directors, amendments to the Governing Documents, or the grant of exclusive use of Common Area property.

Deleted: in Good Standing

Deleted: A Member may only be determined "Not in Good Standing" after a duly-noticed hearing before the Board.

7.7 Record Date for Voting. The Board of Directors may fix a date not more than sixty (60) days before the date of any mailing or delivery of ballots as the record date for determining Members entitled to vote and only Members as of the record date shall be entitled to vote. If no record date for voting is set by the Board, Members on the day of the mailing or delivery of ballots shall be entitled to vote in any election or vote of the Members.

Deleted: in Good Standing

Deleted: in Good Standing

7.8 Quorum. The following quorum requirements must be satisfied in order to take valid action at any meeting of the Members or by written ballot:

7.8.1 Quorum for Votes on Assessment Increases. With respect to secret written ballots mailed to Members for the purpose of voting on Assessment increases requiring membership approval, the quorum requirement for valid action on the proposal shall be the percentage specified in *Civil Code* section 5600. That quorum percentage is currently a majority of the Members.

7.8.2 Quorum for Election of Directors. There shall be no minimum quorum requirement for the election of Directors. The number of secret written ballots received by the deadline set forth in the ballot and/or the voting instructions shall constitute the quorum for that election, notwithstanding any other quorum requirements set forth in these Bylaws.

7.8.3 Quorum for Removal of Directors. With respect to secret written ballots mailed to Members for the purpose of removing a Director or Directors, the quorum requirement for valid action on the proposal shall be one-third (1/3) of the Members.

Deleted: in Good Standing in the affected Director's District

7.8.4 Quorum for Valid Action on Other Matters. With respect to a membership meeting called or ballot distributed for any other purpose, the quorum

shall be at least twenty percent (20%) of the Total Voting Power of the Mutual. In connection with membership votes conducted at a meeting, if such quorum is not present or represented at any meeting in person, the Members otherwise entitled to vote at that meeting shall have power to adjourn the meeting from time to time, to be reconvened as soon as possible immediately following the adjourned meeting and not more than thirty (30) days from the date of the adjourned meeting, without notice other than announcement at the meeting, until a quorum shall be present or represented. In the absence of a quorum, no business other than adjournment may be transacted.

7.9 Proxies. The use of proxies in connection with votes of the Members and/or meetings of the Members is expressly prohibited.

7.10 Approval of the Members. If a quorum is achieved, in person or by ballot, the affirmative vote of a majority of the voting power so present and voting on any matter shall constitute the act of the Members, unless the approval of a greater number or proportion of Members is required by any provision of the law or the Governing Documents.

7.11 Voting by Ballot (Corporations Code section 7513).

7.11.1 Ballot Requirements. Any action which may be taken at a regular or special meeting (and is not required to be conducted by the secret ballot method prescribed by *Civil Code* section 5115 may be taken without a meeting of Members if the Mutual distributes a ballot to every Member entitled to vote and complies with the requirements of *Corporations Code* section 7513. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Mutual.

7.11.2 Solicitation Rules. The ballot solicitation shall identify both the number of responses needed to meet the quorum requirement and the percentage and/or number of approvals necessary to pass the measure submitted and shall specify the time by which the ballot must be received by the Mutual in order to be counted.

ARTICLE 8

BOARD OF DIRECTORS; ELECTION; TERM OF OFFICE

8.1 Number of Directors. The affairs of the Mutual shall be conducted by or under the direction of a Board of five (5) Directors.

8.2 Qualifications of Candidates. Candidates for the Board: (i) must be natural persons who are Members; (ii) may not have been declared of unsound

Deleted: Residency Requirements

Formatted: Indent: Left: 0", Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Tab after: 1.13" + Indent at: 0.13", Tab stops: 1", List tab + Not at 1.13"

Deleted: The Development has been divided into five (5) Districts for purposes of election of Directors, and each such District is described in Section 8.2, below. One (1) Director shall be elected to serve each of the five (5) Districts within the Development. Directors shall be required to reside in the District that they serve except in the following circumstances:¶ (a) in the case of a Director election, when no Member who resides in a specific District has, before the published deadline for nominations, placed his or her name in nomination for election to the Board to represent that District, any Member of the Mutual who satisfies the qualifications of candidates set forth in Section 8.3 below may run for and be elected to the Board of Directors to represent such District; and ¶ (b) when the Board, in accordance with Section 8.12 below (entitled "Filling Vacancies"), fills a vacancy on the Board of Directors that has occurred due to the disqualification, death or resignation of a Director, or if the authorized number of Directors is increased, or if the Members fail to elect the full authorized number of Directors.

Deleted: <#>Districts. The Development has been divided into five (5) Districts as follows:¶
District # # of Manors Entries¶
1 374 Golden Rain Road 9-11-12-14-21-22-23-24-25-¶
26-27-28-29¶
2 364 Golden Rain Road 6-7-8-10-13-15-16-17-18-
19-20¶
3 390 Golden Rain Road 1-2-3-4-5¶
Pine Knoll Drive 2-3-5-7-8-9¶
Oakmont Drive 15-16¶
¶
4 386 Oakmont Drive 2-3-4-5-6-7-8-9-10-11-12-13-¶
14, Pine Knoll Drive 1-4-6¶
¶
5 364 Fairlawn Court 1-3-5, Oakmont Drive 1¶
Rockledge Lane 1-2-3-4-5-6-7-8-9-10¶
Tice Creek Drive B-C¶

Deleted: in Good Standing

mind by a final order of court; ~~(iii) may not have been convicted of a felony, and (iv) must be current in the payment of Annual and Special Assessments, except for those circumstances set forth in Civil Code section 5105(d).~~ Co-owners of one or more Memberships may not serve on the Board at the same time.

Deleted: and

8.3 Nomination. Nominations of candidates to the Board of Directors may be made by a Nominating Committee or by self-nomination. All nominations shall be conducted in accordance with Election Rules adopted by the Board pursuant to *Civil Code* section 5105. The Board may recruit qualified candidates and/or appoint a Nominating Committee prior to any election of Directors. The Nominating Committee, if one is appointed, shall consist of a chairman, who shall be a Director appointed by the President, and two or more Members of the Mutual. The Nominating Committee may make as many nominations for election to the Board as it deems appropriate.

Any Member who satisfies the qualifications set forth in these Bylaws and Election Rules adopted pursuant to *Civil Code* section 5105 may place his or her name in nomination for election to the Board of Directors by giving written notice to the Mutual's managing agent and/or the Board. Notice of self-nomination must be received prior to the published deadline for nominations. Nominations may not be made from the floor at any meeting.

8.4 Election. Directors shall be elected annually by secret ballot in accordance with *Civil Code* sections 5100 through 5135 and Election Rules adopted pursuant thereto. The Members may cast, with respect to each position on the Board to be filled, one vote for each Membership owned ~~but not more than one vote for each candidate.~~ The persons receiving the largest number of votes cast in the District shall be elected. Cumulative voting is prohibited. Additionally, write-in candidates shall not be permitted. The method for voting for Directors shall be as set forth in Section 7.6, above. ~~The method for breaking tie votes shall be set forth in the Election Rules.~~

Deleted: in Good Standing

Deleted: ; provided, however, that Members in Good Standing may only vote in the Director election for their District

Deleted: If two or more candidates receive the same number of votes, a runoff election shall be conducted in accordance with *Civil Code* sections 5100 through 5135 and

Deleted: adopted pursuant thereto

8.5 Election by Acclamation. If, as of the published deadline for nominations, the number of qualified candidates nominated does not exceed the number of Directors to be elected, then the individuals nominated and qualified to be elected may be declared elected on a date determined by the Board and the Inspector(s) of Election, in which case written notice of the election results shall be given to the Members in the manner prescribed by law.

