



COMMUNITY ASSOCIATION INC.

P: 570.588.9329

F: 570.588.1887

E: INFO@SAWCREEK.ORG

# Bylaws

as amended July 2022



5728 DECKER ROAD  
BUSHKILL, PENNSYLVANIA 18324

WWW.SAWCREEK.ORG

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**FIRST AMENDED AND RESTATED BYLAWS  
OF  
SAW CREEK ESTATES COMMUNITY ASSOCIATION, INC.**

**ARTICLE I. INTRODUCTION**

**Section A. Name**

The name of the Association is Saw Creek Estates Community Association, Inc., a Pennsylvania nonprofit corporation.

**Section B. Purposes**

The purposes of the Association are to promote excellent residential living conditions, the health, safety, security, convenience, recreation, comfort, and beauty of the community, and for all other purposes stated in the Articles of Incorporation of the Association.

**Section C. Location**

The registered office of the Association shall be located in the community or at any other place in Pike or Monroe Counties as may be designated by the Board of Directors.

**Section D. Effective Date**

These Bylaws shall be effective upon closing of the transition of control of the Community and transfer of the Common Facilities from the Community Developer to the Association on April 22, 2000.

**Section E. Definitions**

“Assessment”	Common expense assessment.
“Association”	Saw Creek Estates Community Association, Inc., its successors, and assigns.
“Board”	The Board of Directors of the Association.
“Chair”	Chairperson.
“Common Facilities”	All real estate within the Community owned by the Association or leased to the Association and excluding any residential lots held for sale to the general public.
"Community"	The planned community known as Saw Creek Estates located in Lehman Township, Pike County, and Middle Smithfield Township, Monroe County, Pennsylvania, which includes Mill Pond Townhouses and platted Sections 1 through 37.
“Covenants”	The applicable Declaration of Covenants, Conditions and Restrictions recorded in the office of the Recorder of Deeds; typically used interchangeably with the word Declaration.

"Declaration"	The applicable Declaration of Covenants, Conditions and Restrictions recorded in the office of the Recorder of Deeds; typically used interchangeably with the word Covenants.
"Fine"	A financial penalty imposed on a member, guest, occupant or invitee for violation of the Community's legal documents.
"Immediate family"	Spouse, brother or sister, child, parent, grandparent or grandchild, or a spouse of any of the named relatives.
"Improved lot"	A lot on which one single-family dwelling has been constructed.
"Lot"	Any numbered residential lot or unit in the Community owned by a member or held for sale to the general public. Two or more adjoining lots, which have been legally merged with municipal approval into one lot, shall be treated as one lot for the purposes of voting, assessments, and special assessments.
"Majority"	Those votes, owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total group.
"Member in good standing"	A deeded lot owner or co-owner that is in compliance with the Covenants, Bylaws and Rules, and that has paid all obligations owed to the Association. This shall include any member who is in compliance with a payment schedule agreed with the Association. A member who owns more than one lot, but has not paid dues on one of them, is not in good standing even if the other lots dues have been paid. <b>Amended July 2004</b>
"Rules"	The body of rules and regulations for the Community adopted by the Board.
"Special assessment"	A charge levied by the Board upon members to cover unbudgeted, unfunded or special project spending.
"Unimproved lot"	A lot on which no single-family dwelling has been constructed.

## ARTICLE II. MEMBERSHIP

### Section A. Membership

The Association shall have a single class of membership, comprised of all owners of residential property. Membership in the Association is automatic upon a person's being an owner of a lot in the Community. When a person is no longer an owner of a Community lot, that person's membership ends, but that person shall remain personally liable for all unpaid Association obligations. **Amended July 2009**

### Section B. Rights of all Members

All members regardless of their standing, shall have the right to:

- (1) Reasonable access to and from their community lots.
- (2) Attend general and special membership meetings, exclusive of their right to participate or to vote.
- (3) Attend all open board meetings.

### Section C. Additional Privileges of Members in Good Standing

In addition to rights listed in the previous section, members in good standing shall have the further privilege to:

- (1) Vote in all elections and at all membership meetings.
- (2) Cast one vote per lot owned by the member or as a co-owner designated to cast that lot's vote.
- (3) To use and enjoy Common Facilities, subject to Association Rules and fees, and to extend those same rights to the member's family, guests, and tenants.
- (4) Serve in an elected association position or on Association Committees.

### Section D. Obligations of All Members

All members shall:

- (1) Comply with the Covenants, Articles of Incorporation, Bylaws, and Rules of the Association, the Community legal documents.
- (2) Be responsible that the member's family members, guests, tenants, contractors, and other invitees shall comply with the Community legal documents.
- (3) Pay all assessments, special assessments, fees, fines, and other obligations to the Association on time. **Amended September 2020**

- (4) Be responsible for all damage to Common Facilities or to other owners' property caused by the member, the member's family, guests, tenants, contractors, or other invitees.

### **ARTICLE III. ASSOCIATION MEETINGS**

#### **Section A. Place of Meetings**

Meetings of the Association shall be held in the Community or at any other suitable place convenient to the Community as may be designated by the Board of Directors.

#### **Section B. Annual Meetings**

The annual meeting of the members of the Association shall be held on the third Saturday in July of each year. The order of business at the July Annual Meeting shall be as follows:

- (1) Call to order and Officer roll call.
- (2) Determination of a quorum.
- (3) Acceptance of minutes of prior membership meeting.
- (4) Board's report on budget and assessment.
- (5) Committee reports.
- (6) Report on balloting.

#### **Section C. Special Meetings**

The President with the approval of or at the request of the Board, or upon a written petition of at least two hundred (200) members in good standing, shall call a special meeting of the members. A special meeting called in response to a valid petition of the members shall be held within sixty 60-days after the petition is filed with the Secretary of the Association. All special meetings shall be held on a Saturday with a starting time between 10:00 a.m. and 2:00 pm. No business shall be transacted at a special meeting other than that stated in the notice.

#### **Section D. Notice of Meetings**

It shall be the duty of the Secretary to mail or to cause to be delivered to the members at their addresses shown in the membership register of the Association written notice of each meeting of the members of the Association. The notice shall state the date, time, place and purpose or agenda items for the meeting. If any member wishes notice to be given at an address other than the member's Community lot, the member shall designate the other address by notice in writing to the Secretary. The mailing or delivery of a notice of any meeting in the manner provided in this Section shall be considered service of notice. Notices shall be served not less than thirty 30-days before a meeting. In addition, prior to the annual meeting of the members, the Board shall prepare and mail



the statutory report of the Association to the members as required under the Pennsylvania Nonprofit Corporation Law.

