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BYLAWS OF
FIFTH WALNUT CREEK MUTUAL
AUGUST 2007

ARTICLE I
NAME AND LOCATION OF CORPORATION

The name of this Corporation is FIFTH WALNUT CREEK MUTUAL. Its principal office will be located at a place within a reasonable distance from the Development that the Board may from time to time designate by resolution.

ARTICLE II
PURPOSE

The purpose of this Corporation is to manage, operate and maintain a common interest development (Condominium Project) commonly referred to as Fifth Walnut Creek Mutual, located at Rossmoor, Walnut Creek, California; to enforce the terms and conditions of the declaration and the rules adopted from time to time by the Board of Directors, and otherwise to enhance and promote the use and enjoyment of the common areas and common facilities by the Owners in common.

ARTICLE III
DEFINITIONS

Unless the context otherwise requires:

1. "Agent" means any Director, officer, member of a volunteer committee appointed by the Board, or other persons, including corporations, engaged to manage or assist in the management of the Mutual .
2. "Board" means the Board of Directors of this Corporation.
3. "Building" means any structure in the Common Area of the Condominium Project which contains one or more Units, or is a carport, detached garage, or garbage enclosure.
4. "Bylaws" means these bylaws.
5. "Common Area" means all of that portion of the Condominium Project not within a Unit shown on the Plan of the Project, together with all improvements thereto.
6. "Condominium" means an estate in real property as defined in Sections 783 and 1351(f) of the Civil Code, and which consists of an undivided interest in common in a portion of the Condominium Project coupled with a separate interest called a Unit, together with any easements or other interests in the Project as described in the Owner's deed.

7. "Condominium Project" and "Project" as used in these bylaws mean a combination of Condominium Units, owned by the members thereof, together with the accompanying common area with respect to which a Plan has been recorded.
8. "Corporation" means FIFTH WALNUT CREEK MUTUAL or a corporate owner of a Unit, depending on the context.
9. "Coupon" means the amount of the Monthly Assessment, defined below.
10. "Directors" means the Directors of FIFTH WALNUT CREEK MUTUAL.
11. "Foundation" means the Golden Rain Foundation of Walnut Creek
12. "Exclusive Use Common Area" means any portion of the Common Area designated as such or as "Limited Common Area" on the Plan and as defined in the Declaration of Covenants, Conditions and Restrictions.
13. "Manager" means any person, firm, or corporation employed by the Mutual, pursuant to Article VI, A, Section 2 (b).
14. "Member" means the Owner or Owners of a Unit. Each Unit has a single membership in the corporation (Refer to the definition of Owner following.)
15. "Member in Good Standing" and "Member eligible to vote" mean a member of the Mutual who is not more than sixty (60) days delinquent in the payment of all dues, assessments, fines, penalties and other charges imposed in accordance with the governing documents, and who is in compliance with all of the provisions of the governing documents.
16. "Membership" means the status of a member in the corporation, and also means the total number of members in the corporation.
17. "Monthly Assessment" or "Monthly Carrying Charge" shall mean the Owner's prorated share of all of the costs and fees levied by the Mutual, including but not limited to taxes, maintenance, repairs, management, insurance, reserves, capital improvements, assessments, and all other charges which the Mutual may levy upon the members in accordance with these bylaws and the Covenants, Conditions, and Restrictions (CC&Rs) recorded with respect to each Condominium Project, together with the Mutual's pro rata share of the Foundation's expenses for the community facilities and as agent for the Mutual.
18. "Mortgage" means a mortgage or deed of trust of a Condominium. "Mortgagor" includes mortgagors, trustors under deeds of trust, and Owners of Condominiums subject to mortgages. "Mortgagee" includes mortgagees, trustees and beneficiaries of deeds of trust, and the holders of indebtedness secured by mortgages.
19. "Mutual" means FIFTH WALNUT CREEK MUTUAL, a California nonprofit mutual benefit corporation.
20. "Owner" means any person or persons, trust or estate, partnership or corporation which owns a Condominium. A "Record Owner" means the person or persons, trust or estate, partnership or corporation in whom title to a Condominium is vested, as shown by the official records of the office of the County Recorder of Contra Costa County, California. The Board and the Owners may treat the Record Owner as Owner of a Condominium for all purposes. "Owner" and "Record Owner" do not include mortgagees.
21. "Person" means and includes any individual, corporation, partnership, association, or other entity recognized by the laws of the State of California.