8.6 Term of Office. The Members shall, in alternate years, elect ~~two (2) Directors, two (2) Directors, and one (1) Director,~~ respectively, for terms of three (3) years each. Each Director shall serve until the expiration of his or her term and thereafter until a successor is elected, or until the earlier disqualification, death, resignation, or removal of such Director.

Deleted: three (3)

Deleted: and

8.7 Term Limits. A Director shall not be elected to serve more than two (2) consecutive three-year terms. If a Director is appointed or elected to serve only part of another's term, he/she shall still be eligible to be elected for two (2) consecutive three-year terms. Any formerly effective term limits are rescinded and of no further force and effect.

8.8 Removal. Any Director may be removed from the Board, with or without cause, by the affirmative vote of a majority of the voting Members provided a quorum is represented; quorum for this purpose shall be one-third (1/3) of the Members, as provided in Section 7.8.3, above. No reduction of the authorized number of Directors shall have the effect of removing any Director prior to the expiration of his or her term of office unless the reduction or amendment also provides for the removal of one or more specified Directors.

Deleted: in Good Standing in the affected Director's District

Deleted: in Good Standing in the affected Director's District

8.9 Disqualification of Directors. A Director shall be deemed ineligible and disqualified from serving on the Board under the following circumstances: (i) the person fails within sixty (60) days after receiving notice of election to accept such office, either in writing or by attending a meeting of the Board of Directors as a Director; (ii) the person is absent without cause as determined by the remaining Directors from three (3) consecutive meetings of the Board; (iii) the person is more than sixty (60) days delinquent in the payment of Assessments, fines, penalties or other charges imposed by the Mutual; (iv) the person has been declared to be of unsound mind by a final order of court; (v) the person has been convicted of a felony; or (vi) the person ceases to be a Member.

Deleted: in Good Standing

Deleted: As provided in Section 7.6, above, a Member may only be determined "Not in Good Standing" after a duly-noticed hearing before the Board.

8.10 Vacancies. A vacancy shall exist on the Board of Directors in the event of the disqualification, death, resignation, or removal of any Director, if the authorized number of Directors is increased, or if the Members fail to elect the full authorized number of Directors. The Board of Directors, by a majority vote of the Directors who are not subject to disqualification for any of the reasons set forth in Section 8.10, above, may declare vacant the office of any Director who fails or ceases to meet any required qualification that was in effect at the beginning of that Director's current term of office.

8.11 Filling Vacancies. A vacancy shall exist on the Board of Directors in the event of the disqualification, death, resignation, or removal of any Director, or if the authorized number of Directors is increased, or if the Members fail to elect the full authorized number of Directors. Any vacancy on the Board of Directors, except a vacancy created by the removal of a Director by the Members, may be filled by vote of the Board of Directors, or if the number of Directors then in office is less than a quorum, by the vote of a majority of the remaining Directors at a meeting of the Board, or by a sole remaining Director. A Director so chosen shall serve the remainder of the term of office of the Director whom he or she replaces. The Members may elect a Director at any time to fill any vacancy not filled by the Board. Additionally, any vacancy created by the removal of a Director by the Members shall be filled by a vote of the Members. If the Board of Directors accepts

Deleted: in the removed Director's District

the resignation of a Director tendered to take effect at a future time, the Board or, if the Board fails to act, the Members may elect a successor to take office when the resignation becomes effective.

8.12 Compensation. No Director shall receive compensation for any service he or she may render to the Mutual as a Director. However, upon approval by the Board, any Director may be reimbursed for his or her expenses actually incurred in the performance of his or her duties as a Director.

ARTICLE 9

MEETINGS OF DIRECTORS

9.1 Organizational Meetings. Within thirty (30) days after the election of Directors, the Board of Directors shall hold a meeting for the purpose of organization, appointment of officers, and transaction of other business, as appropriate. A President, First Vice President, Second Vice President, Secretary and Treasurer shall be elected. The election of officers shall be by secret written ballot for each office, beginning with the office of President. If there is no election on the first ballot, balloting for the office shall then continue until there has been an election, without announcing the number of votes cast for each person. The same procedure shall be followed to elect the First and Second Vice Presidents, Secretary and Treasurer. The Board shall also appoint an Assistant Secretary and Assistant Treasurer, who may be employees of the Mutual's managing agent.

9.2 Regular Meetings. Regular meetings of the Board of Directors shall be held monthly, at a location within the Rossmoor community, and on a day and at a time as fixed from time to time by resolution of the Board or, upon proper notice which conforms to the provisions of Sections 9.4 and 9.5, below, at another place, day, and time as set forth in such notice. As determined by the Board, the regular Board meetings for the months of November and December may be combined into a single meeting held in either November or December. In the event the business of the Mutual does not reasonably justify monthly meetings, regular meetings of the Board shall be held at such intervals as the Board may determine, but not less frequently than quarterly.

9.3 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Mutual or by any two (2) Directors.

9.4 Notice to Directors. Except as otherwise provided in Section 9.2, above, notice of each meeting of the Board shall be communicated to the Directors not less than four (4) days prior to a regular meeting, and not less than seventy-two (72) hours prior to a special meeting; provided that shorter notice may be given in the case of a bona fide emergency; and provided further that notice of a meeting

need not be given to any Director who signed a waiver of notice or a written consent to holding the meeting, whether before or after the meeting.

9.5 Notice to Members. Notice of Board meetings shall be given to the Members in the manner required by law. The notice shall contain the agenda for the Board meeting.

9.6 Open Meetings; Telephone and Remote Participation.

9.6.1 Open to Members. Regular and special meetings of the Board of Directors shall be open to all Members of the Mutual, except when the Board meets in executive session.

9.6.2 Time Limit for Members. A reasonable time limit for all Members to speak to the Board shall be established by the Board.

9.6.3 Teleconference and Remote Participation. All Board meetings may be conducted by teleconference, i.e., where a quorum of the members of the Board, in different locations, are connected by electronic means, through audio or video, or both. A Board meeting held by teleconference shall be conducted in a manner that protects the rights of Members and otherwise complies with applicable law. Except for a Board meeting that will be held solely in executive session, the notice of the Board meeting to be held by teleconference shall identify at least one (1) physical location so that Members of the Mutual may attend that portion of the meeting that is open to the Members; at least one (1) Director or a person designated by the Board shall be present at that location. Participation by Directors in a Board meeting held by teleconference constitutes presence at that meeting as long as all Board members participating in the meeting are able to hear one another and Mutual Members speaking on matters before the Board. Additionally, the meeting shall be audible to the Members in a location specified in the notice of the meeting.

