

**FIRST RESTATED BYLAWS
OF
AVALON AT EAGLES CROSSING HOMEOWNERS
ASSOCIATION**

A Residential Condominium Development

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ARTICLE I

RECITALS AND DEFINITIONS

Section 1.1. Name of Association - The name of this corporation is Avalon at Eagles Crossing Homeowners Association, a California corporation, and shall be referred to herein as the "Association."

Section 1.2. Association Is Nonprofit - The Association is a California nonprofit mutual benefit corporation (Corporations Code §§7110-8910) and an association as defined by Civil Code §4080.

Section 1.3. Specific Purpose - The specific and primary purposes of this Association shall be to own, repair, maintain, manage, and eventually replace the Common Areas and Common Facilities within the Avalon at Eagles Crossing Homeowners Association real estate common interest development located in the City of Oceanside, County of San Diego, State of California; to enforce the Rules and Regulations adopted by the Board of Directors from time to time, as well as the terms and covenants, conditions, and restrictions set forth in the Declaration; and to otherwise enhance and promote the use and enjoyment of the Common Areas and Common Facilities of the Development by the Owners in common.

Section 1.4. Definitions -

- a) **County** - "County" means the County of San Diego, State of California.
- b) **Declaration** - "Declaration" means all restrictions, covenants, terms and conditions set forth in the First Restated Declaration of Covenants, Conditions, and Restrictions for Avalon at Eagles Crossing Homeowners Association recorded in the Office of the San Diego County Recorder, recorded on ___[date]__, as Instrument No. ___[number]__, as such Declaration may from time to time be supplemented, amended, or modified by a duly Recorded subsequent Declaration or amendment thereto.
- c) **Good Standing** - "Good Standing" is a term used to identify those Members who constitute part of the Voting Power of the Association and are therefore eligible to vote in the election of directors or with respect to any other matter or action that requires the consent or approval of the Members. To be in Good Standing, a Member must be (i) current in the payment of all assessments levied against the Member's Condominium and all financial obligations for the Association and (ii) not be subject to any suspension of voting privileges as a result of any disciplinary proceeding conducted in accordance with the due process and disciplinary hearing procedures of the Declaration. Good Standing shall also be a prerequisite for being a candidate for election to the Board of Directors and for continued service on the Board once elected to office.

- d) **Voting Power** - "Voting Power" means the number of those Members who are eligible to vote for the election of directors or with respect to any other matter, issue, or proposal properly presented to the Members for approval at the time any determination of the Voting Power of the Members is made.
- e) **Other Definitions Incorporated by Reference** - Any capitalized terms used in these Bylaws that are not defined herein shall have the same meaning given to those terms in Article I of the Declaration, unless the context clearly indicates a contrary intention.

ARTICLE II

LOCATION OF PRINCIPAL OFFICE

The principal office of the Association will be located at such place within San Diego County as the Board may from time to time designate by resolution. The Board is hereby granted full power and authority to change said principal office from one location to another within the County of San Diego.

ARTICLE III

MEMBERSHIP

Section 3.1 - Members of the Association - Every person or entity who is an Owner of a Condominium is a Member of the Association. Membership in the Association is appurtenant to, and may not be separated from, ownership of any Condominium which gives rise to such Membership in the Association.

Section 3.2 - Term of Membership - Each Owner shall remain a Member until he or she no longer qualifies as such under Section 3.1 above. On the sale, conveyance, or other transfer of an Owner's interest in a Condominium, the Owner's membership interest appurtenant to the Condominium shall automatically transfer Ownership of a Condominium shall give rise to a single membership in the Association. Accordingly, if more than one person owns a Condominium, all of the co-Owners shall be deemed to be one Member for voting purposes, although all such Owners shall have equal rights as Members to use and enjoy the Common Areas and Common Facilities. Any one of the multiple Owners shall be entitled to vote the membership, unless the secretary of the Association is notified in writing of one Owner designated by his or her co-Owners as having the sole right to vote the membership on their behalf. If such notification does not occur and more than one of the multiple Owners of a Condominium attempts to vote the membership appurtenant to that Condominium, the inspector of elections appointed by the Board of Directors shall be empowered to disqualify the vote of that membership. However, the membership shall be considered for purposes of determining whether the quorum requirements applicable to the vote or meeting have been met.

Section 3.3 - Ownership of Multiple Condominiums - If a person or entity owns more than one Condominium that Owner shall have one membership and voting rights with respect to each Condominium owned.

Section 3.4 - Furnishing Evidence of Membership - A person shall not be entitled to exercise the rights of a Member until such person has advised the secretary or designated representative of the Association in writing that he or she is qualified to be a Member under Section 3.1 above and, if requested by the secretary, has provided the secretary or designated representative with evidence of such qualification in the form of a duly recorded grant deed to the Condominium that gave rise to the membership or a currently effective policy of title insurance for that Condominium showing the purported Member as the Owner of record of the Condominium. Exercise of membership rights shall be further subject to the rules regarding record dates for notice, voting, and actions by written ballot and eligibility for voting.