### **Section E. Waiver of Notice**

Waiver of notice of meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the members, either before or after that meeting. Attendance at a meeting by a member shall be deemed a waiver by the member of notice of the time, date, and place of the meeting, unless the member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice or objections to convening of the meeting of which proper notice was not given, unless an objection is specifically raised before any business is put to a vote.

### **Section F. Adjournment of Meetings**

If any meeting of the Association cannot be held because a quorum is not present, a majority of the members in good standing who are present at that meeting may adjourn the meeting to a time not less than thirty (30) nor more than sixty (60) days later, to start at the same hour and at the same place as the meeting being adjourned. At the reconvened adjourned meeting, any business, which might have been transacted at the meeting originally called, may be transacted at the adjourned meeting. Notice of the date, time and place of the adjourned meeting shall be given to members in the manner prescribed for meetings of the members of the Association, and shall be served as soon as is reasonably possible after the decision to adjourn and at least ten (10) days prior to the date of the adjourned meeting.

### **Section G. Voting/Ballot Handling**

- (1) All members must provide current contact information including, but not limited to their mailing address to the Association. Members in good standing shall be entitled to one vote per lot owned, with voting information being mailed to the current mailing address on record with the Association. Only one vote may be cast per lot, irrespective of the number of owners of the lot. All voting shall be by secret mailed ballot using a double envelope procedure or via secured electronic voting, with ballots returned to the Judge of Elections. **Amended July 2013**
- (2) Neither cumulative voting nor proxy voting shall be permitted. **Amended July 2020**
- (3) The Board Secretary is responsible for getting voting information prepared on or before 60 days prior to the July Annual Member Meeting. The Nominating Committee is responsible for getting voting information mailed no later than June 1st. Only members who are in good standing at 5:00 PM EST on May 1<sup>st</sup> (record date) shall be mailed voting information and entitled to vote. **Amended July 2022**
- (4) The Associations contracted CPA firm shall provide Judge of Election services to oversee the ballot counting and election results.

## **Section H. Quorum**

The presence in person at any Association meeting of fifty (50) members in good standing shall constitute a quorum. The members in good standing present at a 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. **Amended July 2007**

## **Section I. Conduct of Meetings**

The President shall preside over all meetings of the members of the Association, and the Secretary shall cause the minutes of the meeting to be kept as well as a record of all resolutions adopted at the meeting. Conduct of the meetings, if not covered by statute or the Bylaws, shall be governed by *the Modern Rules of Order* as published by the Pennsylvania Bar Institute (latest edition)<sup>1</sup>.

# **ARTICLE IV. BOARD OF DIRECTORS**

## **1. Mission Composition and Selection**

### **Section A. Mission**

The Board of Directors shall oversee the management and control of the business and property of the Association, shall exercise all powers of the Association and determine all matters of policy, except for powers specifically reserved to the members in the Declaration, the Articles of Incorporation and the Bylaws.

### **Section B. Governance**

The responsibility for overall governance of the affairs of the Association rests with the Board of Directors. It shall be the duty of the Board to affect the purposes of the Association to the best of the Board's ability, using the powers granted to it by law, the Covenants, Articles of Incorporation, and these Bylaws. It shall specifically be the duty of the Board to insure prompt and impartial enforcement of the Covenants, Bylaws and Rules.

### **Section C. Board Composition**

The Association members in good standing shall elect the Directors. Each and every Director must be a member in good standing, and at least 21 years old. A member and the member's spouse may not serve on the Board at the same time. The Board shall have nine Board members. Members of the Board shall receive no financial compensation for their service but may recover reimbursement of expenses approved by the Treasurer. At any time that a Director or a candidate for election as a Director ceases to be a member in good standing, that person's status as a Director or candidate for Director shall have five (5) business days to become a member in good standing. Notwithstanding the previous sentence, any Director who loses member in good standing status shall have five (5) days to regain such status before losing his/her seat on the Board. Additionally, any member who occupies a position on the executive committee (President, Vice President, Treasurer or Secretary) must reside in the community full time and have Saw Creek designated as his/her primary address on his/her driver's license. **Amended July 2022**

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<sup>1</sup> Pennsylvania Bar Institute, 5080 Ritter Road, Mechanicsburg, PA 17055-6903, (717) 796-0804, (800) 932-4637, <http://www.pbi.org>, info@pbi.org.

#### **Section D. Nomination of Directors**

Except when filling Board vacancies caused by resignation or removal, candidates for the Board of Directors will be nominated as follows:

- (1) The Nominating Committee shall present a slate of willing individuals as nominees 60 days prior to the July Annual Member Meeting naming a minimum of one candidate per opening on the Board.
- (2) Any Association member who qualifies shall be listed as a nominee provided the member submits a nominating petition to the Nominating Committee prior to the deadline.
- (3) All nominees must also meet the following requirements to be eligible for nomination. No nominee may be, nor within six months of the annual meeting have been, (1) a Nominating Committee member, (2) a spouse, domestic partner or dependent of a Nominating Committee member or (3) the Board Liaison to the Nominating Committee. All candidates must state their qualifications and solicit votes by submitting a written biographical sketch intended to be included with the voting information mailed to the members. Nominees shall be invited to participate, either in person at or by submitting a written presentation for, a Candidates' forum scheduled by the Board. All candidates shall also be and remain members in good standing of the Association. **Amended July 2021**

#### **Section E. Election and Term of Office**

- (1) Board Members shall be elected by mailed ballot or secured electronic voting with the results of the election announced at the July Annual Meeting. Directors shall hold office for their elected terms and until their respective successors have been selected and qualified.
- (2) Directors elected by the members in good standing shall serve staggered three-year terms. The maximum term of continuous service for a Director shall be two (2) terms or six (6) years. Following that period of service, there must be a gap in service of at least one year before the member may serve again as Director.
- (3) In the event that the number of qualified candidates is less than or equal to the number of vacancies on the Board, voting by the members shall not be required and the presiding officer shall declare the candidates elected by acclamation at the annual meeting. If no successor is elected, the person previously elected or appointed continues to hold office as a carry-over director. Prior to the annual meeting, the Board shall determine who will remain in office as the carry-over director(s). Absent resignation or removal, carry-over directors shall serve until the next election, at which time the membership shall elect a qualified candidate to serve the remainder of the

seat's term. **Amended July 2010**

- (4) In the event there is a tie vote between candidates receiving the lowest number of votes necessary to qualify for election to the board, the disinterested Directors (those not involved in the tie) of the remaining Board of Directors shall select the winner. The tie breaking voting shall be done prior to the annual Board meeting. **Amended July 2010**
- (5) If a Director voluntary resigns from the Board, they will not be eligible to become a Board Candidate for a period of three (3) years, from the date of resignation.
- (6) If a Director is removed from the Board, for being absent without good cause, they will not be eligible to become a Board Candidate for a period of three (3) years, from the date of removal.
- (7) If a Director is removed from the Board, for "Proper Cause", as specified in a Board Resolution adopted by a majority of the Board, that person will never again, be eligible to become a Director. **Amended July 2011**