9.7 Executive Session. To the greatest extent permitted by law, including *Civil Code* section 4935, the Board of Directors may meet in executive session to confer with legal counsel or to discuss and/or vote on the following issues: (i) litigation in which the Mutual is or may be involved; (ii) personnel matters; (iii) Member discipline; (iv) termination of a Membership; (v) the formation of contracts involving the Mutual; (vi) upon a Member's request, the Member's payment of Assessments; and (vii) to discuss a payment plan. In any matter relating to the discipline of a Member, the Board shall meet in executive session if requested to do so by that Member, and that Member and any other person(s) whose participation is, in the judgment of the Board, necessary or appropriate shall be entitled to attend the executive session.

9.8 Restrictions on Board Action Outside of Meeting; Board Meetings Via E-mail. The Board of Directors shall not take action on any item of business

outside of a Board meeting. Notwithstanding *Corporations Code* section 7211, the Board shall not conduct a Board meeting via a series of electronic transmissions, including, but not limited to, electronic mail, except as a method of conducting an emergency meeting and then only if: (i) all members of the Board, individually or collectively, consent in writing to the action taken by the Board, and (ii) the written consent or consents are filed with the minutes of the meeting of the Board. Written consent to take such emergency action may be transmitted electronically.

9.9 Quorum. A majority of the Directors then in office shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board.

9.10 Minutes of Meetings of Directors. Within thirty (30) days after the date of any meeting of the Board, the Board shall make available to the Members either: (i) the minutes of that meeting as adopted by the Board; (ii) if the minutes have not yet been adopted by the Board, the minutes as proposed for adoption which shall be marked to indicate draft status; or (iii) a summary of the minutes. Any matter discussed in an executive session shall be generally noted in the minutes of the immediately following Board meeting that is open to the entire membership. Copies of the minutes, proposed minutes, or summary of minutes of any Board meeting (other than an executive session) shall be provided to any Member of the Mutual upon request and upon reimbursement of the Mutual's costs in providing such copies. Members of the Mutual shall be notified annually in the manner prescribed by law of their right to obtain copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

ARTICLE 10

POWERS OF THE BOARD OF DIRECTORS

In addition to such other powers as may be expressly set forth in the Governing Documents, the Occupancy Agreement, or provided by law, the Board of Directors shall have the power to:

10.1 Policies. Subject to *Civil Code* sections 4340 *et seq.*, adopt, publish, amend, repeal, and enforce Policies governing the administration, management, operation, use, and occupancy of the Development. Such Policies may concern, but need not be limited to, matters pertaining to: (i) the Common Area, including Exclusive Use Common Area; (ii) the personal conduct of the Members, their subtenants, Residents and guests; (iii) pets and other animals; (iv) signs; (v) safety; (vi) collection and disposal of refuse; (vii) maintenance, repair and replacement of Common Area, including Exclusive Use Common Area, and Manors, and responsibility for the foregoing (i.e., "Maintenance Policies"; (viii) facilities; (ix) parking and traffic regulations; (x) occupancy of Manors; (xi) subleasing of Manors (i.e., "Subleasing Policy"); (xii) elections and other

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

Membership votes (i.e., "Election Rules"); (xiii) requirements for Membership, including financial requirements that must be satisfied by applicants for Membership; and (xiv) Share Loans (see Section 6.11, above).

10.2 Contracts. Authorize any officer or officers to enter into any contract in the name of, or on behalf of, the Mutual. Unless expressly authorized by resolution of the Board, no officer shall have any power or authority to bind the Mutual or to render the Mutual liable for any purpose or on any account.

10.3 Collect Assessments. Collect Assessments levied by the Mutual in any manner permitted by the Governing Documents, the Occupancy Agreement, or by law.

10.4 Sanctions; Hearings; Continuing Violations. Establish and impose monetary penalties (fines) for the infraction of any provision of the Governing Documents and/or the Occupancy Agreement, in accordance with a schedule of monetary penalties adopted by the Board and distributed to all Members, and suspend the voting or other membership rights and privileges of a Member, including but not limited to the right to use Common Area facilities. Termination of a Membership by the Mutual for cause under Section 6.9, above, does not constitute a disciplinary measure under this Section 10.4.

When the Board is to meet to consider or impose discipline upon a Member, the Board shall notify the Member, in the manner required by law, at least ten (10) days prior to the meeting. The notification shall contain, at a minimum, the date, time, and place of the meeting, the nature of the alleged violation for which a Member may be disciplined, and a statement that the Member has a right to attend and may address the Board at the meeting. The Board shall meet in executive session if requested by the Member being disciplined. If the Board imposes discipline on a Member, the Board shall provide the Member a written notification of the disciplinary action, in the manner prescribed by law, within fifteen (15) days following the action. A disciplinary action shall not be effective against a Member unless the Board has fulfilled the foregoing requirements.

A Member's rights may be suspended after fifteen (15) days prior notice of the hearing at which the Board intends to suspend the Member's rights. The hearing to suspend a Member's rights must be conducted at least five (5) days before the effective date of suspension.

In the case of a continuing violation, such as an uncorrected architectural violation, where a Member fails to cease or remedy a violation after notice from the Board to do so, the Board may deem such a continuing violation and may impose separate and successive sanctions for each such violation without holding further hearings for each sanction unless requested by the Member in writing.

10.5 Manager. Engage the services of a manager or management company as either an employee or an independent contractor, and engage such other employees or independent contractors as the Board may deem necessary, and to prescribe their duties.

10.6 Professional Advisors. Consult with, seek the advice of, and reasonably rely on the advice of attorneys, accountants, and other professionals in carrying out its authority and responsibility under the Governing Documents, the Occupancy Agreement and the law, and to pay for such professional services.

10.7 Investment of Reserve Funds. Invest Mutual reserve funds in prudent investments subject to the provisions of Section 11.8, below.

10.8 Right of Entry. Enter a Manor, patio, deck or veranda, and other Exclusive Use Common Area, in the following circumstances: (i) for purposes of inspection; (ii) in the event of any emergency involving illness or potential danger to life or property, (iii) when necessary, in connection with maintenance, repair, or replacement for which the Mutual is responsible or authorized to perform, or (iv) where authorized by the Occupancy Agreement. The Mutual shall provide the Member and/or Designated Occupant with twenty-four (24) hours' notice prior to entry, except that in the case of a bona fide emergency, notice shall be given as the exigencies of the situation reasonably permit.

10.9 Property Taxes. Pay all real property taxes and assessments levied upon any property within the Development to the extent not separately assessed to the Members. Provided that any such taxes are paid or that a bond insuring the payment is posted, such taxes and assessments may be contested or compromised by the Mutual prior to the sale or other disposition of any property to satisfy the payment of such taxes.

10.10 Mutual Property; Common Area. Acquire, own, hold, convey, transfer, dedicate or otherwise dispose of real or personal property consistent with the purposes and powers of the Mutual and the management, administration and operation of the Development or the business and affairs of the Mutual, and grant and convey easements, licenses, and rights of way in, over, upon or under the Common Area.

10.11 Indemnification of Agents. Except with respect to intentional, wanton, willful, and/or negligent acts, indemnify and hold harmless, to the maximum extent permitted by California law, each person who is or at any time was a Director, officer, Inspector of Election, employee, or agent of the Mutual or member of any committee appointed by the Board from and against any and all claims, liabilities, expenses, judgments, fines, settlements, actually and reasonably incurred by any such person, and to which any such person shall become subject by reason of his or her being a Director, officer, Inspector,

Deleted: grossly

employee, or agent of the Mutual or member of any committee appointed by the Board.