ARTICLE IV

MEMBERSHIP VOTING

Section 4.1 - Classes of Membership - The Association shall have a single class of membership comprised of those persons who are Owners of Condominiums in the Association.

Section 4.2 - Member Voting Rights - On each matter submitted to a vote of the Members, whether at a meeting of the membership called and held under the provisions of these Bylaws, or in a vote conducted by written or secret ballot or by mailed secret ballot, each Member who is in Good Standing shall be entitled to have one vote for each Condominium that Member owns. Single memberships in which two or more persons have an indivisible interest shall be voted as provided in Section 3.3. If a Condominium is owned by a trust, corporation, partnership, or other entity, the vote attributable to that Condominium must be exercised by the trustee or settlor of the trust or by a duly authorized officer of the entity-Owner.

Section 4.3 - Eligibility to Vote - Only Members in Good Standing, as defined in Section 1.4(c), shall be entitled to vote with respect to any matter requiring the consent or approval of the Members. A Member's Good Standing shall be determined as of the record date established by the Board of Directors. In accordance with the California Civil Code, the Association shall be obligated to conduct a hearing in order to suspend a Member's voting privileges on the basis of the nonpayment of assessments, as set forth in Section 13.6 of the Declaration.

Section 4.4 - Manner of Casting Votes -

- a) **Voting by Written Ballot** - Members' votes may be solicited by written ballot with respect to any issue that requires the approval, consent, or other action by the Members by law or under the Governing Documents.

- b) **Cumulative Voting** - Each Member entitled to vote at any election of directors when two or more positions are to be filled shall have the right to cumulate his or her votes by giving one candidate a number of votes equal to the number of directors to be elected, multiplied by the number of votes to which the Member is entitled, or by distributing his or her votes on the same principle among as many candidates as he or she desires. Those candidates receiving the highest number of votes, up to the number of directors to be elected, shall be elected. The form of secret ballot that is distributed to the Members in an election of directors shall be formatted to permit cumulative voting in the election.

- c) **Secret Ballot Voting Requirements (Civil Code §5100)** - The following actions requiring the vote or approval of the Members of the Association must be conducted by use of a secret ballot, as follows: (i) any vote of the Members to approve an increase in the Regular Assessment or imposition of a Special Assessment when Member approval is required under Civil Code §5605, or any successor statute; (ii) any vote for the election or removal of directors; or (iii) any vote to approve amendments to the Governing Documents.

- d) **Proxy Voting** – Proxy voting shall not be permitted on any matter put to a vote by the Members, although proxies may be solicited by the Association for the sole and limited purpose of establishing a quorum at a membership meeting.

Section 4.5 – Quorum - Except for the removal of Directors, or anywhere else otherwise specified in the Declaration or under California law, the presence in person or by ballot when allowed by law of one-third (1/3) of the voting power entitled to vote at any meeting of the Members shall constitute a quorum for the transaction of business. For purposes of removing a Director, the presence in person or by ballot when allowed by law of a majority (51%) of the voting power entitled to vote at any meeting of the Members shall constitute a quorum.

At a meeting, the affirmative vote of a Majority of a Quorum of the Members who are entitled to vote and have voted on any matter (other than the election of directors) shall be the act of the Members, unless the vote of a greater number is required by the California law or by the Governing Documents of the Association. In the case of director elections, the candidates receiving the largest number of votes, up to the number of directors to be elected, shall be elected to fill the vacancies.

In the event any meeting of Members cannot be held because a quorum is not present, the meeting may be adjourned for a time not less than five (5) days nor more than thirty (30) days following the time the original meeting was called, at which meeting the quorum requirement shall be reduced to twenty-five (25%) of the voting power of the Membership.

ARTICLE V

MEMBERSHIP MEETINGS

Section 5.1 - Place of Meeting - Meetings of the Members shall be held at the offices of the Association or at such other reasonable place and at such time as may be designated in the notice of the meeting. Unless unusual conditions exist, meetings of the Members shall not be held outside of the County.

Section 5.2 - Annual Meeting - The annual meeting of the Members shall be held once a year or as determined by the Board of Directors on a date, time and place as determined by the Board.

Section 5.3 - Special Meetings -

- a) **Persons Entitled to Call Special Meetings** - A majority of the Board, the President, or 5 percent (5%) or more of the Members may call special meetings of the Members at any time to consider any lawful business of the Association.
- b) **Procedures for Calling Special Meetings Requested by Members** - If a special meeting is called by Members other than the Board of Directors or the President, the request shall be submitted by such Members in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or other facsimile transmission to the President, any Vice President, or the Secretary/Treasurer of the Association. The officer receiving the request shall, within twenty (20) days after receiving the request, cause notice to be promptly given to the Members entitled to vote, in accordance with the provisions of this Section, that a meeting will be held, and the date, time, and purpose for such meeting, which date shall be not less than thirty-five (35) nor more than ninety (90) days following the receipt of the request.