#### **Section F. Creation and Filling of Midterm Board Vacancies**

- (1) A Board position may be declared vacant because of:
  - (a) The Board member's written resignation accepted by the Board;
  - (b) A deemed resignation of the Board member by a vote of two-thirds of the remaining Directors for reasons of health-related inability to perform director duties or absenteeism or;
  - (c) Involuntary removal for cause by two-thirds votes of members in good standing present at a Special Meeting called for that purpose.
- (2) A Board member shall be deemed to have submitted a resignation from the Board if the Director is absent without good cause, as determined in the discretion of the Board, from three (3) successive regular board meetings or from a total of four (4) regular board meetings during any calendar year.
- (3) Cause for removal at a Special Meeting of the members shall be:
  - (a) Declaration of unsound mind by order of courts;
  - (b) Facts showing a Director being initially or currently ineligible for Board membership;
  - (c) Being found guilty of a misdemeanor or a felony offense under any state or federal jurisdiction or;
  - (d) Being in violation of the Association Covenants, Bylaws, Rules or Board Governing Policies. **Amended July 2010**

- (4) The Board shall give immediate notice of the grounds of involuntary removal for cause and the calling of special membership meeting in writing to the Director in question. The special membership meeting notice shall also include the alleged cause(s) for removal of each Director involved. The Director shall have a reasonable opportunity to be heard at the special meeting and to defend against the grounds asserted. A Director who is so notified but is then voted not to be removed may not be later removed for the identical cause or circumstances.
- (5) When a Board vacancy occurs the Board shall appoint the candidate who obtained the next highest number of votes in the prior election as a successor Director. If such candidate declines appointment then this procedure will be followed until appointment of a successor Director. The successor Director shall serve the remainder of the term of the Board member they are replacing. **Amended July 2006**
- (6) Should there be no successor candidates, the Board shall appoint by a majority vote of the Board, a member of the Association to fill the vacancy. The appointed successor Director shall serve the remainder of the term of the Board member they are replacing. **Amended July 2010**

## **2. Meetings**

### **Section A. Standards Governing All Board Meetings**

- (1) The Board shall meet at regular meetings at any intervals it shall determine from time to time by resolution. After the Board adopts by resolution the time and place for its regular meetings, no further notice of those regular meetings shall be required.
- (2) Each resolution of the Board must be documented in writing in a book of resolutions. The record of each resolution must include the vote upon each resolution taken by Roll Call with the Yeas and Nays entered in the record. A minimum of five affirmative votes of the Directors present in person or by conference telephone or by E-mail at a Board meeting at which a quorum is present shall constitute the decision of the Board. **Amended July 2009**
- (3) The President shall preside at all Board meetings. In the absence of the President, the Vice President shall act in that capacity. The Secretary shall cause the minutes of the meeting to be recorded, including all resolutions adopted at the meeting, as well as a record of all other material transactions. The Secretary shall sign approved minutes of the Board. Minutes other than those for an Executive Session shall be available to all members for inspection as permitted in compliance with state law. The Board shall determine its own rules of procedure and order, subject to these Bylaws.
- (4) Directors shall be prepared to discuss Board and Association business as specified in

Board meeting agendas and minutes. **Amended September 2016**

- (5) Directors shall act in a professional and responsible manner at all times, including but not limited to all meetings and community events. Directors shall use proper conduct and respectable language when issuing Board related communications and correspondence. **Amended September 2016**
- (6) Unless authorized by the Board, Directors shall not divulge confidential information, including but not limited to information concerning personnel, legal matters and homeowner. **Amended September 2020**

### **Section B. Organization Meeting**

The organization meeting of the Board shall be held on a Saturday within three weeks after the annual meeting in which the Directors are elected. The agenda for that meeting shall include setting the calendar of regular Board meetings for the coming year.

### **Section C. Regular Meetings**

The order of business at a regular Board meeting shall be as follows:

- (1) Board work session, if needed, prior to calling the meeting to order;
- (2) Determination of a quorum;
- (3) Approval of minutes of last board meeting;
- (4) Treasurer's report;
- (5) Community Manager's report;
- (6) Committee reports;
- (7) Awarding of contracts;
- (8) Second reading and action on Rules or policies proposed in the prior meeting;
- (9) Other unfinished business;
- (10) New business;
- (11) First reading of proposed changes to Rules or policies;
- (12) Communications, petitions, hearings; and
- (13) Other miscellaneous items. **Amended July 2017**

#### **Section D. Special Board Meetings**

Special meetings of the Board may also be called by a majority vote of all the Directors on the Board and shall be held at any place as the call or notice of the meeting shall designate. Notice of a special Board meeting shall be given in writing or verbally, by the Board Secretary to all Directors on the Board, at least five (5) days prior to the day named for the meeting, or the Directors may waive notice in writing. **Amended July 2012**

#### **Section E. Waiver of Notice**

Waiver of notice at a Special Meeting of the Board shall be deemed the equivalent of proper notice. Any Director may, in writing, waive notice of any meeting, either before or after that meeting. The attendance at a meeting by a Director shall be deemed a waiver of notice, unless the Director specifically objects to lack of proper notice at the time the meeting is called to order.

#### **Section F. Business at Special Meeting**

No business shall be transacted at a Special Meeting of the Board other than that stated in the notice of the meeting.

#### **Section G. Board Liaisons**

The Board shall assign a Board Member to function as a Liaison to each standing committee. **Amended July 2009**

### **3. Powers and Duties**

#### **Section A. Powers Generally**

The Board shall have authority to exercise general powers, unless otherwise restricted by law, the Covenants, the Articles of Incorporation or these Bylaws. The Board shall specifically have all powers enumerated in the Articles of Incorporation, as well as the power to levy assessments and other charges.