22. "Plan" means a plan of the type described in Section 1351 (e) of the Civil Code which applies to a Condominium Project recorded in Contra Costa County. A Plan is made up of a diagram of the Project and a Declaration of Covenants, Conditions and Restrictions that makes the real property described therein subject to its provisions.
23. "To reside" means to live in a Unit for sixty (60) days or more in any 12-month period; "residence" and "resident" shall be interpreted accordingly.
24. "Qualifying resident" means a person 55 years of age or older residing in a Unit.
25. "Qualified permanent resident" means a person 45 years of age or older residing with the qualifying resident, or other person as described in Civil Code Section 51.3(b)(3).
26. "Restrictions" means the Declarations of Covenants, Conditions and Restrictions (CC&Rs) of the Condominium Project as recorded in the official records of the Contra Costa County Recorder.
27. "Rules" of the Board means Policies and Procedures adopted by the Board of Directors of the Mutual, pursuant to Article VI, A, Section 2 (d) of these bylaws.
28. "Unit" means a separate interest as defined in Section 1351 (f) and (l) of the California Civil Code; i.e., that portion of any Condominium which is not owned in common with other Owners, and which is designated as a Unit in the Plan. The boundaries of a Unit are the interior unfinished surfaces of the doors and windows and the interior unfinished surfaces of the perimeter walls, interior walls, subfloors and ceilings; and the Unit includes both the portions of the buildings so described and the air space encompassed by them, provided that all door and window hardware (including locks), all window and door alterations, and all fixtures and utility installations located within a Unit or within an Exclusive Use Common Area including, without limitation, hot water heaters, space heaters, and kitchen, bathroom and lighting fixtures, and all air conditioning and solar energy equipment serving a Unit, but outside of such Unit shall be a part of each Unit; provided, further, that soffits and furred-down ceilings shall not be a part of such Unit.

ARTICLE IV MEMBERSHIP

Section 1. Eligibility

The members shall consist of the Owners as defined in Article III.

Section 2. Occupancy

Occupancy restrictions of Units shall be as provided in accordance with Civil Code Section §51.3 notwithstanding the provision for eligibility for membership in Section 1 above.

Any and every lease, other written document, or oral agreement permitting occupancy of a Unit by a person other than the member or a Mutual-approved qualifying resident or qualified permanent resident is hereby limited to a term of one (1) year or less for each period of ownership of the unit, except as provided otherwise in the Policies and Procedures, and unless the Board in its discretion determines that a prolonged occupancy period is in the best interests of the members. Such lease, other written document, or oral agreement must be in a form acceptable to, and must be approved, in writing by, the Board before such lease, other written document, or oral agreement can be legally enforced and made effective to convey to such occupant the rights to use of the common areas and common facilities normally available to and enjoyed by a member, including, but not limited to, such areas as a carport assigned parking space, guest parking areas, and all other facilities which are of common ownership by the members. Further, every renewal of a lease, other written document, or oral agreement now in existence or hereafter initially entered into, permitting occupancy of a Condominium Unit by a person other than the member or a Mutual-approved qualifying or qualified permanent resident is subject to the same conditions and restrictions as set forth in the preceding sentence.

A violation of the foregoing conditions and requirements pertaining to occupancy by a person other than the member or a Mutual-approved qualifying or qualified permanent resident will constitute a violation of relevant provisions of the Declaration of Covenants, Conditions and Restrictions, and the member may be assessed a fine in accordance with the provisions of Article VI, A, Section 2 (d) of these bylaws. Each day of occupancy in violation of these bylaws shall be considered as a separate and distinct offense.

The foregoing paragraphs of Section 2 notwithstanding, the Policies and Procedures may prescribe the terms under which guests may occupy a Condominium Unit.

Section 3. Application for Membership

Application for membership shall be presented on a form prescribed by the Board of Directors, and all such applications shall be acted upon promptly by the Board of Directors.

Section 4. Authorized Membership

The authorized number of memberships shall include the aggregate number of memberships in the Condominium Project.

**ARTICLE V
MEETINGS OF MEMBERS**

Section 1. Place of Meetings

Meetings of the membership shall be held at such suitable places, convenient to the membership, as may be designated by the Board of Directors.

Section 2. Annual Meetings

The annual meetings of the Mutual shall be held in the month of June on a date and at a time and place fixed by the Board. Directors elected in accordance with Article VI of these bylaws shall be installed at the annual meeting.

Section 3. Special Meetings

A special meeting of members, for any purpose or purposes except elections required to be conducted by mail ballot, may be called at any time by the President, or by the Board of Directors. Special meetings also may be called upon written request to an elected officer of the corporation, signed by members representing at least five percent (5%) of the memberships, which request shall specify the purpose(s) of the meeting.