Section 5.4 - Notice of Members' Meetings -

- a) **Requirement That Notice Be Given** - Notice of all regular and special meetings of the Members shall be sent or otherwise given in writing to each Member who is eligible to vote at the meeting as of the record date for notice established by the Board of Directors.
- b) **Time Requirements for Notice** – All notices shall be mailed or sent by other previously approved means not less than ten (10) days and not more than ninety (90) days before the date of the meeting.
- c) **Manner of Service** - Notice of any meeting of the Members shall be given personally, by electronic transmission (including e-mail or facsimile) by the Association, or by mail or other means of written communication, addressed to a Member at the address of the Member appearing on the books of the Association or given by the Member to the Association for the purpose of notice. Receipt of

notices by electronic transmission requires the Member to agree to that method of delivery and delivery is complete at the time of transmission.

Section 5.5 - Adjourned Meeting - Any Membership meeting, whether a quorum is present, may be adjourned from time to time by the vote of a majority of the voting power present, but, in the absence of a quorum, no other business may be transacted at any such meeting. When any Membership meeting is adjourned for thirty (30) days or less, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting other than by an announcement at the meeting at which adjournment is taken.

Section 5.6 - Waiver of Notice or Consent by Absent Members -

- a) **Waivers and Consents Generally** - If decisions are made or action is otherwise taken by the Members at a meeting when a quorum is present, but for which proper notice was not given to all Members for whatever reason, the decisions or actions made at that meeting will be valid if, either before or after the meeting, each person entitled to vote who was not present at the meeting consents to the meeting by signing (i) a written waiver of notice; (ii) a consent to holding the meeting; or (iii) an approval of the minutes. The waiver of notice or consent need not specify the purpose or general nature of business to be transacted at such meeting. All such waivers, consents, or approvals shall be filed with the Association records or be made part of the minutes of the meeting.
- b) **Effect of a Member's Attendance at a Meeting** - Attendance by a Member at a meeting shall also constitute a waiver of any objections such person may have with respect to notice of that meeting, except when the attends the meeting for the sole purpose of objecting at the beginning of the meeting to the transaction of any business due to the inadequacy or illegality of the notice. Attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting that are required to be described therein if that objection is expressly made at the meeting.

Section 5.7 – Member Action without a Meeting –

- a) Any action which may be taken by the vote of the Members at a regular or special meeting, except the election of Directors where cumulative voting is a requirement, may be taken without a meeting if the Association distributes a written ballot to every Member entitled to vote on the matter. 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 Association.
- b) Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals

equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

- c) All solicited ballots shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than the election of Directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.
- d) Unless other provided in the Articles or these Bylaws, a written ballot may not be revoked.

ARTICLE VI

MEMBERSHIP RIGHTS

Subject to the provisions hereof and the provisions of the Declaration, the Members shall have the following rights:

Section 6.1 - Use and Enjoyment of Common Areas by Members and Family - Each Member and the members of his or her family who also reside in the Member's Residence shall be entitled to the use and enjoyment of all Common Areas and Common Facilities.

Section 6.2 - Tenants and Lessees - Each Member shall have the right to assign his or her rights as a Member (other than voting rights) to a tenant residing within the Member's Residence. Such assignment shall only be effective as long as said tenant is residing in said Residence and is in compliance with the Declaration and the Association Rules as the same may exist from time to time. At all times the Owner shall remain responsible for lessee's or tenant's compliance with the provisions of the Governing Documents.

Section 6.3 - Invitees and Guests - The invitees and guests of a Member shall have the right to use and enjoy the Common Areas and Common Facilities within the Development, subject to the same obligations imposed on the Owner to observe the rules, restrictions, and regulations of the Association as set forth in the Governing Documents.

Section 6.4 - Association Rules and Regulations - The right of any person to use and enjoy the Common Areas and Common Facilities within the Development shall at all times be subject to the rules, limitations, and restrictions set forth in these Bylaws, in the Declaration, and in the Association Rules as promulgated by the Board from time to time in accordance with the Declaration and California law. With the exception of the right to use any roads within the Development, the Board shall have the right to impose monetary penalties or to temporarily suspend the use and enjoyment of any recreational

Common Facilities for the failure of a Member to pay any Assessments when due under the Declaration or to comply with any other rule or regulation imposed on such Member or his or her tenants or guests under the Governing Documents, provided, however, that any such suspension shall be imposed only after such person has been afforded the notice and hearing rights more particularly described the Declaration.

ARTICLE VII

BOARD OF DIRECTORS

Section 7.1 - General Association Powers - Subject to the provisions of California law and any limitations contained in any of the Governing Documents relating to action required to be approved by the Members, the business and affairs of the Association shall be vested in and exercised by the Association's Board of Directors. Subject to the limitations expressed herein, the Board may delegate the management of the activities of the Association to any person or persons, management company, or committee, provided that notwithstanding any such delegation the activities and affairs of the Association shall continue to be managed and all Association powers shall continue to be exercised under the ultimate direction of the Board.