#### **Section B. Actions Requiring Members' Majority Vote**

The Board shall have authority to exercise certain powers only after obtaining approval of the majority of those Association members voting by ballot to be counted at the annual or a special member meeting. Voting requirements will be the same as in Article III Section G of these bylaws. These powers shall include:

- (1) To include in the Association Budget any single new asset with a total cost exceeding \$175,000.00. As used in this section, the term 'new asset' refers to any item not included in the current 30-year Reserve Study Component Inventory and does not include any repair, replacement, or upgrade of existing Reserve Study inventory items. **Amended July 2022**
- (2) To make a single withdrawal in excess of \$175,000.00 from the capital improvement fund not previously approved in the Association Budget. **Amended July 2022**

- (3) To levy special assessments exceeding five (5) percent of its gross expense budget.
- (4) To hire, rehire or contract with agents, employees, or service providers for terms greater than three years.
- (5) Reduce the size, concentration, or density of the white tail deer population within Saw Creek Estates. **Amended July 2019**

### **Section C. Actions Requiring Members' Two-Thirds Approval**

The Board shall have authority to exercise certain powers only after obtaining approval of two-thirds (2/3) of those association members voting. These powers shall include: Transfer, dispose of or grant rights or easements to Common Facilities.

### **Section D. Conflicts of Interest**

- (1) During service on Association business, no Director, Manager, employee, or Committee member shall accept any personal remuneration, gifts, favors or services in any form from parties providing goods or services to the Association. Anything of value received from contractors shall be solely for the benefit of the Association.
- (2) A Board member or his family may hire an employee or contractor of the Association to perform duties or provide services of a personal nature for the member, provided the cost of same is not so low as to create a conflict of interest for the employer, and provided the employee is given no future preferential treatment.
- (3) Except for the student children of Board Members working in seasonal or after-school part-time positions, no Board Member or a member of his/her immediate family shall directly or indirectly accept employment, or enter into any paid contract with the Association or any contractor or subcontractor of the Association during the members service as a Director. **Amended July 2004**

## **ARTICLE V. OFFICERS**

### **Section A. Officers**

The officers shall be a President, Vice President, Secretary and Treasurer of the Association. They shall have the powers and duties described in this Article. The Board may also appoint other assistant officers who shall have such authority as shall be designated by Board resolution.

### **Section B. Signature Authority**

The Directors are the authorized signatories for the Association. The Board may also delegate signature authority to Employees as may be reasonably required for the efficient operation of the Association. All authorized signatories shall be bonded or insured to the benefit of the Association against acts of crime, dishonesty and wrongful acts. Two (2) Directors (one being an Officer) are required to sign all checks and any contracts that exceed \$5,000.00. **Amended July 2013**



### **Section C. President**

The President shall:

- (1) Act as the Chief Executive Officer of the Association.
- (2) With Board approval, have general oversight of management of Association business and supervise the Community Manager.
- (3) Preside over all member and Board meetings.
- (4) Have power to vote on all Board and member matters.
- (5) Have general direction over the other officers.
- (6) Be an *ex officio* member of all committees except the Nominating Committee.
- (7) Perform generally the duties incident to the office of President. **Amended July 2012**

### **Section D. Vice President**

In the absence of the President, The Vice President shall:

- (1) Act for the President.
- (2) Perform any duties as may be assigned from time to time or delegated to the Vice President by the Board or President.

### **Section E. Treasurer**

The Treasurer shall:

- (1) Be responsible for Association funds, securities, and financial records.
- (2) Deposit all Association monies and valuables in investments and institutions approved by the Board.
- (3) Be bonded by the Association for any sum designated by the Board.
- (4) Cause preparation of monthly financial statements to the Board on the financial and budgetary condition of the Association.
- (5) Be the Board Liaison to the Finance committee. **Amended July 2012**
- (6) Cause to be prepared all materials needed for the Annual Audit and for any additional audits approved by the Board.

- (7) Maintain the annual financial reports at the Association office for reference by members.
- (8) Make reports and perform other duties as required by the President or the Board.

#### **Section F. Secretary**

The Secretary shall:

- (1) Generally, perform duties incidental to the office of Secretary.
- (2) Receive, respond to, record and report on all correspondence of the Board.
- (3) Maintain permanent files of all correspondence.
- (4) Act as custodian of the Corporate Seal and all legal records.
- (5) Issue notices of all Regular and Special Meetings.
- (6) Cause the recording of minutes at all meetings.
- (7) Properly record and preserve all minutes of proceedings, including records of voting.
- (8) Arrange distribution of notices, newsletters and other information needed by members.
- (9) Oversee the preparation of the Membership Register, which shall contain:
  - (a) Members' names listed alphabetically.
  - (b) Addresses and telephone numbers authorized by members to be used for official contact by the Association.
  - (c) Members Community addresses, including mailbox number, section, and lot number.
  - (d) The date the member became an owner.
  - (e) The members in good standing status with the date last determined and the reason if the status is not in good standing.

#### **Section G. Board Executive Officer Recall**

A Board Executive Officer (President, Vice-President, Secretary and Treasurer) can be involuntarily removed as a Board Officer by a majority vote of all Directors providing:

- (1) The Board gives notice to all Directors, via the calling of a special executive meeting for the involuntary removal of a Board Executive Officer. The notice shall include the Executive Officer's name and the alleged cause(s) for removal of said Executive Officer.

- (2) The Executive Officer being recalled shall have up to five (5) days to prepare for the special executive meeting.
- (3) The Executive Officer shall have the opportunity to be heard at a special executive meeting, and to present a defense against the grounds asserted. **Amended July 2012**

## **ARTICLE VI. COMMITTEES**

### **Section A. General**

All committees function in an advisory capacity to the Board and provide invaluable assistance to the proper function of the Association in those roles. The Board shall prescribe the duties and obligations of all Committees. A representative of each committee should be prepared to report the committee's activities at each regular meeting of the Board of Directors. Committees shall keep minutes of their own meetings, a copy of which shall be filed with the Association Secretary at the administration office. All potential committee members must complete a committee application form for each committee they wish to join. The completed application form should be submitted to the administration office for verification of member status. **Amended July 2009**

### **Section B. Special or *Ad hoc* Committees**

The Board may from time to time create or dispense with Special Committees as needed to assist the Board on matters not involving the functions of the Standing Committees. Special Committees shall serve at the Board's discretion. The Board shall appoint the members of each Special Committee from among Association members in good standing. They shall include deeded members, members spouse, domestic partner, or dependent 18 years of age or older, all of whom must reside with deeded member; limit of two family members per committee. **Amended July 2006**

### **Section C. Standing Committees – Generally**

- (1) The following committees shall be the Standing Committees of the Association established by these Bylaws to function permanently. Standing Committees shall each be composed of at least three (3) but not to exceed nine (9) members all of which must be members in good standing. They shall include deeded members, members spouse, domestic partner or dependent 18 years of age or older, all of whom must reside with deeded member; limit of two family members per committee. The Chair of each Standing Committee shall be a member of that committee selected by the committee members and approved by a majority of the Board in executive session. Each committee will also select a vice-chair to serve in the absence of the chair. The committee shall also appoint a secretary to record minutes at all the committee meetings. The members selected by the committee for vice-chair and secretary need not be approved by the Board. Members of each Standing Committee shall be appointed by and may be removed by a majority of the Board. **Amended July 2009**
- (2) A committee member shall be deemed to have submitted a resignation from the committee if the member is absent without good cause, as determined in the

discretion of the majority of the committee, from three (3) successive regular committee meetings or from a total of four (4) regular committee meetings during any calendar year. **Amended July 2010**