Section 4. Notice of Meeting

It shall be the duty of the Secretary to notify all members of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held. Such notice shall be in writing and shall be accomplished by one of the following methods:

- (a) By sending by first-class mail such notice to each member then of record, at the member's address as it appears on the membership book of the Mutual.
- (b) By delivery of such notice to each member at the member's Unit or last known address.

Generally, notice of meetings that are not regularly scheduled may be given at any time 10-90 days before the date of the meeting. However, if the meeting is called by member petition, the Secretary shall forthwith cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the Board, which time must not be less than thirty-five (35) nor more than ninety (90) days after receipt of the request. If the notice is not given within twenty (20) days after receipt of the request, the persons requesting the meeting may give the notice.

A special meeting of members may be called for the purpose of witnessing the counting and tabulation of mailed secret ballots. The date, place, and time of the meeting shall be announced in the notice of election mailed to each member entitled to vote.

Each notice of an annual meeting shall state those matters that the Board at the time the notice is given intends to present for action. If less than one-third (1/3) of the voting power is present in person, or by proxy at an annual meeting, the agenda shall be limited to the item or items specified in the notice of meeting.

Each notice of a special meeting shall state the general nature of business to be transacted or issues to be considered, and no other business shall be transacted.

When notice of a meeting has been given as prescribed in this Section, an entry shall be made in the Mutual records by the Secretary, certifying that notice has been duly given. Such entry shall be conclusive and incontrovertible evidence that notice of such meeting was given as required by law and the bylaws.

Section 5. Special Meeting Notice Requirements

At a special meeting of members, approval by the members of a contract or transaction between the Corporation and one or more directors, or between the Corporation and any entity in which a director has a material financial interest shall not be valid unless the general nature of the proposal was stated in the meeting notice.

Section 6. Quorum

The presence, either in person or by proxy of at least ten percent (10%) of the members of record of the Corporation shall be requisite for and shall constitute a quorum for the transaction of business of all meetings of members, except that the quorum shall be three (3) members eligible to vote if the sole purpose of the meeting is to count and tabulate secret mail ballots. Members present at a duly held meeting, at which a quorum is present, may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, but any action taken (other than adjournment) must be approved by at least a majority of the members required to constitute a quorum.

Section 7. Adjourned Meetings

When a meeting of the members at which a quorum has been attained is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which adjournment is taken. If after adjournment a new record date is fixed for notice of voting, a notice of the adjourned meeting shall be given to each member who, on the record date for notice of meeting, is entitled to vote at the meeting. At the adjourned meeting the Corporation may transact only business that might have been transacted at the original meeting

If any meeting of members (other than a meeting to count and tabulate secret mail ballots) cannot be organized because a quorum has not been attained, the members who are present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than forty-eight (48) hours or more than forty-five (45) days after the time of the original meeting, at which subsequent meeting the quorum requirement shall be five percent (5%), either in person or by proxy.

Section 8. Voting

Each membership shall have the right to cast one (1) vote on each question and never more than one (1) vote. Votes on issues that may be decided at a meeting of the members may be cast in person or by proxy. Votes may be cast in behalf of members in good standing, that are not natural persons, by representatives of the owners as of the record date, as follows: For a Unit owned by a trust, a trustee; for a Unit owned by an estate, the executor or administrator of the estate; for a Unit owned by a partnership, a partner; for a Unit owned by a corporation, an officer of the corporation. If a quorum is present, the vote of a majority of the voting power represented at the meeting, entitled to vote and voting on any matter, shall be the act of the members, unless the vote of a greater number is required by policy or by the California Nonprofit Mutual Benefit Corporation Law.

Section 9. Proxies

A member may appoint a member of the member's immediate family (as defined by the Board of Directors), or any other member of the Mutual, as the member's proxy. Any proxy must be filed with the Secretary before the appointed time for each meeting or mailing of a ballot, and shall be valid for that one ballot or one meeting, including any adjournment of that meeting. Any proxies pertaining to proposals shall be designed to allow a member a choice to be voted on and the failure of the member to indicate such choice shall give the holder thereof the right to vote the proxy at the proxy holder's discretion. Proxies may be voted only by secret written ballot.

However, any proxies pertaining to the following proposals shall be designed to allow a member a choice to be voted on, and the failure of the member to indicate such choice shall not give the holder thereof the right to vote the proxy at the holder's discretion:

- (a) A merger, dissolution, or liquidation of the Corporation;
- (b) Sale, transfer or other disposal of all or substantially all of the assets of the Corporation; or
- (c) Approval of a contract or a transaction between the Corporation and one or more directors or between the Corporation and any entity in which a director has a material financial interest.