Section 7.2 - Number and Qualification of Directors - The Board of Directors shall consist of five persons, who shall be Owners of Condominiums in the Association and whose memberships are in Good Standing. Only one Member per unit may serve on the Board of Directors at any given time.

Section 7.3 - Term of Office - Staggered Terms - The terms of the Directors shall be staggered. The Board shall have the power to adjust the term of Directors to be elected to achieve staggered terms.

- a) Each Director shall serve a two (2) year term. Appointed Directors shall serve the remaining term of a vacant position.
- b) If any annual meeting is not held or the Directors are not elected thereat, the Board shall arrange for a special meeting of Members held for the purpose of elections.
- c) All Directors shall hold office until their term expires, they resign or until their position is declared vacant.
- d) Election to the Board shall be by secret written ballot. At such election, the Members may cast, in respect to each vacancy, as many votes as they are entitled to cast under the provisions of the Declaration (and subject to the cumulative voting as therein described). The candidates receiving the highest number of votes shall be deemed elected.

Section 7.4 - Nomination of Directors; Qualifications for Candidacy -

- a) **Right of Self-Nomination** - Any individual who is a Member in Good Standing shall have the right to place his or her name in nomination for election to the Board of Directors as long as the Member tenders written notice to the Board of Directors of his or her desire to run for election.
- b) **Good Standing** - In order to be eligible for nomination and election to the Board, the Association secretary must certify that the candidate-Member is in Good Standing with the Association. Remaining current in the payment of Assessment and financial obligations shall also be a continuing qualification for a sitting director's continued service on the Board of Directors.
- c) **Authority to Appoint a Nominating Committee** - Although Members in Good Standing have a right of self-nomination, the Board of Directors shall nevertheless have the discretion to appoint a nominating committee to assist the Board in its efforts to advertise an upcoming election; educate interested Members regarding the duties, obligations, and standards for service as a director; advise the Board as to improvements or alterations in election procedures; and assist in identifying as many interested and qualified candidates as possible.

Section 7.5 - Election of Directors; Ballot Tabulation and Retention Requirements

- The following procedures shall be followed in the election of directors and in the conduct of other Member votes that must be conducted by use of a double-envelope mailed secret ballot. As to Directors elected by Members, reasonable election procedures given the nature, size and operations of the Association shall be available to the Members. The procedures shall include:

- a) A reasonable means of nominated candidates, and the opportunity for a nominee to communicate to the Members the nominee's qualifications and the reasons for the candidacy;
- b) A reasonable opportunity for all nominees to solicit votes; and
- c) A reasonable opportunity for all Members to choose among the nominees.
- d) Association funds shall not be used for campaign purposes.

Section 7.6 - Vacancies on Board of Directors -

- a) **Vacancies Generally** - A vacancy or vacancies in the Board of Directors shall be deemed to exist on the occurrence of any of the following: (i) the death, resignation or removal of a director under subparagraphs (c) and (d) of this Section; (ii) an increase of the authorized number of directors; or (iii) the failure of the Members, at any meeting of Members at which any director or directors are to be elected, to elect the number of directors to be elected at such meeting.

- b) **Resignation of Directors** - Except as provided in this subparagraph, any director may resign, which resignation shall be effective on giving written notice to the President, the Secretary, or the Board of Directors, unless the notice specifies a later time for the resignation to become effective. If the resignation of a Director is effective at a future time, the Board of Directors may elect a successor to take office when the resignation becomes effective.
- c) **Authority of Board to Remove Directors** - Subject to the qualifications set forth in this subparagraph, the Board of Directors shall have the power and authority to remove a director and declare his or her office vacant if he or she (i) has been declared of unsound mind by a final order of court; (ii) has been convicted of a felony; (iii) fails to attend three consecutive regular meetings of the Board of Directors that have been duly noticed in accordance with California Law and these Bylaws; or (iv) fails to remain in Good Standing with the Association. For purposes of this section only, a Director is not in Good Standing with the Association if they are more than thirty (30) days delinquent on their monthly assessment or have any violations that have not been remedied within thirty (30) days after notification.
- d) **Authority of Members to Remove Directors** - Except as otherwise provided herein, a Director may only be removed from office before expiration of his or her term by the affirmative vote of a Majority of a Quorum of the Members conducted in accordance with the secret ballot voting requirements.
- e) **Filling of Vacancies** - Vacancies on the Board of Directors shall be filled by a majority vote of the remaining directors, even though less than a quorum, or by a sole remaining Director unless the vacancy is created through removal of a Director, in which case the vacancy shall be filled by a vote of the Members conducted by secret ballot . Furthermore, the Members may elect a Director or Directors at any time to fill any vacancy or vacancies not filled by the directors by an election conducted by secret ballot.
- f) **Reduction in the Number of Directors** - No reduction of the authorized number of Directors shall have the effect of removing any director from office before expiration of that director's term of office.