10.12 Bank Accounts. Open bank accounts and designate signatories upon such bank accounts, subject to any restrictions set forth in these Bylaws.

10.13 Loans. The Board shall not refinance any existing loan nor incur additional indebtedness secured by a mortgage, deed of trust or other security instrument without approval of a majority of the Members voting, provided a quorum, as defined in Section 7.8.4, above, is present. Notwithstanding the foregoing, Member approval shall not be required (i) in an emergency situation, or (ii) where the loan does not exceed the sum of \$250,000.00. For purposes of this Section 10.13, an "emergency situation" shall mean any one of the following: (i) an extraordinary expense required by an order of a court, (ii) an extraordinary expense necessary to repair or maintain the Development or any part of it for which the Mutual is responsible where a threat to personal safety in the Development is discovered, or (ii) an extraordinary expense necessary to repair or maintain the Development or any part of it for which the Mutual is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget under *Civil Code* section 5300(b)(1).

10.14 Consider Membership and Occupancy Applications. Accept or reject applications for Membership in the Mutual and for occupancy of Manors located in the Development, either directly or as delegated to an authorized representative of the Mutual; provided, however, that the Board shall not act contrary to any applicable federal, state or local law or regulation prohibiting discrimination based on sex, race, color, familial status, religion, ancestry, national origin, sexual orientation, disability, or medical condition.

10.15 Terminate Memberships and Occupancy Rights. Terminate Memberships and occupancy rights in accordance with the provisions of these Bylaws and the Occupancy Agreements entered into by the respective Members.

10.16 Subleases. Consider and act upon Members' requests to sublease their Manors, subject to the provisions of these Bylaws and applicable Policies.

10.17 Authorize Third-Party Financing for Members. Enter into agreements with institutional lenders regarding Share Loans (as defined in Section 6.11) made to Members by such lenders which comply with the requirements of Section 6.11, above, and applicable Policies, and on such terms as the Board of Directors may determine appropriate.

10.18 Other Powers and Duties. Exercise for the Mutual all powers, duties, and authority vested in or delegated to the Mutual and not reserved to the Members by law or other provisions of the Governing Documents, and undertake any action on behalf of the Mutual as the Board shall deem necessary or proper in furtherance

of the purposes and powers of the Mutual and/or the interests of the Mutual and its Members.

10.19 Limitations on Powers. The powers of the Board shall be subject to the limitations set forth in the Governing Documents and imposed by law.

10.20 Escrow Holdback Before selling or transferring a Membership, the selling or transferring Member shall provide the Mutual with their forwarding address and deliver to escrow a check payable to the Mutual in an amount specified in the Policy Manual ("Escrow Holdback") as a deposit to secure payment of: any unpaid Assessments, fines, penalties, or other charges imposed in accordance with the Governing Documents and the Occupancy Agreement; any expenses incurred by the Mutual, including legal fees in connection with the sale or transfer of the Membership; and/or to address any damage to the Manor, Common Area, or Exclusive Use Common Area caused by the selling or transferring Member, their contractors, occupants or guests. The remaining balance of the Escrow Holdback shall be refunded to the selling or transferring Member within sixty (60) days from the close of escrow. In the event that the Member has not provided the Mutual with their forwarding address, the Mutual shall have no duty to refund the remaining balance of the Escrow Holdback.

ARTICLE 11

DUTIES OF THE BOARD OF DIRECTORS

11.1 Records and Minutes. The Board shall cause to be kept a complete record of all its acts and the corporate affairs, including an accurate and current record of the Members setting forth their names and addresses, adequate and correct books and records of account, and minutes of the proceedings of the Members, the Board, committees of the Board, and any other committee appointed by the Board having decision-making authority.

11.2 Supervision. The Board shall supervise all officers, agents, and employees, if any, of the Mutual, and see that their duties are properly performed.

11.3 Insurance. The Board shall procure and maintain insurance as required by Article 15, below, such other insurance required by law, and any other insurance as the Board deems necessary and appropriate.

11.4 Maintenance. The Board shall provide for maintenance, repair and replacement of the Development as provided in the Maintenance Policies and except where maintenance, repair or replacement is specifically assigned to the Members under such Maintenance Policies.

11.5 Enforcement of Governing Documents and Occupancy Agreements. The Board shall enforce the provisions of the Governing Documents and

Deleted: 4

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

Occupancy Agreements, and perform all acts required of the Board under the Governing Documents and the Occupancy Agreements, or required by law.

11.6 Reserve Study and Annual Review. The Board shall cause to be conducted, at least once every three (3) years, a reasonably competent and diligent visual inspection of the accessible areas of the major components which the Mutual is obligated to repair, replace, restore or maintain as part of a study of the reserve account requirements of the Development if the current replacement value of such major components is equal to or greater than one-half of the Mutual's reserve account for that period. The Board shall review, or cause to be reviewed, the reserve study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review. The reserve study required by this Section 11.6 shall include the minimum requirements specified in *Civil Code* section 5550.

11.7 Reserve Funds. The Board shall not expend funds designated as reserve funds for any purpose other than the maintenance, restoration, repair, or replacement of, or litigation involving the maintenance, restoration, repair, or replacement of, major components which the Mutual is obligated to maintain, repair, or replace and for which the reserve fund was established. However, the Board may authorize a temporary transfer of money from a reserve fund to the Mutual's general operating fund to meet short term cash flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reasons that the transfer is needed and describing when and how the money will be repaid to the reserve fund. Any such transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, except as otherwise expressly provided by law. The Board shall exercise prudent fiscal management in maintaining the integrity of the reserve account.

11.8 Investment of Reserve Funds. The Board shall manage and invest the Mutual's reserve funds in a prudent manner, but not less than investment grade, designed to achieve the primary objective of preserving principal, while realizing a reasonable return, and to assure the availability of funds as they are needed based upon the most recent reserve fund study obtained by the Board as provided in these Bylaws and by law.

11.9 Annual Financial Statement. The Board shall, at a minimum, cause an annual review of the financial statements of the Mutual to be prepared and distributed in accordance with *Civil Code* section 5305; provided, however, that the Board shall have the right, in its sole discretion, to cause an annual audit of the Mutual's financial statement to be prepared and distributed to the Members in lieu of an annual review.

11.10 Statement Concerning Members' Pro Rata Share of Taxes and Mortgage Interest. The Board shall supply the Members, as soon as practicable after the end of the fiscal year, with a statement showing each Member's pro rata

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

share of the real estate taxes and mortgage interest (if any) paid by the Mutual during the preceding fiscal year.

11.11 Review of Accounts. The Board shall review the Mutual's operating and reserve accounts at least in accordance with the following minimum requirements:

(a) Review a current reconciliation of the Mutual's operating account on at least a quarterly basis.

(b) Review a current reconciliation of the Mutual's reserve account on at least a quarterly basis.

(c) Review, on at least a quarterly basis, the current year's actual reserve revenues and expenses compared to the current year's budget.

(d) Review the latest account statements prepared by the financial institutions where the Mutual keeps its operating and reserve accounts.

(e) Review an income and expense statement for the Mutual's operating and reserve accounts on at least a quarterly basis.