A validly executed proxy shall continue in full force and effect until the counting of the ballots or end of the meeting for which it is issued, until (a) revoked by the member executing it, before the vote is cast under that proxy (i) by a writing delivered to the Corporation stating that the proxy is revoked, or (ii) by a subsequent proxy executed by that member or (iii) as to any meeting, by that member's personal attendance and voting at the meeting, or (iv) as to any ballot, by the member's executing the ballot; or (b) written notice of the death or incapacity of the maker of the proxy is received by the Corporation before the vote under that proxy is counted. A proxy may not be irrevocable.

Section 10. Order of Business

The order of business at all regularly scheduled meetings of the members shall be as follows:

- (a) Roll call or proof of quorum
- (b) Proof of notice of meeting or waiver of notice
- (c) Action on minutes of preceding meeting
- (c) Reports of officers
- (e) Reports of committees
- (f) Unfinished business (Note: There is no unfinished business at an annual meeting.)
- (g) New business

In the case of special meetings, items (a) and (b) shall be applicable and thereafter the agenda shall consist of the items specified in the notice of meeting.

Section 11. Representation of a Membership

Whenever the presence, vote, signature or consent or other action of or by a membership is required in the regulation of the affairs of this Corporation:

- (a) A membership shall be deemed present if one or more of the persons who are eligible to vote pursuant to Section 8 of this Article is present in person or by proxy, or executes a written ballot.
- (b) A petition, including a nominating petition, shall be deemed made by a membership if one or more of the persons who are eligible to vote pursuant to Section 8 of this Article executes the petition.

- (c) The vote or votes of a membership may be cast by only one, or by the proxy of one, of the persons who are eligible to vote pursuant to Section 8 of this Article.
- (d) Any of the persons who are eligible to vote pursuant to Section 8 of this Article may grant a proxy for the vote of such membership.
- (e) Any of the persons who are eligible to vote pursuant to Section 8 of this Article may cause the membership to act upon any other matters, unless the Articles or bylaws of this Corporation, or the CC&Rs or any provision of law, require otherwise, provided, however, that if more than one of the persons in whose name a membership stands of record, or if more than one person who is eligible to vote in behalf of a particular membership pursuant to Section 8 of this Article, attempts to exercise any, right or privilege of such membership contrary to or inconsistent with the act of another such person, then the membership shall not be deemed to have exercised such right or privilege at all.

Section 12. Record Date

(a) Determined by the Board of Directors

For the purpose of determining which members are entitled to receive notice of any meeting or to vote, the record date shall be four (4) business days in advance of the mailing of the notice or ballots. Only members of record on the date so fixed are entitled to notice or to vote, as the case may be, notwithstanding any transfer of any membership on the books of the Mutual after the record date, except as otherwise provided by agreement, or in the California Nonprofit Corporation Law.

(b) Definition of "Record Date"

"Record date" means as of close of business. For purposes of this paragraph, a person holding a membership as of the close of business on the record date shall be deemed the member of record.

Section 13. Voting by Mail Ballot Without a Meeting

For all questions that may be or must be decided by mail ballot, the foregoing voting rules shall apply, except that the quorum shall be stated in the notice of election, and proxies must be filed with the Secretary before the appointed time for receipt of the ballots and are valid until the ballots are counted.

ARTICLE VI DIRECTORS

A. Powers and Duties

Section 1. Duties

- (a) The duty of the Board is to manage the affairs of the Corporation in the best interests of the members, to establish such policies and procedures as may be needed, to fulfill the requirements of these bylaws, to manage and maintain the common areas for the benefit of the members, and to take appropriate steps to enforce the governing documents of the Mutual.
- (b) The directors are only required to operate in good faith, using their best judgment, and to promptly reveal any conflict of interest

Section 2. Powers

The Board of Directors shall have all the powers necessary for the administration of the affairs of the Mutual, including, but not limited to, those specified in Article II of the Articles of Incorporation, subject only to limitations imposed by law, by the CC&Rs, by these bylaws, and by the Mutual's policies and procedures.

The powers of the Board shall include, but not be limited to:

- (a) Establishing monthly assessments and carrying charges as provided for in the CC&Rs and these bylaws.
- (b) Engaging agents for all aspects of the management of the Mutual, under such terms as the Board may determine. Any delegation of powers to an agent, as permitted in these bylaws, must be specific and must be in writing.
- (c) Merging with other mutuals on terms which the Board deems fair to the members of FIFTH WALNUT CREEK MUTUAL; provided, any such merger must also be approved by a majority of the voting power .
- (d) Promulgating such policies and procedures pertaining to use and occupancy of the common areas as may be deemed proper and which are consistent with these bylaws, the CC&Rs, and the Articles of Incorporation.
- (e) Purchasing such contracts of insurance as the Board may consider desirable and prudent. Where adequate insurance coverage cannot be obtained or where the Board concludes that the cost is excessive in relation to the benefits, the Board may set up a program of self-insurance or participate with others in such a program. This may cover uninsured losses or supplement commercial insurance in ways that the Board, based on the advice of experts in the field, considers to be in the best interests of the members.
- (f) Enforcing these bylaws, the CC&Rs, and the policies and procedures of the Mutual.
Enforcement may include the levying of a fine of not to exceed One Hundred Dollars (\$100) for each offense, or restricting or temporarily prohibiting the owner's use of the common area or common facilities for not to exceed thirty (30) days for each offense, or both, or by such other means as may be set forth in these bylaws, the CC&Rs, and the policies and procedures of the Mutual. All the aforementioned remedies (whether legal, equitable or extra judicial) shall be deemed to be cumulative rather than alternate, and the exercise of one remedy shall not be considered as a waiver or an election as to any other right or remedy as to that or any other particular infraction.

Section 3. Due Process Requirements

Before the Board imposes any monetary penalties or suspensions of membership rights or common area use privileges against any member for failure to comply with these bylaws, the CC&Rs, or the policies and procedures of the Mutual, the Board must act in good faith and must satisfy the applicable requirements of the Civil Code with respect to hearing, dispute resolution, and alternative dispute resolution.

B. Composition and Election of the Board

Section 1. Number and Qualification of Directors

The affairs of the Mutual shall be governed by a Board of Directors, all of whom shall be members of the Mutual. The Board shall be composed of not fewer than three (3) nor more than seven (7) persons.

Section 2. Term of Office of Directors

- (a) The term of office of a director shall be two (2) years, except as otherwise provided in these Bylaws. A director whose term has expired and for whom a successor has not been elected shall hold office as a carryover director until resigning or departing from Fifth Walnut Creek Mutual, or a successor has been elected and installed for the remaining year of the new term, whichever occurs first. For the purposes of these bylaws one year shall be the time elapsed from the end of one annual meeting of members to the end of the next annual meeting of members.

- (b) The Board shall arrange the terms of newly elected directors, as necessary, to insure that approximately one-half (1/2) of the Board of Directors shall be elected each year.
- (c) There shall be no limit to the number of successive terms for any director.

Section 3. Election of Directors

(a) Notice of Election

At least) seventy (70) days prior to each annual meeting, the Secretary shall notify the members which director(s)' term on the Board will expire at the meeting, or in which a carryover director is serving, of the forthcoming election.

(b) Nominations

Any owner in good standing may submit a petition to be placed on the ballot for the seat of a director whose term will expire, or in which a carryover director is serving. This petition must be signed by the member. Additional signatures are optional. The petition must be submitted to the Secretary, along with a statement of background and intentions of not more than three hundred (300) words. The signed petition and statement must be received at least forty-nine (49) days before the meeting at which the ballots will be counted.

As used in this Section, an owner means a natural person, or a representative of the owner as of the record date, as follows: For a Unit owned by a trust, a trustee; for a Unit owned by a partnership, a partner; for a Unit owned by a corporation, an officer of the corporation.

(c) Method of Election; Quorum

Election of directors shall be at large, shall be by secret ballot, and shall be by mail. A quorum for the purposes of electing a director shall consist of at least twenty percent (20%) of the memberships.

(d) Ballots

The Secretary shall mail, to each membership of the Corporation in good standing, a ballot listing the name of each candidate for election, and a copy of each statement submitted by a candidate (or candidates) whose election has been proposed. The ballot shall be mailed not less than thirty-five (35) days nor more than forty-two (42) days prior to the meeting at which the ballots will be counted. The ballots shall be returned to the Inspector(s) of Election on or before the fifth day prior to the meeting at which the ballots will be counted. Any ballot received after the deadline shall not be counted.

(e) Absentee ballots

Any person in whose name a membership stands and who will be absent from the community when the ballots are mailed may request in writing that the Secretary of the Corporation mail the member's ballot, with candidates' statements, to an address other than that shown on the records of the Corporation, which may be the address of a proxy for the member. In such case, the Secretary shall cause the ballot and statements to be mailed to the designated address promptly when the ballot and statements are prepared, by first class mail service to such address. The time for receipt of such ballots shall not be extended, however, and such ballots, if not received timely, shall not be counted. Should more than one (1) person in whose name a membership stands make contrary or inconsistent requests for the mailing of any ballot, no ballot shall be mailed to or for such membership.

(f) No Cumulative Voting

A member may vote for as many candidates there are positions to be filled; however, the member may not cast more than one vote for any candidate.