ARTICLE VIII

MEETINGS OF THE BOARD OF DIRECTORS

Section 8.1 - Place of Meetings; Meetings by Conference Telephone - Except as otherwise provided in subparagraph (b), regular and special meetings of the Board of Directors may be held at any place within the Association or the County that has been designated from time to time by resolution of the Board and stated in the notice of the

meeting. In the absence of such designation, regular meetings shall be held at the principal office of the Association.

Section 8.2 - Annual Meeting of Directors - Immediately following each annual meeting of Members, the Board of Directors shall hold a regular meeting for the purpose of organization, election of officers, and the transaction of other business. Notice of this meeting shall not be required.

Section 8.3 - Special Meetings of the Board - Special meetings of the Board of Directors for any purpose may be called at any time by the President or any two Directors. Special meetings of the Board shall be held upon four days' notice to the Directors by first-class mail or 48 hours' notice to the Directors if delivered personally, by telephone or through electronic transmission. In case of an emergency, the Association may conduct a meeting with less than four (4) days' notice; however, it shall be the burden of the person(s) calling the "emergency" special meeting to justify reduction of the required notice time. Written notice of the time and place of special meetings and the nature of any special business to be considered shall be posted in the same manner prescribed for notice of regular meetings.

Section 8.4 - Notice of Board Meetings – Notice of regular meetings of the Board shall be posted at a prominent place within the Common Area or communicated to the Members in writing when requested, and communicated to the Directors not less than four (4) days before the meeting. The notice of any meeting of the Board shall state the time, place, purpose, and agenda of the meeting.

Section 8.5 - Attendance by Members -

a) **Meetings Generally Open to Members** - Regular and special meetings of the Board shall be open to all Members of the Association. Members who are not on the Board may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board. The Board shall permit any Member of the Association to speak at any meeting of the Association or the Board, except for executive session meetings. The Board may impose reasonable time limitations on presentations or statements by Members. In the case of Board meetings, the agenda for the meeting may designate a specific time for Member statements and comments.

b) **Executive Sessions –**

i. **Definition of What Constitutes an Executive Session** - An executive session is a meeting that is conducted by the Board of Directors that is not open to attendance by all Members and that is convened only to consider and potentially to act on one or more of the following matters: (A) litigation in which the Association is or may become a party; (B) matters relating to the formation of contracts with third parties; (C) Member discipline; (D) personnel matters; or (E) on a Member's request, a meeting with that

Member regarding the Member's payment of Assessments, as specified in Civil Code §5665.

- ii. **Manner in Which Executive Sessions May Be Called** - The Board can adjourn for purposes of meeting in an executive session on the affirmative vote of a majority of the Directors present at a meeting that is open to attendance by the Members at which a quorum has been established, or an executive session can be called independently of any open meeting of the Board.
 - iii. **Executive Sessions to Address Member Disciplinary Matters** - The Board must meet in executive session if requested by a Member who may be subject to a fine, penalty, or other form of discipline, and the Member who is the subject of the disciplinary proceeding shall be entitled to attend the executive session.
 - iv. **Executive Sessions Called to Meet With a Delinquent Member** - If a Member who has received a Notice of Delinquent Assessment from the Association requests a meeting before the Board in executive session to discuss a payment plan, the Board shall meet with the Member within 45 days after receipt of the Member's request.
 - v. **Reporting of Executive Session Meetings in the Minutes** - Any matter discussed in executive session shall be generally noted in the minutes of the immediately following Board meeting that is open to the entire membership.
- c) **Board Meeting Minutes; Right of Members to Obtain Minutes** - The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes of any meeting of the Board of Directors, other than minutes of an executive session, shall be available to the Members upon written request and with the limitations set forth by California law. The minutes, proposed minutes, or summary minutes shall be distributed to any Member on request and on reimbursement of the Association's costs in making that distribution. Members of the Association shall be notified in writing at the time that the annual budget is distributed or at the time of any general mailing to the entire membership of the Association of their right to have copies of the minutes of meetings of the Board of Directors and how and where those minutes may be obtained.

Section 8.6 - Quorum Requirements – A majority of the authorized number of Directors shall constitute a quorum for the transaction of business, except to adjourn. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors. However, the Rules and Regulations may be amended only by a majority of the full Board.

Section 8.7 - Waiver of Notice - The transaction of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present and (b) either before or after the meeting, each of the directors not present, individually or collectively, signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. All waivers, consents, and approvals shall be filed with the Association records or made a part of the minutes of the meeting and shall have the same force and effect as a unanimous vote of the Board.

Section 8.8 – Adjournment - A majority of the directors present may adjourn any meeting to another time and place. In the absence of a quorum, a majority of the Directors present at the Director's meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board.