As used in this Section 11.11, the term "reserve account" shall mean monies that the Board has identified in its annual budget for use to defray the future costs of repair or replacement of, or additions to, those major components which the Mutual is obligated to maintain, restore, repair or replace.

11.12 Levy Assessments. The Board shall have the power and the duty to levy Annual, Special and Reimbursement Assessments sufficient to meet the Mutual's obligations under the Governing Documents and applicable law.

11.13 Notice and Collection of Assessments. The Board shall: (i) send notice, in the manner prescribed by law, to each Member in advance of each fiscal year of the Annual Assessment and Special Assessment, if applicable, levied against his or her Membership for that fiscal year; and (ii) collect Assessments levied by the Mutual in any manner permitted herein or by law.

11.14 Annual and Periodic Disclosures. The Board, on behalf of the Mutual, shall prepare and distribute to the Members, other persons and/or entities, annually all notices and disclosures as required by law. Any notice or disclosure that is required by law to be prepared and provided by the Mutual or the Board to the Members or to any other person or entity shall be delivered in any manner permitted by law for delivery of such notice or disclosure.

11.15 Results of Membership Votes. The Board shall disclose results of membership votes in accordance with Election Rules adopted pursuant to *Civil Code* sections 5100 through 5135 for all elections subject to those Rules. For all

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

other elections, for a period of sixty (60) days following the conclusion of an annual, regular, or special meeting of Members, upon written request from a Member, the Board shall promptly inform the Member of the result of any particular vote of the Members taken at the meeting, including the number of Memberships voting for, the number of Memberships voting against, and the number of Memberships abstaining or withheld from voting.

ARTICLE 12

OFFICERS AND THEIR DUTIES

12.1 Enumeration of Officers. The officers of the Mutual shall be a President, a First Vice President, a Second Vice President, a Secretary, and a Treasurer, who shall at all times be members of the Board of Directors, and such other officers as the Board of Directors may, from time to time, appoint by resolution. The Board may appoint one or more Assistant Treasurers and Assistant Secretaries. The Assistant Treasurer(s) and Assistant Secretary (or Assistant Secretaries) need not be members of the Board of Directors.

12.2 Election of Officers. Officers shall be elected by the Board. The election of officers shall take place at the first meeting of the Board of Directors following the annual election of Directors.

12.3 Term. The officers of the Mutual shall be elected annually by the Board, and each shall hold office for one (1) year, unless he or she shall sooner resign, be removed by the Board, or otherwise be disqualified to serve.

12.4 Special Appointments. The Board may appoint such other officers as the affairs of the Mutual may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

12.5 Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

12.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces, subject to the Board's right to remove an officer.

12.7 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person, and the offices of Assistant Secretary and Assistant Treasurer

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 12.4, above.

12.8 President. The President shall be the chief executive officer of the Mutual and shall, subject to control of the Board of Directors, have general supervision, direction, and control of the affairs and the other officers and the employees and agents of the Mutual. The President shall preside at all meetings of the Members and at all meetings of the Board of Directors, shall have the general powers and duties of management usually vested in the office of the President of a California nonprofit mutual benefit corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors and the Bylaws subject, however, to any limitations contained in these Bylaws. The President shall recommend to the Board such committees as the President deems appropriate, which committees shall be appointed by the Board. ~~The President may appoint a chair and vice-chair of each committee,~~

Deleted: The President shall appoint a chair and vice-chair of each committee.

12.9 Vice Presidents. There shall be a First Vice President and a Second Vice President. During any time that the President is absent or unable to perform presidential duties, the First Vice President shall be Acting President, and when so acting, shall have all of the powers and duties of, and be subject to all of the restrictions upon, the President. During any time that the President and the First Vice President are both absent or unable to perform their duties, the Second Vice President shall be Acting President, and when so acting, shall have all of the powers and duties of, and be subject to all of the restrictions upon, the President. A Vice President shall also have such other powers and perform such other duties as, from time to time, may be prescribed by the Board of Directors.

12.10 Secretary. The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board of Directors may prescribe, the minutes of all meetings of Directors, Members, and committees of the Board setting forth the time and place of holding of such meetings; whether regular or special, and if special, how authorized; the notice thereof given; the names of those present at Directors' or committee meetings; the number of memberships and votes present or represented at Members' meetings; and all the proceedings thereof. The Secretary shall also (i) give, or cause to be given, notice of all meetings of the Members, the Board of Directors, and committees of the Board required by the Bylaws or by law to be given and shall maintain or cause to be maintained a proper record of the giving of such notice, and (ii) keep or cause the books, records, and documents of the Mutual to be kept in safe custody. The Secretary shall also (i) have charge or custody of the seal of the Mutual, if any, and (ii) be responsible for the Membership transfer books and of such other books and papers as the Board may direct. The Secretary shall also have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

12.11 Treasurer. The Treasurer shall oversee the Mutual's corporate funds and securities and cause full and accurate accounts of all of the Mutual's receipts and disbursements to be kept. The Treasurer shall oversee the deposit of all monies and other valuable effects in the name and to the credit of the Mutual, in such depositories as may from time to time be designated by the Board and in accordance with these Bylaws. The Treasurer shall also (i) be responsible for the performance of all duties incident to the office of Treasurer, (ii) work closely with the Mutual's managing agent in the maintenance of the financial records of the Mutual, and (iii) make monthly reports to the Board on the financial status of the Mutual. The Treasurer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors.

ARTICLE 13

COMMITTEES

The Board may appoint any committee as it deems appropriate in carrying out the powers and purposes of the Mutual. In addition, the chairperson and vice chairperson of each committee may be appointed by the President. All committee members shall serve at the pleasure of the Board. Any "committee of the Board" (that is a committee consisting only of Directors, as referred to in Corporations Code section 7212) shall consist of at least two (2) Directors but less than a quorum of the Board, and shall have such powers and duties as the Board shall determine, subject to the limitations of Corporations Code section 7212.

Deleted: The Board shall appoint annually a Budget and Finance Committee and a Landscape Committee. The Board may also appoint a Nominating Committee (as provided in Section 8.4, above). The Board may also appoint such other committees as it deems appropriate in carrying out the powers and purposes of the Mutual. Each Director shall appoint one Member in Good Standing from his or her District to each committee. In addition, the chairperson and vice chairperson of each committee may come from any District and shall be appointed by the President. All committee members shall serve at the pleasure of the Board. Any "committee of the Board" (that is, a committee consisting only of Directors, as referred to in *Corporations Code* section 7212) shall consist of at least two (2) Directors, and shall have such powers and duties as the Board shall determine, subject to the limitations of *Corporations Code* section 7212.

ARTICLE 14

ASSESSMENTS

14.1 Creation of Lien and Personal Obligation for Assessments. The Members, by acceptance of the Membership Certificate and Occupancy Agreement, are deemed to covenant and agree to pay to the Mutual (i) Annual Assessments, (ii) Special Assessments, and (iii) Reimbursement Assessments to be established and collected as hereinafter provided. The Annual Assessments, Special Assessments and Reimbursement Assessments, together with any late charges, interest, costs, and attorneys' fees, shall be a charge upon the Occupancy Agreement and shall be a continuing lien upon the Certificate and Occupancy Agreement. Each such Assessment, together with any late charges, interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who is the record owner of the Membership at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to any successors in title unless expressly assumed by such successors. No holder of a Membership may exempt himself or herself from liability for Assessments by waiver of the use or enjoyment of any of the Common Area or by abandonment of his or her Manor.