(g) Inspector(s) of Election

The distribution, receipt, and counting of the ballots shall be supervised and certified by the Inspector(s) of Election appointed by the Board of Directors. The Inspector(s) of Election shall be independent parties and shall not be members of the board of directors or candidates for the board of directors or related to members of the board of directors or candidates for the board of directors, or a person, or business entity, or subdivision of a business entity currently employed or under contract to the Mutual for any compensable service. The Board shall establish such additional procedures as it may deem necessary to insure the integrity and secrecy of the balloting. The Board may appoint an independent certified public accountant as the Inspector of Election and must do so if a petition requesting such an appointment is received from the members and signed by five percent (5%) of the membership

- (h) The candidate receiving the greatest numbers of votes cast by at least a quorum shall be elected to the first position to be filled. The candidate receiving the second most votes shall be elected to the second position to be filled, and so forth. In the event of a tie, the winner(s) shall be determined by lot.
- (i) The foregoing provisions of this Article notwithstanding, if a candidate who has submitted a nominating petition bearing the names of owners of at least 20% of the units is unopposed, no ballot shall be mailed to the members, and the candidate shall be declared elected as of the last day for return of the ballots.

Section 4. Removal of Directors

- (a) Any director may be removed without cause by the affirmative vote of a majority of at least a quorum of the members, pursuant to Section 8 of Article V, and a successor to fill the vacancy thus created shall then and there be elected by a majority of votes cast by at least a quorum.
- (b) The proposed removal of a director and election of a successor director shall take place by secret mail ballot on the initiative of (1) the President, (2) the Board of Directors, or (3) persons representing at least five percent (5%) of the memberships.
- (c) A quorum for the purposes of the removal of a director and election of a successor shall consist of at least twenty percent (20%) of the members of record. The Secretary shall mail a ballot and a copy of each statement submitted by a person whose removal or election has been proposed to each membership of the Corporation in good standing. The ballots shall be mailed not less than thirty-five (35) days nor more than forty-two (42) days prior to the meeting at which the ballots will be counted.
- (d) The ballots shall be returned to the Inspector(s) of Election on or before the fifth (5th) day prior to the meeting at which the ballots will be counted. Ballots received later shall not be counted.
- (e) At the time the ballots are mailed, notice shall be given to all members that an informational meeting shall be held at least twenty-one (21) days prior to the meeting at which the ballots will be counted, to provide each person whose removal or election with an opportunity to be heard.
- (f) Any person in whose name a membership stands and who will be absent from the community may request in writing that the Secretary of the Corporation mail the ballot for such membership, with candidates' statements, to an address other than that shown on the records of the Corporation, as provided in Article VI B (3)(e).
- (g) The distribution, receipt and counting of the ballots shall be supervised and certified by an Inspector or Inspectors of Election selected by the Board of Directors.
- (h) The term of any director who, without good cause, becomes more than sixty (60) days delinquent in payment of the director's own carrying charges, or does not attend three (3)

consecutive meetings (unless the three [3] meetings are held within a one hundred [100] day period) shall be automatically terminated, and the position shall be declared vacant, to be filled as provided in Section 7 of this Article. "Good cause" shall be determined by a majority of the remaining directors.

Section 7. Vacancies

A director who resigns, terminates membership in the Condominium Project, or dies thereby creates a vacancy. Such vacancies in the Board of Directors shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum; and each such person so appointed shall serve out the unexpired portion of the term.

Section 8. Compensation

No compensation shall be paid to directors for their services as directors. No remuneration shall be paid to a director for services performed for the Mutual in any other capacity, unless the material facts as to the transaction shall have been fully disclosed or known to the Board and a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services are undertaken. A director may not be an employee of the Mutual or the Golden Rain Foundation.

Section 9. Organizational Meeting

The first meeting of a newly elected Board of Directors, to elect and appoint officers and to establish committees, shall be held after adjournment of the annual meeting of members and on the same day, at a place and time to be announced at the annual meeting of members, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, provided a majority of the whole Board shall be present at the organizational meeting.

Section 10. Regular Meetings

Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least six (6) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by U.S. Mail, by deposit in the directors' mailboxes in the Board Office of the Corporation, at least three (3) business days prior to the day named for such meeting, or by telephone at least three (3) days before the meeting..

Section 11. Special Meetings

Special meetings of the Board of Directors may be called by the President, the first Vice-President, the Secretary or any two (2) directors, due notice having been given in writing at least four (4) days in advance of such special meeting to all Directors members, if such notice is given by first class mail, or by placement in the directors' mailboxes in the Board Office of the Corporation, and at least forty-eight (48) hours in advance if such notice is delivered personally by telephone or telegraph.