Section 8.9 – Compensation - Directors, officers, and members of committees shall not be entitled to compensation for their services unless approved by a majority of the Membership, although they may be reimbursed for such actual expenses as may be determined by resolution of the Board of Directors to be just and reasonable. Expenses for which reimbursement is sought shall be supported by a proper receipt or invoice.

ARTICLE IX

COMMITTEES

Section 9.1 - Standing Committees of the Board - The Association shall have the following Standing Committees, which shall be appointed annually by the Board of Directors:

- a) **Architectural Review Committee** - The Architectural Review Committee has responsibility for reviewing all plans for proposed Improvements that require Committee approval under Article V of the Declaration and proposed amendments to the Architectural Rules for review and approval by the Board. This Committee shall also prepare amendments to the Architectural Rules for review and approval by the Board or the Declarant.
- b) **Nominating Committee** - The Nominating Committee, if appointed by the Board, shall function in accordance with Section 7.4(c).

Only members in Good Standing may serve on Association committees.

Section 9.2 - Other Committees - In addition to the standing committees identified in Section 9.1, the Board of Directors shall be authorized and empowered to appoint additional committees to assist the Board and management in the effective pursuit of the Association's business and affairs. Such committees, if appointed, shall be advisory

to the Board, and the scope of their authority shall be as stated in the resolution creating the committee.

Section 9.3 - Organization of Committees; Standing Committees Chairpersons -

The members and Chairperson of the Architectural Review Committee shall be appointed to office in the manner prescribed in Section 5.2 of the Declaration. The Chairperson of each committee shall select and appoint the other members of the committee from the membership at large. The Chairperson shall be empowered to appoint chairpersons to respective subcommittees established by the Board.

Section 9.4 - Powers of Committees - Committees shall have all the authority of the Board with respect to matters within their area of assigned responsibility, except that no committee, regardless of Board resolution, may:

- a) Take any final action on any matter that also requires approval of the Members under the California Nonprofit Mutual Benefit Corporation Law.
- b) Fill vacancies on the Board of Directors or on any committee that has been delegated any authority of the Board.
- c) Amend or repeal Bylaws or adopt new Bylaws.
- d) Amend or repeal any resolution of the Board of Directors that, by its express terms, is not so amendable or repealable.
- e) Appoint any other committees of the Board of Directors or designate the members of those committees.
- f) Approve any transaction (i) to which the Association is a party and one or more directors have a material financial interest or (ii) between the Association and one or more of its directors or between the Association or any person in which one or more of its directors have a material financial interest.

Section 9.5 - Meetings and Actions of Committees - Duly appointed committees of the Association shall meet with such frequency as is considered necessary or appropriate to accomplish the tasks and to perform the duties that have been delegated to each committee. All members of a committee shall receive at least 48 hours' prior notice of meetings. Notices may be given in writing, electronically, in person, or by telephone. Special meetings of committees may also be called by resolution of the Board of Directors. Unless otherwise provided in the Board resolution establishing the committee, minutes shall be kept of each meeting of any committee and shall be filed with the Association records. The Board of Directors may adopt additional rules, not inconsistent with the provisions of these Bylaws, for the governance of any committee.

Unless otherwise provided in the Board resolution appointing a committee, all actions of committees established under this Article X shall be recommendations to the Board, and no committee shall have authority to bind the Association.

ARTICLE X

OFFICERS

Section 10.1 – Officers - The Officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer and a Director at Large. All Officers, including subordinate Officers, shall be Members of the Association in Good Standing.

Section 10.2 - Election of Officers - The Officers of the Association shall be chosen annually by majority vote of the Board at its first regular meeting following the annual meeting of the Members or the election of Directors, and each shall hold his or her office until he or she shall resign or shall be removed or otherwise disqualified to serve or until his or her successor shall be elected and qualified.

Section 10.3 - Subordinate Officers - The Board may appoint, and may empower the President to appoint, such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in the Bylaws and as the Board may from time to time determine.

Section 10.4 - Removal of Officers - Any Officer may be removed, either with or without cause, by the Board at any regular or special meeting.

Section 10.5 - Resignation of Officers - Any Officer may resign at any time by giving written notice to the Board or to the President or to the Secretary. Any such resignation shall take effect at the date of the 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. Any resignation is without prejudice to the rights, if any, of the Association under any contract to which the officer is a party.

Section 10.6 – Vacancies - A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in the Bylaws for regular appointments to such office.

Section 10.7 – President - The President shall be elected by the Board from among the Directors. The President shall be the chief executive officer of the Association and shall, subject to the control of the Board, have general supervision, direction, and control of the affairs and officers of the Association. The President shall preside at all meetings of the Board and shall have the general power and duties of management usually vested in the office of president of a corporation, together with such other powers and duties as may be prescribed by the Board or the Bylaws.

Section 10.8 - Vice President - The Vice President shall be elected by the Board from among the directors. In the absence or disability of the President, the Vice President shall perform all the duties of the President and when so acting shall have all the powers of, and be subject to all the restrictions on, the President. The Vice President shall have such other powers and perform such other duties as from time to time may be prescribed by the Board or the Bylaws.