#### **Section D. Finance Committee**

The committee will include the Board Treasurer as the Board Liaison to the committee who shall have no vote in committee decisions. The committee will include the Community Manager, who shall have no vote in committee decisions. The Finance Committee shall submit recommendations to the Board on all budget line items of revenue and expense and shall conduct a timely process of open meetings and hearings to develop the proposed budget for the Board of Directors each year. **Amended July 2012**

#### **Section E. Appeals Committee**

- (1) The Appeals Committee shall be the hearing tribunal of the Association composed of members in good standing. The Appeals Committee shall be responsible for achieving expeditious and just treatment of all appeals and render decisions on behalf of the Association. **Amended July 2013**
- (2) The Appeals Committee shall hold regularly scheduled hearings. Such hearings are not open to the Membership or public. Appeal Hearings shall only be conducted if there are three (3) or more committee members in attendance. If less than three (3) members are available then the Hearings shall be rescheduled. **Amended July 2013**
- (3) The committee shall give each appellant an opportunity to be heard and reach a decision in each case by majority vote. The Committee shall provide a report of all hearings and decisions to the Board. The Board shall accept, modify, or reject the Committee's decision. The Appeals Committee decisions shall be provided by written notice to the Appellants. **Amended July 2022**
- (4) Any appellant objecting to the Appeals Committee's decision may within 15 days after receiving notice of the decision, request a review of the matter by the Board. When requesting a review by the Board, Appellant must provide the procedural, evidentiary or other substantive reason(s) for the request. The granting or denial of an appellant's request for review shall be at the sole discretion of the Board. **Amended July 2013**
- (5) The Association reserves the right to seek equitable relief from the courts at the discretion of the Board and irrespective of the appeals process. **Amended July 2013**

#### **Section F. Beautification Committee**

In order to maintain the natural beauty of our surroundings in Saw Creek Estates, the Beautification Committee will be involved in the decision-making process with regard to all phases of exterior and interior design related to any capital building projects. This responsibility will also include the planning of the landscape design of such projects. In addition, the Beautification Committee shall

monitor maintenance, landscaping, and general appearance of all common areas and existing amenities within our community for the purpose of making recommendations to the Board of Directors. **Amended September 2020**

**Section G. Building and Architectural Committee**

The Building and Architectural Committee shall recommend, for the Board’s review and action, Community Rules for building and altering dwellings and for property maintenance and landscaping. The Building and Architectural Committee shall review the physical property within the Community and recommend to the Board actions to be taken.

**Section H. Rules Committee**

The Rules Committee shall recommend, for the Board’s review and adoption, proposed wording for and changes or additions to rules not within the authority of any other Standing Committee. The Rules Committee shall recommend to the Board appropriate methods of member communication, Rule development, Rule enforcement and related matters.

**Section I. Safety Committee**

The Safety Committee shall review Association matters related to the health, safety and security of the Community and advise and recommend to the Board actions to be taken.

**Section J. Public Information Committee**

The Public Information Committee shall ensure communication to all members of items of interest or information, including but not limited to the publication of a regular association newsletter or newspaper and occasional special news bulletins, and the posting of notices in the Association office.

**Section K. Recreation Committee**

The Recreation Committee shall recommend to the Board Rules and actions to enhance community recreation, cultural and special events, and newcomer welcoming activities, all including attention to interests of both youth and adults.

**Section L. Nominating Committee**

Each year approximately sixty (60) days prior to the annual meeting the Nominating Committee shall provide to the Board of Directors a list of nominees for membership on the Board of Directors, using a fair, open process to identify qualified individuals who wish to serve.

**Section M. Committee Member Responsibilities**

- (1) Preparedness: Committee Members shall be prepared to discuss committee business as specified in committee meeting agendas and minutes.
- (2) Conduct: Committee Members shall act in a professional and responsible manner at all times, including but not limited to all Association meetings. Committee Members shall use proper conduct and respectable language at meetings and when issuing any committee related communications and correspondence.

- (3) Confidentially: Unless authorized by the Board of Directors, Committee Members shall not divulge confidential information, including but not limited to information concerning personnel, legal and homeowner's information. **Amended July 2011**

## **ARTICLE VII. COMMUNITY MANAGEMENT**

### **Section A. Employment**

The Board shall employ Community Management with compensation set by the Board.

### **Section B. Function and Qualifications of the Community Management**

The Community Management shall be responsible to the Board for administration of the affairs of the Association, and for execution of Board policies and decisions. The Community Management shall be subject to the oversight by the Board. The Community Management must be a full-time professional manager employed either by the Association or a contracting management company.

### **Section C. Required Contract Terms**

The contract for the Community Management may not exceed three years and shall include provisions dealing with contract termination by either party. In the event the Community Management is an individual employee who is absent or disabled, the Community Management may appoint a qualified administrative employee of the Association to act temporarily as Community Management, or the Board may do so if the absence exceeds thirty 30-days. Individual Directors and Association members shall not request nor direct the appointment or removal of, nor give orders to, nor interfere with the performance of any subordinate of the Community Management.

### **Section D. Powers and Duties**

The Community Management shall:

- (1) Execute and consistently enforce the Board's policies and the Association legal documents.
- (2) Hire and remove all Association employees.
- (3) Set the compensation for Association employees, within budget requirements and job descriptions, and have general responsibility for employee performance.
- (4) Negotiate contracts for the Association, subject to Board approval.
- (5) Recommend Community strategic and tactical plan priorities and execute same when approved by the Board.
- (6) Assure that statutory, utility and contract terms concerning the Association, or its members are met and that the Board is notified of violations.

- (7) Participate, without vote, in all Board meetings.
- (8) Keep the Board and its members informed about the conduct of Association affairs.
- (9) Administer the Board-approved budget.
- (10) Be responsible to the Board for carrying out all policies and the administration of all Association operations.

## **ARTICLE VIII. FINANCES**

### **Section A. Annual Budget**

The Association's Annual Budget shall contain two parts, an Operating Budget and Capital Budget. Each part shall be itemized as to expenditures; revenues and surplus, following generally accepted accounting principles and AICPA guidelines.