14.2 Purpose of Assessments. The Assessments levied by the Board shall be used exclusively to pay for the costs of management and operation of the Development, conduct the business and affairs of the Mutual, promote the recreation, health, safety, welfare, benefit, and interests of the Members and Residents of the Development, and for the improvement and maintenance of the Development to the extent provided for in the Governing Documents or by law.

14.3 Annual Assessments.

14.3.1 In General. Each Member shall pay Annual Assessments based upon the annual pro forma operating budget approved by the Board.

14.3.2 Cash Requirements. Each annual pro forma budget shall reflect the Mutual's "Cash Requirements," which shall mean the amount that the Board determines to be needed for operation of the Development and the Mutual for the fiscal year, including but not limited to the following items:

(a) the cost of all operating expenses of the Development and services furnished, including charges by the Foundation for facilities and services furnished by the Foundation;

(b) the cost of all operating expenses of the Development and of the management and administration services furnished for the benefit of the Development and the Mutual;

(c) the amount of all taxes and assessments, exclusive of real property taxes and assessments associated with the Manors, levied against the Development and against the Mutual or which the Mutual is required to pay;

(d) the cost of fire and extended insurance on the Development and such other insurance as the Mutual may effect or as may be required by these Bylaws;

(e) the cost of furnishing water, gas, electricity, garbage and trash collection, cable television and broadband service, if any, and other utilities to the extent furnished by the Mutual under the Occupancy Agreement;

(f) all reserves and contingency funds set up by the Board, including the general operating reserve and the reserve for replacements;

(g) the estimated cost of maintenance, repairs, alterations and replacements of the Development made, or to be made, by the Mutual;

(h) legal and accounting fees;

(i) any liens or charges on the Development;

(j) expenses and liabilities incurred by the Mutual by reason of the Occupancy Agreements executed by the Mutual and respective Members; and

(k) any other expenses of the Mutual approved by the Board, including but not limited to operating deficiencies, if any, for prior periods, but excluding Reimbursement Assessments (as defined in Section 14.5, below, which are individual obligations and not a part of Cash Requirements).

14.3.3 Allocation of Annual Assessments. Annual Assessments shall be allocated equally among all Members; provided, however, that each Member shall also pay his or her proportionate share of mortgage (or deed of trust) principal and interest expenses, if any, and real property taxes and assessments.

14.4 Special Assessments. In addition to the Annual Assessment authorized above, the Mutual may levy, in any fiscal year, if at any time during any fiscal year the Annual Assessment proves inadequate for any reason, including nonpayment of any Member's share thereof or the unexpected repair, replacement, or reconstruction of improvements located in the Development, or if funds are otherwise required for any authorized activity of the Mutual, the Board may levy a Special Assessment in the amount of such actual or estimated inadequacy or cost. Special Assessments shall be allocated among the Members in the same manner as Annual Assessments.

14.5 Reimbursement Assessments. The Mutual may levy a Reimbursement Assessment against any Member and his or her Membership if a failure by such Member, or any person or pet for whom the Member is responsible, to comply with any provision of the Governing Documents and/or Occupancy Agreement has necessitated or resulted in an expenditure of funds by the Mutual, specifically including legal expenses. A Reimbursement Assessment shall include any costs, including attorneys' fees incurred by the Mutual and costs of collecting from a Member any amount which the Member is obligated to pay to the Mutual. Imposition of a Reimbursement Assessment shall be effective only after notice and a duly-noticed hearing before the Board. A Reimbursement Assessment shall be due and payable to the Mutual when levied and subject to the same enforcement procedures as Annual and Special Assessments, including termination of the Membership.

14.6 Delinquent Assessments. Any installment or other portion of an Assessment not paid within fifteen (15) days after its due date shall be delinquent and shall be subject to interest and late charges established by the Board and not to exceed the maximum rate permitted by law, as well as all other all costs, fees, charges, and expenditures including, without limitation, attorneys' fees, recording and filing fees, and all other costs actually incurred by the Association in collecting and/or enforcing payment of Assessments.

ARTICLE 15

INSURANCE

15.1 Liability and Fidelity Insurance. The Mutual shall obtain and maintain the following liability policies:

15.1.1 Commercial General Liability Policy: A Commercial General Liability policy insuring the Mutual, any manager, the Mutual's directors and officers, and the Members against liability arising from any bodily injury or property damage as a result of an accident or occurrence within the Common Area. Subject to the terms and conditions of the policy, the policy also shall cover bodily injury or property damage from an accident or occurrence within any Manor related to any maintenance or repair work required to be performed by the Mutual pursuant to the Bylaws and/or Policies, including, but not limited to, work performed in the Common Area. The policy shall include, if obtainable, cross liability or severability of interest coverage. The limits of such insurance (including the commercial general liability and any excess liability coverage) shall not be less than the general liability insurance requirements set forth in *Civil Code* section 5805 covering all claims for bodily injury and property damage arising out of a single occurrence. The coverage may be a combination of primary and excess policies. The insurance shall be provided with coverage terms provided by Insurance Services Offices (ISO) form CG 0001, or equivalent or better coverage. Such insurance shall include coverage against liability for owned, non-owned and hired automobiles and other liability or risk customarily covered with respect to projects similar in construction, location and use. The policy shall be primary and noncontributing with any other liability policy covering the same liability.

15.1.2 Directors and Officers Liability Policy: A Directors and Officers Liability policy containing such terms and conditions as are normally and customarily carried for directors and officers of a common interest development and in sufficient amounts to satisfy the insurance requirements of *Civil Code* section 1365.7 [5800].

15.1.3 Crime Insurance: A blanket Commercial Crime Insurance Policy covering the Mutual, any organization or person who either handles or administers or is responsible for Mutual funds, whether or not any person receives compensation for services. The policy amounts shall satisfy the Federal National Mortgage Association ("FNMA") and Federal Housing Administration ("FHA") requirements and in no event shall be less than the sum of three months of Annual and Special assessments on all Memberships subject to Assessments.

15.2 Mutual Property Insurance. The Mutual shall obtain and maintain a master property insurance policy that satisfies each of the following conditions:

15.2.1 Property Covered. The Mutual's policy shall cover the following real and personal property:

(i) Common Area. All Common Area improvements, including buildings and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the building; windows; fences; monuments; lighting fixtures situated outside the Manors; exterior signs; and personal property owned or maintained by the Mutual; but excluding land; excavations; and other items typically excluded from property insurance coverage.

(ii) Manors. Permanently affixed improvements situated within the Manor, including interior walls and doors; ceiling, floor and wall surface materials (e.g., paint, wallpaper, carpets and hardwood floors); utility fixtures (including gas, electrical and plumbing); cabinets; built-in appliances; heating and air-conditioning systems; water heaters and any replacements thereto; but excluding any personal property located in the Manor. If the Member renovates, upgrades or replaces any permanently affixed improvement within the Manor or adds new improvements to the Manor (collectively, the "Alterations") and the replacement cost of the Alterations exceeds the cost of the improvements prior to the Alterations, the Member and all future Members shall be responsible for procuring and maintaining insurance to cover the excess unless the Alterations were approved of in writing by the Mutual and, to the extent required, approval by governmental authorities. This Section 15.2.1(ii) only concerns insurance; it does not have any implication for what the Mutual is required to maintain, repair or replace.