Section 10.9 – Secretary - The Secretary shall be elected by the Board from among the directors. The Secretary shall keep or cause to be kept at the principal office, or such other place as the Board may order, a book of minutes of all meetings of directors and Members, with the time and place of holding same, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at directors' meetings, the number of Members present in person or by proxy at Members' meetings, and the proceedings thereof. The Secretary shall keep, or cause to be kept, appropriate current records showing the Members of the Association, together with their addresses. The Secretary shall give, or cause to be given, notice of all meetings of the Board required by the Bylaws or by law to be given and shall have such other powers and perform such other duties as may be prescribed by the Board or the Bylaws.

Section 10.10 - Treasurer - The Treasurer shall be elected by the Board from among the Directors. The Treasurer shall (a) keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings and other matters customarily included in financial statements; (b) deposit all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board; (c) disburse the funds of the Association as may be ordered by the Board; (d) render to the president and directors, whenever they request it, an account of all of the Treasurer's transactions as treasurer and of the financial condition of the Association; and (e) have such other powers and perform such other duties as may be prescribed by the Board or the Bylaws. The books and records shall at all reasonable times be open to inspection by any director or Member.

ARTICLE XI

MEMBER ASSESSMENT OBLIGATIONS AND ASSOCIATION FINANCES

Section 11.1 - Description of Assessments to Which Owners Are Subject - Owners of Condominiums are subject to Regular, Special and Emergency Assessments as described in Article IV of the Declaration.

Section 11.2 – Checks - All checks or demands for money and notes of the Association shall be signed by the President and Treasurer or by such other officer(s) or person(s) as the Board of Directors may from time to time designate. Notwithstanding the foregoing, any withdrawal of funds from Association reserve accounts shall require the signature of two directors or an officer (who is not also a director) and a director.

Section 11.3 - Operating Account - There shall be established and maintained a cash deposit account to be known as the "Operating Account" into which shall be deposited the operating portion of all Regular and Special Assessments as fixed and determined for all Members. Disbursements from such account shall be for general operational needs, including, but not limited to, wages, repairs, betterments, maintenance, and other operating expenses of the Development.

Section 11.4 - Other Accounts - The Board shall maintain any other accounts it shall deem necessary to carry out its purposes, including reserve accounts for replacement of capital improvements as set forth in Article IV of the Declaration. All Association books of account shall be maintained in accordance with generally accepted accounting principles.

Section 11.5 - Budgets and Financial Statements - The following financial statements and related information for the Association shall be regularly prepared, and copies thereof shall be distributed to each Member of the Association:

- a) **Budget** - A pro forma operating budget meeting the requirements of this subparagraph shall be distributed to Members not less than 30 days nor more than 90 days before the end of the fiscal year.
- b) **Year-End Report** - Within 120 days after the close of the fiscal year, a copy of the Association's year-end report consisting of at least the following shall be distributed to Members:
 - i. A balance sheet as of the end of the fiscal year;
 - ii. An operating (income) statement for the fiscal year;
 - iii. A statement of cash flows for the fiscal year;
 - iv. A statement advising Members of the place where the names and addresses of the current Members are located; and
 - v. Any information required to be reported under Corporations Code §8322 requiring the disclosure of certain transactions in excess of \$50,000 per year between the Association and any director or officer of the Association and indemnifications and advances to officers or directors in excess of \$10,000 per year.
 - vi. The annual report shall be prepared in accordance with generally accepted accounting principles by a licensee of the State Board of Accountancy for any fiscal year in which the gross income of the Association exceeds \$75,000. If the annual report is not prepared by such a licensee, it shall be accompanied by the certificate of an authorized

officer of the Association that the statement was prepared without an audit from the books and records of the Association.

- c) **Review of Accounts** - On no less than a quarterly basis, the Board of Directors shall:
- i. Review a current reconciliation of the Association's operating accounts;
 - ii. Review a current reconciliation of the Association's reserve accounts;
 - iii. Review the current year's actual reserve revenues and expenses compared to the current year's budget;
 - iv. Review the Association's latest account statements prepared by the financial institution(s) with whom the operating and reserve accounts are lodged; and
 - v. Review the Association's income and expense statement for the operating and reserve accounts.

Section 11.6 - Required Reserve Studies - At least once every 3 years the Board of Directors shall cause to be conducted a reasonably competent and diligent visual inspection of the Common Areas and Common Facilities or other major components of the Development that the Association is obligated to maintain, repair, and eventually replace.