### **Section B. Budget Development**

The Community Manager, in a process overseen by the Finance Committee, shall prepare a draft Budget for the upcoming calendar year to be presented formally by September 1 of each year to the Finance Committee for review, modification and recommendation to the Board of Directors. The draft Budget shall include operating expenses, capital expenses, revenues, and reserve funds. Before the draft Budget is formally submitted to the Finance Committee, the Finance Committee shall, in conjunction with the Community Manager, conduct a reasonable number of meetings and hearings on significant elements of the budget, soliciting comments from the members of the Association. The Finance Committee shall then review the draft Budget as submitted by the Community Manager and make changes, as the Finance Committee deems necessary. The Finance Committee shall by October 1 of each year submit its preliminary Budget to the Board of Directors with the Committee's recommendations. The Board shall vote to approve a final Budget for the next year during the month of November.

### **Section C. Publication of the Preliminary Budget**

Following the approval and recommendation of the preliminary Budget by the Finance Committee to the Board of Directors, the Finance Committee shall post the preliminary Budget on the Community Website and at the office of the Association for a thirty (30) day public comment period. All members' comments shall be submitted in writing to the Finance Committee. Both posted copies of the preliminary Budget shall include the same instructions to the members about making written comments. **Amended July 2017**

### **Section D. Adoption of Budget**

The Board shall, after posting the preliminary Budget on the Community Website and at the office of the Association for a thirty (30) day public comment period prior to the end of the calendar year, by majority vote adopt the final Budget for the Association. That resolution shall also establish and levy the annual assessments for the next calendar year.

### **Section E. Implementation of Budget**

Total operating funds spent by the Association may not exceed budget and no capital budget line items may be exceeded at all unless those operating or capital expenditures have been presented to the Finance Committee and approved by two-thirds of the Board. **Amended July 2013**

### **Section F. Reserves**

The Association shall maintain separate Operating, Replacement and Capital Improvement Reserve Accounts.

- (1) **Operating Reserve Account** – The purpose of the Operating Reserve Account is to have funds available in the event that expenses exceed revenue in a given year. The account shall be funded through unexpended operating funds from prior years as well as investment earnings from the account balance. The Operating Reserve Account shall be maintained at not less than 10% of the prior year’s operating budget and, to the extent the account falls below this level, an assessment may be required. **Amended July 2018**
  
- (2) **Replacement Reserve Account** – The purpose of the Replacement Reserve Account is to have funds available to meet expenses associated with the repair and replacement of existing assets, which are identified in the Association’s Reserve Study, and not for significant additions to or expansion of existing assets or facilities. The Replacement Reserve Account shall be fully funded in accordance with a current 30-year Reserve Study and APRA guidelines. The Replacement Reserve Account shall be funded through assessments and/or as provided in Section G below, as well as investment earnings from the account balance. **Amended July 2018**
  
- (3) **Capital Improvement Account** – Initially, the Capital Improvement Account will be funded through transfer of excess funds in the Operating and Replacement Reserve Accounts. Excess funds in the Operating Reserve Account will be determined by the Finance Committee, reviewed by the auditors, and approved by the Board. Thereafter, the account shall be funded through Capital Improvement fees charged upon each transfer of title to a unit as well as investment earnings from the account balance. This account will be used to fund new capital assets which are not included in the Reserve Study inventory and for significant addition to or expansion of existing assets not specifically provided for in the Reserve Study inventory. **Amended July 2018**

### **Section G. Surplus**

All surplus operating funds as stated in the audited year-end financial statements and excluding depreciation expense shall be appropriated by the Board in order to (1) maintain required capital and operating reserve funding and/or; (2) fund new equipment, facilities and common elements (new assets) not included in the current 30-year Reserve Study Component Inventory. All surplus operating funds not appropriated as provided in (1) and (2) in this section shall be included in the following year’s budget as anticipated revenue to reduce annual assessments. **Amended July 2013**



## **Section H. Assessments**

The Board shall set annual common expense assessments. Assessments shall be charged uniformly per lot or unit as described below. Two adjoining lots that have been legally merged by a recorded subdivision plan shall thereafter be treated as one lot. Annual assessments are intended to support the annual Budget, after considering all outlays, both operating and capital, non-assessment income and other available funds.

- (1) The common expense assessment per unimproved lot shall be called the basic assessment, and the assessment per improved lot shall be called the residential assessment. The basic assessment and the residential assessment are established by the Board and shall be equal unless the members later amend these Bylaws. The aggregate sum of all currently collectible assessments and anticipated income must equal the net revenue needed to fund the annual Budget. The owners of Mill Pond units shall also pay an additional assessment related exclusively to the units and common facilities in Mill Pond.
- (2) Special assessments may be used with Board approval to cover unbudgeted spending that otherwise is not provided for in the Budget including but not limited to approved overspending on budgeted line items, and unusual or non-recurring special projects or services. Special assessments shall not exceed five percent of the total Association Budget in any fiscal year without approval of a majority of the members in good standing voting at a meeting called for that purpose.
- (3) Annual assessment invoices shall be sent to members electronically or by regular mail, prior to December 15. Unless otherwise decided by the Board, assessments shall be payable in one installment on January 15. The Board may grant a discount for payments received for assessments earlier than the due date. All assessments, fines, fees and other charges shall be delinquent if not paid within 30-days after the due date. The Board may impose late fees for delinquent assessments, fines, fees and other charges, and annual interest of 15 percent per year, which interest shall continue until all charges are paid in full. Interest and late fees shall also apply to any delinquencies by members under any installment payment plan or schedules. All owners shall remain responsible for payment despite the owners' failure to use the Common Facilities or by abandonment of the lot or unit.

## **Section I. Delinquent Accounts**

The Association may bring suit to collect any delinquent account and may enforce the Association's right to foreclose on its statutory lien on the lot or unit in question. The Association should also collect all charges for interest, late charges, cost of collection and attorney's fees as permitted by statute.

## Section J. Accounting Principles

The Association shall employ accrual accounting. All accounting and controls shall comply with AICPA guidelines and generally accepted accounting principles. The Association shall segregate accounting duties. Disbursement by check shall require two authorized signatures. No facsimile shall be used. The Association shall make no petty cash disbursements in excess of \$100.00.