Except in emergencies, the Mutual membership at large shall also receive notices of special meetings of the Board at least four (4) days in advance of the meeting.

Section 12. Attendance at Meetings

All regular and special meetings of the Board of Directors shall be open to the members of the Mutual except that where a vote of a majority of the Board of Directors determines that the best interests of the Mutual or of the individuals concerned require it, any meeting may be closed during the time that the Board of Directors is considering a matter or matters that may be heard in executive session in accordance with the Civil Code.

Section 13. Quorum

A majority of the elected number of directors shall constitute a quorum for the transaction of business, other than adjournment. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board. A meeting at which a

quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken or decision made is approved by at least a majority of the quorum.

Section 14. Waiver of Notice

Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the receipt of such notice. Attendance by a director at any meeting of the Board, without protesting prior thereto or at its commencement the lack of notice, shall be a waiver of notice by him of the time and place thereof. If a quorum is present at any meeting of the Board and the directors constituting the quorum have not protested lack of notice, any business may be transacted. All such waivers shall be filed with the corporate records or be made a part of the minutes of the meetings.

Section 15. No Board Action Without Meeting

No action by the Board of Directors may be taken without a meeting

Section 16. Fidelity Bonds

The Board of Directors shall require that all officers and employees of the Mutual handling or responsible for corporate or trust funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Mutual.

ARTICLE VII
OFFICERS

Section 1. Elected Officers

The principal officers of the Mutual shall be a President, at least one but not more than two (2) Vice-Presidents, a Secretary, and a Treasurer, all of whom shall be elected by and from the Board of Directors. The offices of Secretary and Treasurer may be combined. The principal officers of the Mutual shall be elected annually at the organizational meeting of each new Board. They and shall hold office at the pleasure of the Board, and their terms shall end at the end of the annual meeting of members. New offices may be created and filled, and any vacancy in office may be filled, at any meeting of the Board.

Section 2. Appointed Officers

The directors may appoint an Assistant Secretary and an Assistant Treasurer, an auditor, and such other officers as in their judgment may be necessary. These officers need not be members of the Board or members of the Corporation. They shall serve at the pleasure of the Board, and their terms shall end at the end of the annual meeting of members.

Section 3. Removal of Officers

Any officer may be removed upon an affirmative vote therefor by a majority of the members of the Board of Directors, at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose. Such removal may be with or without cause. The Board shall elect or appoint successors as needed at the same meeting.

Section 4. President

The President shall be the chief executive officer of the Mutual. The President shall preside at all meetings of the members and of the Board of Directors; shall have all of the general powers and duties which are usually vested in the office of president of a corporation; and shall recommend to the Board such committees as deemed appropriate, which committees shall be appointed by the Board.

Section 5. Vice-President

A Vice-President shall take the place of the President and perform his duties whenever the President is absent or unable to act. If neither the President nor a Vice-President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. A Vice-President shall also perform such other duties as shall from time to time be imposed by the Board of Directors.

Section 6. Secretary

The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Mutual; shall have the custody of the seal of the Mutual; shall have charge of such books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of the Secretary.

Section 7. Treasurer

The Treasurer shall have responsibility for corporate funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Mutual. The Treasurer shall be responsible for the deposit of all monies, and other valuable effects in the name and to the credit of the Mutual in such federally insured depositories as may from time to time be designated by the Board of Directors.

**ARTICLE VIII
INDEMNIFICATION**

Section 1. Right of Indemnity

To the fullest extent permitted by law, this Corporation shall indemnify its directors, officers, employees, and other persons described in Section 7237 (a) of the California Corporations Code, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements, and other amounts actually and, reasonably incurred by them in conjunction with any "proceeding," as that term is used in that Section, and including an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in that Section. "Expenses," as used in this bylaw shall have the same meaning as in Section 7237 (a) of the California Corporations Code.

Section 2. Approval of Indemnity

On written request to the Board by any person seeking indemnity under Section 7237 (b) or Section 7237 (c) of the California Corporations Code, the Board shall promptly determine under Section 7237 (e) of the California Corporations Code whether the applicable standard of conduct set forth in Section 7237 (b) or Section 7237 (c) has been met and, if so, the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, the Board shall promptly call a meeting of members. At that meeting, the members shall determine under Section 7237 (e) of the California Corporations Code whether the applicable standard of conduct set forth in Section 7237 (b) or Section 7237 (c) has been met and, if so, the members present at the meeting in person or by proxy shall authorize indemnification.

Section 3. Advancement of Expenses

To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under Article VIII, Sections 1 and 2 of this Article in defending any proceeding covered by those Sections shall be advanced by the Corporation before final disposition of the proceedings, on receipt by the Corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Corporation for those expenses.