ARTICLE XII

MISCELLANEOUS

Section 12.1 - Inspection of Books and Records -

- a) **Member Inspection Rights** – All accounting books and records; minutes of proceedings of the Members, the Board, and committees of the Board; the membership list of the Association; and other documents defined as defined by California law shall be subject to the inspection of any Member in accordance with the requirements and restrictions. The Member who desires to inspect those documents must submit a written request for inspection to the Association, and that request must state a reason for the requested inspection that reasonably relates to the Member's interests in the Association.
- b) **Director's Inspection Rights** - Every Director shall have an absolute right at any reasonable time to inspect all books, records, documents, and minutes of the Association and the physical properties owned by the Association.

- c) **Adoption of Reasonable Inspection Rules** - The Board of Directors may establish reasonable rules with respect to (i) notice of inspection, (ii) hours and days of the week when inspection may be made, and (iii) payment of the cost of reproducing copies of documents requested by the Member.

Section 12.2 - Property Manager - The Board of Directors may, from time to time, employ the services of a manager or property management company to manage the affairs of the Association, and consistent with the laws of the State of California, on such conditions as are otherwise deemed advisable by the Board, the Board may delegate to the manager or management company any of its day-to-day management and maintenance duties and powers under these Bylaws and the Declaration, provided that the manager or management company shall at all times remain subject to the general control of the Board.

Section 12.3 - Roberts Rules of Order - If a question or dispute concerning the procedural aspects of any meeting cannot be resolved by reference to these Bylaws or applicable law, the matter shall be resolved by reference to Robert's Rules of Order.

Section 12.4 - Amendment or Repeal of Bylaws –

- a) **Member Approval Requirements** - These Bylaws may be amended or revoked in any respect by the affirmative vote of the holders of not less than one-third (1/3) of the Voting Power of the Members. Notwithstanding the foregoing, the percentage of the Voting Power necessary to amend a specific clause or provision of these Bylaws shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. Any vote to amend these Bylaws shall be conducted in accordance with the secret ballot voting procedures.
- b) **Approval of Certain Amendments by Holders of First Mortgages** - As provided in Section 14.12 of the Declaration, certain material amendments to the Bylaws (which are enumerated in that Section of the Declaration) must also be presented to, and approved by, at least 51 percent of the Eligible Mortgagees who hold mortgages on Condominiums in the Association.
- c) An Eligible Mortgage Holder who received a written request to approve amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved the request, provided that the request was delivered by certified mail or registered mail, with a "return receipt" requested.

Section 12.5 - Notice Delivery - Any notice or other document permitted or required to be delivered as provided in these Bylaws may be delivered personally, by mail, or by e-mail, facsimile, or other electronic means if the recipient has consented to receive documents by electronic transmission. If delivery is made by electronic means, delivery

is complete at the time of transmission. If delivery is made by mail, delivery is deemed to be complete on deposit in the United States mail.

Section 12.6 - Indemnification of Agents -

- a) **Indemnification by Association of Directors, Officers, Employees, and Other Agents** - To the fullest extent permitted by law, the Association shall indemnify its directors, officers, employees, and other agents, including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding" as that term is used in that statute and including an action by or in the right of the Association by reason of the fact that such person is or was a person described by that section. As used in this Section, the term "expenses" has the same meaning as in Corporations Code §7237(a).
- b) **Approval of Indemnity by Association** - On written request to the Board by any person seeking indemnification hereunder, the Board shall promptly determine under Corporations Code §7237(e) whether the applicable standard of conduct set forth in §7237(b) or §7237(c) has been met, and if it has, 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 the proceeding, the Board shall promptly call a meeting of Members. At that meeting, the Members shall determine under Corporations Code §7237(e) whether the applicable standard of conduct set forth in §7237(b) or §7237(c) has been met, and if it has, the Members present at the meeting in person or by proxy shall authorize indemnification.
- c) **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 subparagraphs (a) and (b) of this Section in defending any proceeding covered by those sections shall be advanced by the Association before final disposition of the proceeding on receipt by the Association 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 Association for those expenses.
- d) **Insurance** - The Association shall have the power to purchase and maintain insurance on behalf of its directors, officers, employees, and other agents against other liability asserted against or incurred by any director, officer, employee, or agent in such capacity or arising out of the director's, officer's, employee's, or agent's status as such.

Section 12.7 - Construction and Definitions - Unless the context requires otherwise or a term is specifically defined herein, the general provisions, rules of construction, and

definitions in the California Nonprofit Mutual Benefit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, a singular number includes the plural, and a plural number includes the singular. All captions and titles used in these Bylaws are intended solely for the reader's convenience of reference and shall not affect the interpretation or application of any of the terms or provisions contained herein.

CERTIFICATE OF THE SECRETARY

The undersigned Secretary of the corporation known as Avalon at Eagles Crossing Homeowners Association hereby certifies that the above and foregoing Restated Bylaws, consisting of 21 pages, were duly adopted by a vote of the Members of the Association on February 23, 2017 and that they now constitute the Bylaws of the Association.

AVALON AT EAGLES CROSSING
HOMEOWNERS ASSOCIATION, a California
nonprofit mutual benefit corporation

By: *Joe P. Tamm*
Secretary 03/15/17