- (1) Cash accounts shall not be commingled with others except for joint investments, and then only on the condition that the Association's books shall show each account's contribution to the investment.
- (2) All funds of the Association shall be kept in depositories approved by the Board and insured by the Federal Deposit Insurance Corporation other than the below approved investments noted. No changes of depository shall be made without the approval of the Board. All funds in any depository more than the statutory insurance limit set by the Federal Deposit Insurance Corporation, or funds not needed for immediate use by the Association, or in excess of Association's cash flow requirements shall be in investments approved by the Board in consultation with appropriate professionals. The investments shall only be made in:
  - (a) United States Treasury Bills, Notes and Bonds as well as United States Government Agency Discounted Notes or **Amended July 2007**.
  - (b) In money market accounts or similar investments that are substantially
    - (i) Are invested in U.S. Treasury and U.S. Government Agency instruments and securities or
    - (ii) Are directly secured by U.S. Treasury and U.S. Government Agency instruments and securities.
  - (c) Fixed Income Securities which may include corporate bonds of U.S. Corporations that are rated "A" or better by any recognized rating agency (Standard & Poor's, Moody's).
  - (d) A portion of the investment portfolio may be invested in alternate investments which shall be governed by an Investment Policy Statement (IPS) adopted by the Board annually in January. Alternate investments may not exceed 20% of the total investment portfolio, irrespective of gains, and must be consistent with the recommendation of the Association's investment manager. Alternate investments may include, but not be limited to, the following:
    - (i) Equity Securities – Large cap equity investments which meet the following criteria: Issued by U.S. Corporations or American Depository Receipts issued by a foreign company that are traded on a major organized U.S. Stock exchange. The market capitalization for these companies must be \$10 billion or more.
    - (ii) Mutual Funds or Exchanged Traded Funds (ETF's). **Amended July 2021**

## Section K. Annual Reports

Before the end of the fiscal year, the Board shall engage an independent CPA firm to audit the books and records, prepare tax returns and certified financial statements, and submit written comments

and suggestions for improving association financial practices and controls. These written comments shall include identification of all discovered violations of requirements and limits imposed by article VIII and by state and federal laws. Audited financial statements, with footnotes and auditor's opinion shall also be available to the members as required by law. **Amended July 2004**

#### **Section L. Contracts**

- (1) Unless the action follows a thirty (30) day notice to the members, the Board may not contract with any person or firm to furnish goods or services for a term greater than one year, except for:
  - (a) A management contract;
  - (b) A contract with a public utility for the shortest term available at the regulated rates;
  - (c) Prepaid casualty or liability insurance policies effective for fewer than three years provided they allow unrestricted cancellation by the insured.
  
- (2) All purchases of goods or services or projects costing over \$10,000.00 shall be advertised for public bid and awarded to the lowest responsible bidder as determined by the Board. Requests for proposals must be advertised in public notices appearing in any combination of at least two (2) of the following: regional newspapers of general circulation; online bidding sites or publications; and/or other industry-related print or online media outlets, published no later than thirty (30) days before the announced due date for the bids. The request for proposals shall require sealed bids that comply with stated terms and specifications, describe what is sought, describe where and when bids are due, and how to obtain detailed plans or specifications when needed. The specifications shall detail, using reasonable industry practices, the nature and amount of the work to be performed or the goods or services to be provided, and the form of contract to be executed. A performance bond or schedule of values and payments may be required by the Association from successful bidders for construction contracts valued at more than \$100,000. **Amended July 2019**
  
- (3) The Association may purchase goods or services without public advertising for bids under the following circumstances:
  - (a) Professional services and related costs.
  - (b) Services of Association employees.
  - (c) Election expenses of the Association.
  - (d) Actual emergency affecting member health, safety, or security.
  - (e) Goods and services of special-purpose or design which may be available only from a single source.
  
- (4) At the time a bid is due; the Secretary shall unseal the bids, record their contents and transmit them to the Community Manager. The Community Manager shall deliver all

bids received with comments and recommendations to the Board for award.

- (5) If no bids are received or if all bids received are deemed to be unreasonable as to price or terms, no contract or purchase may be entered into unless the Board by a two-thirds vote elects to renegotiate with all bidders or waive the bid requirements. **Amended July 2019**
- (6) In applying rules regarding dollar limits, Association expenditures must reflect the total project cost, and those costs may not be divided into smaller projects or service segments to fall technically below the dollar threshold.

### **Section M. Borrowing**

The Board is authorized to borrow for operating expenses for cash flow purposes, provided the debt can be liquidated by anticipated receipts during the current fiscal year.

### **Section N. Inspection of Books and Records**

- (1) The Covenants, Bylaws, membership register, books of account and minutes of member meetings, Board of Director meetings, and committee meetings shall be made available for inspection and copying by any members in good standing at any reasonable time during normal business hours and for a proper, noncommercial purpose related to the member's interest in the Association, at the office or other places the Board may prescribe. Association documents may not be removed from their normal locations. Members must submit a written request under oath on a form provided by the Association in compliance with state law to inspect records.
- (2) The Board shall establish reasonable rules governing:
  - (a) Notice to be given to the records custodian.
  - (b) Hours and days of the week when inspection may be made.
  - (c) Payment of the cost of reproducing the records.
- (3) A director shall have the right at any reasonable time to inspect books, records, documents and Association physical property, including the right to make extra copies at the Association's expense, if the inspection is related to Association affairs, and so long as the director has no personal conflict of interest regarding the materials to be viewed. Inspections are not allowed for personnel records or property owner records unless authorized by majority of the Board of Directors. **Amended July 2009.**

### **Section O. Contracts with Other Associations**

With the approval of all Directors, the Association may enter into common management, operational or other agreements with trusts, condominiums, cooperatives, planned communities or other neighborhood homeowners' or residents' associations, both within and without the Community.

**Section P. Miscellaneous**

Directors and employees may be reimbursed for valid and exclusively association-related expenditures incurred for the benefit of the Association, subject to compliance with generally accepted accounting principles and approval by the Treasurer.

**ARTICLE IX. INDEMNIFICATION**

**Section A. Third Party Action Indemnification**

The Association shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that the Director is or was a representative of the Association, or is or was serving at the request of the Association directly or as a representative of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement, actually and reasonably incurred by the Director in connection with the action, suit or proceeding, if the Director acted in good faith and in a manner the Director reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the Director's conduct was unlawful.

**Section B. Derivative Action Indemnification**

The Association shall have power to indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that the Director is or was a representative of the Association or is or was serving at the request of the Association directly or as a representative of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), actually and reasonably incurred by the Director in connection with the defense or settlement of the action or suit if the Director acted in good faith and in a manner the Director reasonably believed to be in, or not opposed to, the best interests of the Association. No indemnification shall be made in respect of any claim, issue or matter, however, as to which a person shall have been adjudged to be liable for negligence or misconduct in the performance of the Director duty to the Association unless and only to the extent that the court in which the action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for expenses which the court shall deem proper.

**Section C. Mandatory Indemnification**

To the extent that a representative of this Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section A or Section B or in defense of any other claim, issue or matter in the action, the Director shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by the Director in connection with the action.