(iii) Landscaping. Lawn, trees, shrubs and plants located in the Common Area.

15.2.2 Covered Cause of Loss. The Mutual's policy shall provide coverage against losses caused by fire and risks of direct physical loss, as insured under the ISO "Causes of Loss - Special Form (CP 1030)" or its equivalent or better coverage. Such policy shall include coverage for loss resulting from the enforcement of any ordinance or law regulating the construction, use or repair of any property, or requiring the tearing down of any property, if caused by a peril insured by such policy. Equipment Breakdown Insurance shall also be maintained covering boilers and related equipment, heating, air-conditioning, electrical and mechanical equipment that is used in the generation, transmission or utilization of energy.

15.2.3 Coverage Levels. The amount of such insurance must be the best and highest amount available, taking into consideration availability and reasonable cost. If coverage of one hundred percent (100%) of the aggregate full insurance value of the insured property is not available through one or more carriers, the Mutual must obtain coverage for the highest percentage of the property available to the extent such percentage is also economically feasible.

Deleted: Member has obtained written approval from

Deleted: to make the Alterations

Deleted: from

Deleted: <#>Dollar Limit. The dollar limit of the Mutual's policy shall not be less than the full insurable replacement value of the covered property described in Section 15.2.1, above, based on insurance industry standards for determination of replacement values, provided that there may be lower dollar limits for specified items as is customarily provided in property insurance policies.¶

When determining economic feasibility for a given amount of coverage, the Board may consider:

- (a) The risk analysis/risk assessment obtained from a qualified risk manager or insurance broker who is using industry standards to evaluate cost and availability of insurance products for similarly situated communities;
- (b) The market availability of coverage;
- (c) The possibility of various maximum loss scenarios laid out by the qualified risk manager or insurance broker or third party consultant used by the Foundation;
- (d) The overall cost effectiveness of available coverage;
- (e) The difference in cost between different percentages of coverage;
- (f) The relative risks of experiencing different percentages of loss, such as the risk of 50% loss vs. a 100% loss;
- (g) Actual or anticipated increases in other required Mutual expenses; and
- (h) Such other financial and economic factors that a reasonable Board would consider under the circumstances.

Formatted: Indent: Left: 0", Hanging: 0.5", Space After: 0 pt

15.2.4 Primary. The Mutual's policy shall be primary and noncontributing with any other insurance policy covering the same loss provided, however, that where an Member's individual insurance policy (discussed in Section 15.5, below) provides overlapping coverage, the Member's individual insurance policy shall be the primary coverage and the Mutual's policy shall be excess/supplemental/secondary coverage as the case may be.

Formatted: No underline

Formatted: Indent: Left: 0", Hanging: 0.5", Space After: 0 pt, No bullets or numbering

Deleted: 6

15.2.5 Endorsements. The Mutual's policy may contain such endorsements as the Board may select after consultation with a qualified insurance consultant.

15.2.6 Waiver of Subrogation. The Mutual waives all subrogation rights against any Member or occupant and their family members and invitees. The policy shall include an acknowledgment of the Mutual's right to waive all subrogation rights against the Member.

15.2.7 Deductible. Except as otherwise provided by separate agreement, when a claim is made on the Mutual's property insurance policy, the Member is responsible for payment of the deductible on the Mutual's policy in circumstances: (i) where damage to Common Area and/or Manor improvements is caused by the fault of the Member, contract purchasers, subtenants, Residents of the Manor, and agents, invitees, family members, guests and pets of any of the foregoing; (ii) where damage to common area and/or Manor improvements is caused by the failure of some portion of the Manor or Common Area which the Member is responsible for maintaining; or (iii) where there is damage or loss to Alterations added by a current or former Member, except in cases where such damage or loss was caused by the negligence or willful misconduct of the Mutual. In cases where fault cannot be determined, the Mutual shall pay the deductible.

Deleted: <#>¶

Deleted: <#> or

Deleted: <#>¶

The Mutual may enter into a deductible sharing agreement with other Rossmoor mutuals. In this event, to the extent there is any conflict between the payment of deductibles as set forth in this Section 15.2.7 and the agreement, the agreement shall control. The Mutual's proportionate share of any cost of insured losses under the deductible amount shall be allocated in the same manner as set forth in this Section 15.2.7 for payment of the deductible.

Deleted: <#>¶

15.3 Insurance Rating and Cancellation. The insurance company providing the Mutual's insurance under Sections 15.1 and 15.2 ,above, shall have an A.M. Best rating of not less than A:VII if licensed to do business in the State of California and a rating of not less than A:X if approved but not licensed to do business in the State of California, provided that if the Board determines that insurance from insurance companies with the required ratings is not available at commercially reasonable rates, the Board may reduce the rating requirements after consultation with a qualified insurance consultant. If the A.M. Best ratings are no longer available, the insurance ratings shall be based on equivalent ratings issued by an independent insurance rating company used by financial institutions for insurance rating purposes.

Deleted: <#>FNMA, FHLMC and FHA Requirements. To the extent applicable to the Mutual and notwithstanding anything herein to the contrary, the Mutual shall maintain such policies, containing such terms, amount of coverage, endorsements, deductible amounts, named insureds, loss payees, standard mortgage clauses, notice of changes or cancellation, and an appropriate insurance company rating that shall satisfy the minimum requirements imposed by the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal Housing Administration ("FHA") or any successor thereto. If the FNMA, FHLMC or FHA requirements conflict, the more stringent requirements shall be met.¶

15.4 Board's Insurance Authority. The Board has the authority on behalf of the Mutual and each of its Members to participate with the Foundation (or any successor or assign thereto) and other Rossmoor mutuals in a group policy or policies procured and maintained by the Foundation as long as the group policy or policies provide equivalent or better coverage than the applicable requirements described in Sections 15.1 and 15.2, above, subject to the Board's right to deviate from the requirement as described herein.

The Board shall have the power and right to deviate from the insurance requirements contained in this Article 15 in any manner that the Board, in its discretion, considers to be in the best interests of the Mutual, provided that the Board shall maintain the minimum insurance requirements set forth in *Civil Code* sections 5800 and 5805. If the Board elects to materially reduce the coverage from the coverage required in this Article 15, the Board shall, as soon as reasonably practicable, notify the Members of the reduction in coverage in the manner prescribed by law.

Deleted: and as required in Section 15.3, above

The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Mutual, including, but not limited to, the right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

Each Member irrevocably appoints the Mutual, as that Member's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with any

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

insurance policy maintained by the Mutual and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Member had personally taken the action.