Section 4. Insurance

The Corporation shall have the right to purchase and maintain insurance to the fullest extent permitted by law on behalf of its officers, directors, employees, and other agents, against any liability asserted against or incurred by an officer, director, employee, or agent in such capacity or arising out of the officer, director, employee or agent's status as such.

**ARTICLE IX
AMENDMENTS**

Section 1. These bylaws may be amended by the written assent of a majority of the memberships of record, casting secret ballots by mail addressed to the Inspector(s) of Election designated by the

Board. Amendments may be proposed by the Board of Directors or by petition signed by at least twenty percent (20%) of the memberships.

Section 2. Subject to the power of the members to amend the bylaws as set forth above, these bylaws may also be amended by the vote of a majority of the Board of Directors unless the action would:

- (a) Materially and adversely affect the rights of members to voting, dissolution, redemption or transfer;
- (b) Increase or decrease the number of memberships authorized;
- (c) Effect an exchange, reclassification or cancellation of all or some of the memberships;
- (d) Authorize any class of memberships;
- (e) Change the authorized number of directors;
- (f) Increase the term of the directors or extend the term of any director;
- (g) Increase the quorum required at a meeting of members; or
- (h) Repeal, restrict, create, expand or otherwise change proxy rights.

ARTICLE X CORPORATE SEAL

Section 1. Seal

The Board of Directors may provide a suitable corporate seal containing the name of the Corporation, which seal shall be in the charge of the Secretary. If so directed by the Board of Directors, a duplicate of the seal may be kept and used by the Treasurer or any Assistant Secretary or Assistant Treasurer.

ARTICLE XI GENERAL PROVISIONS

Section 1. Fiscal Year

The fiscal year of the Mutual shall begin on the first day of January every year. The commencement date of the accounting period herein established shall be subject to change by the Board of Directors

Section 2. Books and Accounts

Books and accounts of the Corporation shall be kept under the direction of the Treasurer and in accordance with the Uniform System of Accounts and the requirements of the California Civil Code.

Section 3. Auditing

At the close of each fiscal year, the books and records of the Mutual shall be audited by a certified public accountant, approved by the Board of Directors. The Mutual will distribute copie of the auditor's report to the membership within 120 days after the end of the fiscal year. .

Section 4. Inspection of Books

Subject to the provisions of Civil Code Section 1365.2, the Mutual's governing documents, accounting books and records, the membership register and agendas and minutes of the meetings of members and directors, including meetings of any committee that has decision-making authority, shall be available at the principal office of the Mutual for inspection during normal business hours by any member, and shall be available otherwise as provided in applicable policy. However, minutes of closed meetings of the directors may not be inspected.

Section 5. Execution of Corporate Documents

With prior authorization by the Board of Directors, all notes and contracts shall be executed on behalf of the Mutual by either the President or a Vice-President or, for contracts in amounts below a threshold amount to be established by the Board of Directors, by the managing agent. All checks shall be executed and countersigned on behalf of the Mutual by such officers, agents or other persons as are from time to time so authorized by the Board of Directors.

Section 6. Secret Ballot Requirements

Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote, election and removal of members of the association board of directors, amendments to the governing documents, or the grant of exclusive use of common area property shall be held by secret ballot in accordance with procedures set forth in the rules of the Mutual.

**ARTICLE XII
MISCELLANEOUS**

Section 1. Guidelines for Meetings

The rules contained in the current edition of Robert's Rules of Order shall govern all meetings of the members and directors' meetings of the Mutual, except in cases of conflict between said Rules of Order and the Articles or bylaws or policies and procedures of the Mutual, or the CC&Rs, or provisions of law.

Section 2. Number and Gender

Number and gender as used in these bylaws shall extend to and include both singular and plural and all genders as the context and construction require.

**ARTICLE XIII
TRANSITION**

Section 1. Incorporators as directors.

Pending the first election of directors, the incorporators may function as directors.

Section 2. Initial terms of directors

The initial terms of directors shall begin with a mail ballot election in August 2007. A majority of the directors first elected shall be assigned terms starting with their election in 2007 and ending with the annual meeting of members in June 2009. The remaining directors first elected shall be assigned terms starting with their election in 2007 and ending with the annual meeting of members in June 2008.

Section 3. Policies and procedures

Pending revision, Fifth Walnut Creek Mutual shall utilize policies and procedures of Third Walnut Creek Mutual that are in effect at the of disengagement and relevant to the operation of Fifth Walnut Creek Mutual.

Section 4. Duration of Article XIII

This Article shall remain in effect only until the end of the annual meeting of members in 2008.

Version of July 19, 2007