#### **Section D. Standard of Care and Justifiable Reliance**

- (1) Directors of the Association shall stand in a fiduciary relation to the Association and shall perform the Director's duties as a Director, including the Director's duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner the Director reasonably believes to be in the best interests of the Association, and with the care, including reasonable inquiry, skill and diligence as a person of ordinary prudence would use under similar circumstances. In performing the Director's duties, a Director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:
  - (a) One or more officers or employees of the Association whom the Director reasonably believes to be reliable and competent in the matters presented.
  - (b) Counsel, public accountants or other persons as to matters, which the Director reasonably believes to be within the professional or expert competence of that person.
  - (c) A committee of the Board upon which the Director does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.

A Director shall not be considered to be acting in good faith if the Director has knowledge concerning the matter in question that would cause the Director's reliance to be unwarranted.

- (2) In discharging the duties of their respective positions, the Board of Directors, committees of the Board and individual Directors may, in considering the best interests of the Association, consider the effects of any action upon employees, upon suppliers and customers of the Association and upon communities in which offices or other establishments of the Association are located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of fiduciary duty.
- (3) Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as a Director or any failure to take any action shall be presumed to be in the best interests of the Association.

#### **Section E. Personal Liability of Directors**

- (1) General Rule: The Directors of the Association shall not be personally liable for monetary damages as Directors for any action taken, or any failure to take any action, unless:
  - (a) The Director has breached or failed to perform the duties the Director's office

- stated above; and
- (b) The breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

(2) Exception: The provisions of Section D of this Article shall not apply to:

- (a) The responsibility or liability of a Director pursuant to any criminal statute;
- (b) The liability of a Director for the payment of income and franchise taxes pursuant to Local, State, or Federal law.

#### **Section F. Procedure for Effecting Indemnification**

Unless ordered by a court, any indemnification under this Article shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the representative is proper in the circumstances because the Director has met the applicable standard of conduct set forth above. That determination shall be made:

- (1) By the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to the action, suit or proceeding.
- (2) If a quorum is not obtainable, or, even if obtainable, when a majority vote of a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion; or
- (3) By the members of this Association.

#### **Section G. Non-exclusivity and Supplementary Coverage**

- (1) General Rule: The indemnification and advancement of expenses provided above, or by any other provisions of law providing for indemnification or advancement of expenses applicable to any nonprofit corporation, shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of members or Directors or otherwise, both as to action in the Director's official capacity and as to action in another capacity while holding that office. The Association may create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise secure or insure in any manner its indemnification obligations, whether arising under or pursuant to this section or otherwise.
- (2) When Indemnification is not to be made: Indemnification shall not be made in any case where the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.
- (3) Grounds: Indemnification under any bylaw, agreement, vote of members or Directors or otherwise, may be granted for any action taken or any failure to take any action and may be made whether or not the Association would have the power to indemnify the

person under any other provision or law except as provided in this section and whether or not the indemnified liability arises or arose from any threatened, pending or completed action by or in the right of the Association.

#### **Section H. Payment of Expenses**

Expenses incurred by an Officer, Director, employee or agent in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of the action, suit or proceeding upon the receipt of a written obligation satisfactory to the Board by or on behalf of that person to repay these amounts if it shall ultimately be determined that the Director is not entitled to be indemnified by the Association.

#### **Section I. Rights to Indemnification**

The indemnification and advancement of expenses provided by or granted pursuant to this Article shall continue as to a person who has ceased to be a Director, Officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of that person.

#### **Section J. Power to Purchase Insurance**

The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a representative of the Association, or is or was serving at the request of the Association directly or as a representative of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against the Director and incurred that capacity, or arising out of that status, whether or not the Association would have the power to indemnify the Director against that liability.

### **ARTICLE X. MISCELLANEOUS**

#### **Section A. Conflicts**

If there are any conflicts or inconsistencies between the provisions of the applicable law, the Covenants, the Articles of Incorporation, these Bylaws and the Rules, the terms of the document first listed in this section shall prevail, in that order, over a more junior document.

#### **Section B. Invalidity**

The invalidity of any section or portion of a section shall not invalidate the balance of these Bylaws.

#### **Section C. Amending Bylaws**

- (1) Any proposal to amend these Bylaws, whether originated by the Board or by member petition, shall be made in writing and filed with the Secretary no later than April 1st of each year and shall include: **Amended July 2013**
  - (a) A title which identifies the subject Bylaw Article, Section and Subsection.
  - (b) The exact wording of the proposed amendment.
  - (c) In 500 words or less, explanation of the purpose of the proposed amendment.



- (2) The Secretary shall verify that sufficient interest has been shown in the amendment.  
**Amended July 2021**
- (a) For any Board-proposed amendments, sufficient interest is shown if it has obtained a favorable vote of two thirds (2/3) of all board members.
  - (b) For any Member-proposed amendments, sufficient interest is shown if it is accompanied by a petition signed by one hundred fifty (150) or more members each of whom meets the voting eligibility requirements contained in Article III, Section G (see Appendix below) and which petition also satisfies the following requirements:
    - (i) Proposals as defined in Section C (1) (a-c) must be attached to the petition.
    - (ii) The petition requests a vote of all Members to accept or reject the proposed amendment.
    - (iii) The petition refers to each proposed amendment by its title.
    - (iv) The petition includes the legibly printed name, lot and section number of each member who signs the petition.
- (3) Whenever sufficient interest has been shown in a proposed amendment, the Board is required to mail voting information on the proposed amendment to all members concurrent with the mailing of voting information for the annual elections as set forth at Article III, Section G of these Bylaws.
- (4) Only one ballot may be returned per owned lot regardless of the number of co-owners. If two thirds (2/3) of all valid votes returned on a proposed amendment are in favor of adoption, then the amendment is passed and becomes effective immediately.
- (5) Notwithstanding anything to the contrary elsewhere in these Bylaws, if any amendment to these Bylaws is necessary in the judgment of the Board to do any of the following: (a) cure an ambiguity; (b) correct or supplement any provision of these Bylaws that is defective, missing or inconsistent with any other provision of these Bylaws or with this subpart; or (c) comply with any statute, regulation, code or ordinance which may now or hereafter be made applicable to the planned community or association, or to make a reasonable accommodation or permit a reasonable modification in favor of handicapped, as may be defined by prevailing Federal or State laws or regulations applicable to the association, unit owners, residents or employees; then, at any time, the Board may, at its discretion, effect an appropriate corrective amendment without the approval of the members upon receipt of an opinion from legal counsel to the effect that the proposed amendment is permitted by the terms of this subsection. **Amended July 2013**

**The Association on July 16, 2022 adopted these Bylaws, as amended and restated.  
SAW CREEK ESTATES COMMUNITY ASSOCIATION, INC.**

*Margaret Gottschau*  
SCE Board Secretary