15.5 Members' Individual Insurance Requirements. Each Owner, at that Owner's sole cost and expense, shall obtain and maintain a "special causes of loss" policy in an amount equal to or greater than the total replacement value of the Unit interior to the extent not covered by the Mutual's blanket property policy (described above), including, if applicable, upgrades to the Unit as originally constructed and the personal property contained therein (commonly known as a "HO-6" policy). The policy shall provide liability coverage in such amounts and for such acts or omissions as are normally and customarily included in homeowners property insurance coverage of the types required herein. Each Owner shall also consider maintaining a policy which includes the following coverage: dwelling, contents, loss assessment, and loss of use. However, no Owner shall be entitled to maintain insurance coverage in a manner so as to decrease the amount which the Mutual, on behalf of all Owners and their Mortgagees, may realize under any insurance policy which the Mutual may have in effect at any time. The Board may require any Owner, and may periodically require all Owners, to provide a certificate from the Owner's insurer certifying that the required insurance under this Section 15.6 has been procured and is in full force and effect; provided, however, that neither the Mutual nor the Board shall be responsible for procuring insurance on an Owner's behalf or verifying that Owners are maintaining the required insurance.

Deleted: Each Member shall procure and maintain property insurance against losses to personal property located within the Member's Manor and personal liability coverage

The Owner's insurance policy shall be primary if the damage or loss emanated from the Owner's Manor, without regard to negligence, or is caused by an Owner's acts or omissions (or the acts or omissions of Owner's family members, contract purchasers, tenants, guests or invitees). The damage or loss claim must be tendered to that Owner's (and/or tenant's) insurance policy or policies and that Owner's (and/or tenant's) insurer(s) must provide a written denial of coverage before the damage or loss claim can be tendered to the Mutual's insurance policy.

The Mutual's insurance policies will not provide coverage for: (i) losses to the Member's personal property; (ii) losses to any Alterations to the extent not covered under Section 15.2.1(ii), above; (iii) liability from accidents or occurrences within the Member's Manor or portions of the Common Area set aside for the exclusive use or possession of the residents of the Manor (that is, Exclusive Use Common Area); or (iv) liability from accidents or occurrences within Rossmoor for which the Member may be held responsible and which may not be covered under the Mutual's Commercial General Liability policy. Each Member should seek the advice of a qualified insurance consultant regarding the Member's property and liability insurance obligations under this Section 15.6 and other applicable coverage available to Members.

Formatted: No bullets or numbering

Nothing herein imposes any duty on the Mutual, its directors, officers or agents (including the Mutual's managing agent) to confirm or otherwise verify that the Members are carrying the insurance required in this Section 15.6.

No Member shall separately insure any property covered by the Mutual's property insurance policy described in Section 15.2, above unless the Member's individual insurance policy permits the application of any overlapping coverage under Member's policy as primary without a reduction in benefits from the coverage under the Mutual's policy. If any Member violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Mutual, the Member will be liable to the Mutual to the extent of the diminution. The Mutual may, subject to Mutual's compliance with the notice and hearing requirements set forth in the Bylaws, levy a Reimbursement Assessment, as provided in Section 14.5, above, against the Member and said Member's Membership to collect the amount of the diminution.

15.6 Conflict with Occupancy Agreements. In the case of conflict between this Article and the provisions contained in any Occupancy Agreement executed by the Mutual and any Member, the provisions of this Article shall control.

ARTICLE 16

BOOKS, RECORDS AND FUNDS

16.1 Mutual Records. In accordance with *Civil Code* sections 5200 *et seq.*, the Mutual shall make Mutual records available for inspection and copying to a Member or Member's designated representative upon written request. If the Member requests the Members list, he or she shall state, in writing, the purpose for which the list is requested, which purpose shall be reasonably related to such Member's interest as a Member of the Mutual. Mutual records, and any information from them, may not be sold, used for commercial purpose, or used for any other purpose not reasonably related to a Member's interest as a Member. The Mutual may bill the Member who has requested documents the direct and actual costs incurred by the Mutual to copy and mail any requested documents. The Board may adopt and publish reasonable Policies establishing procedures relating Members' inspection and copying of Mutual records.

16.2 Directors' Inspection Rights. Every Director shall have the right, at any reasonable time, to inspect and copy all of the Mutual's books, records, documents and minutes, and inspect the Mutual's physical properties.

16.3 Checks, Drafts, and Evidences of Indebtedness. All checks, drafts, or other orders for payment of money, or notes or other evidences of indebtedness issued in the name of, or payable to, the Mutual shall be signed or endorsed by

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

such person or persons and in such manner as shall be determined from time to time by resolution of the Board, and in the manner as specified by the Board of Directors; provided that the signatures of at least two (2) persons, who shall be members of the Board of Directors, shall be required for the withdrawal of funds from the Mutual's reserve account.

16.4 Funds and Deposits. Any funds of the Mutual shall be deposited to the credit of the Mutual in such banks or other depositories as the Board of Directors shall, from time to time, determine.

16.5 Fiscal Year. The fiscal year of the Mutual shall begin on the first day of January and end on the last day of December in each year, unless changed by resolution of the Board of Directors.

ARTICLE 17

SUBLEASING OF MANORS

Subleasing of Manors without the prior written permission of the Mutual is expressly prohibited. The subleasing of a Manor shall not work to relieve the Member of his or her obligations under the Occupancy Agreement executed by the Member and the Mutual, these Bylaws or the Policies. The Board may, from time to time, adopt and amend "Subleasing Policies" governing the subleasing of Manors.

ARTICLE 18

CHANGE OF STRUCTURE OF THE MUTUAL

A change in the current status of the Mutual as a "stock cooperative" (as that term is defined in *Civil Code* section 4190 to that of a "condominium project" (as that term is defined in *Civil Code* section 4125) shall require compliance with all applicable laws and regulations, including, without limitation, satisfaction of any Membership approval requirements.

ARTICLE 19

AMENDMENTS

19.1 Amendment by the Members. These Bylaws may be amended by the affirmative vote of a majority of the Members voting provided the quorum requirement set forth in Section 7.8.4, above, has been satisfied.

Hughes Gill Cochrane, P.C. • 1600 South Main Street, Suite 215, Walnut Creek, California 94596 • 925-926-1200

SECOND AMENDED AND RESTATED BYLAWS
FIRST WALNUT CREEK MUTUAL

19.2 Amendment by the Board of Directors. The Board of Directors may, by a majority vote of all Directors, adopt amendments to these Bylaws when an amendment is needed to conform a particular provision or provisions of the Bylaws to changes in applicable California statutory law that are nondiscretionary in nature. Before entertaining a motion to approve any such amendment(s), the Board shall receive a written opinion from an attorney licensed to practice law in the State of California confirming that the proposed amendment(s) is/are permitted by the *Corporations Code* and any other applicable laws.

ARTICLE 20

MISCELLANEOUS

20.1 Conflict Between Documents. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; in the case of any conflict between the Occupancy Agreement and these Bylaws, the Bylaws shall control; and in the case of any conflict between the Policies and these Bylaws, these Bylaws shall control.

20.2 Amendment to Referenced Statutes. References in these Bylaws to particular statutes, including sections of the *Civil Code*, *Corporations Code* or *Probate Code*, shall be deemed to include any successor statute and any amendments to existing or successor statutes.

**CERTIFICATE OF AMENDMENT
TO
RESTATEMENT OF AMENDED BYLAWS
OF
FIRST WALNUT CREEK MUTUAL**

I, the undersigned, hereby certify that:

I am the President of First Walnut Creek Mutual (the "Mutual").

The foregoing Second Amended and Restated Bylaws of First Walnut Creek Mutual were duly approved by the requisite vote of the Members of the Mutual on the 11th day of August, 2014.

Executed this 11th day of August, 2014.

Sue DiMaggio Adams, President