

received 6-17-85



# State of California

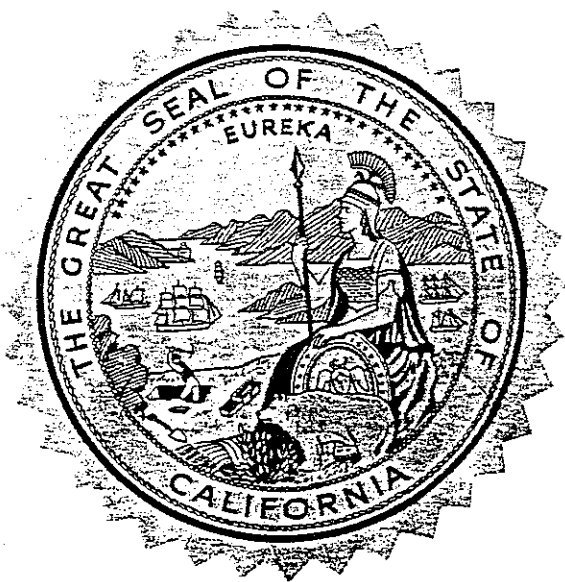
OFFICE OF THE SECRETARY OF STATE

I, *MARCH FONG EU*, Secretary of State of the State of California, hereby certify:

That the annexed transcript was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this

JUN 15 1985



*March Fong Eu*

Secretary of State

1002831

MU  
FILED

In the office of the Secretary of State  
of the State of California

SEP 19 1980

MARCH FONG EU, Secretary of State

By *Leslie Allen*  
Deputy

ARTICLES OF INCORPORATION  
OF  
DIABLO SOUTH HOMEOWNERS ASSOCIATION

ARTICLE I

NAME

The name of the Corporation (hereinafter called the "Association"), is DIABLO SOUTH HOMEOWNERS ASSOCIATION.

ARTICLE II

PURPOSES OF THE ASSOCIATION

This Corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific and primary purposes for which it is formed are to provide for management, administration, maintenance, preservation and architectural control of the residence units and common area within that certain real property situated in the City of Concord, County of Contra Costa, California, known as the DIABLO SOUTH CONDOMINIUMS, a Condominium Project, and to promote the health, safety and welfare of all the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for

this purpose, all according to that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration" recorded or to be recorded with respect to said property in the Office of the Recorder of Contra Costa County, as required by Section 1355 of the California Civil Code.

### ARTICLE III

#### DISSOLUTION

This Association is intended to qualify as a Homeowners' Association under the applicable provisions of the United States Internal Revenue Code, and of the Revenue and Taxation Code of California. No part of the net earnings of this Association shall inure to the benefit of any private individual except as expressly provided in those Sections with respect to the acquisition, construction or provision for management, maintenance and care of the Association property, and other than by a rebate of excess membership dues, fees or assessments. In the event of the dissolution, liquidation or winding-up of the Association, upon or after termination of the project, in accordance with provisions of the Declaration, its assets remaining after payment, or provisions for payment, of all debts and liabilities of the Association shall be divided among and distributed to its members in accordance with their respective rights therein.

### ARTICLE IV

#### GOVERNANCE

The rights of members, number of members of and manner of election of the Board of Directors and all other matters concerning the

operation and governance of the Association shall be as set forth in the By-Laws.

ARTICLE V

AGENT FOR SERVICE OF PROCESS

The name and address of the Association's initial agent for service of process is: Nino Frument, 1015 Shary Cr.,  
Concord, CA 94518.

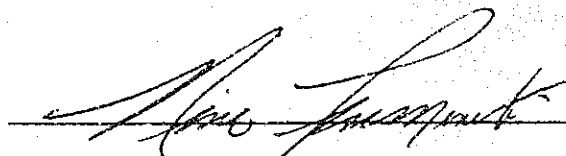
ARTICLE VI

AMENDMENTS

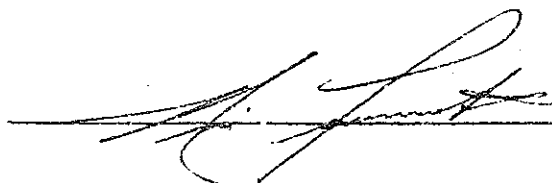
These Articles may be amended only by the affirmative vote (in person or by proxy) or written consent of members representing a majority of the voting power of the Association which shall include a majority of the votes of members other than Declarant, or where the two (2) class voting structure is still in effect (as provided in the By-Laws), a majority of each class of members.

IN WITNESS WHEREOF, for the purposes of forming this corporation under the laws of the State of California, the undersigned has executed these Articles of Incorporation this 16 day of

Sept, 1980.

  
\_\_\_\_\_

I hereby declare that I am the person who executed the above Articles of Incorporation and that such instrument is my act and deed.

  
\_\_\_\_\_

August 24, 2005

**PRIVILEGED & CONFIDENTIAL**

Board of Directors  
Diablo South Homeowners Association  
c/o Homeowners Business Management  
Attn: Carol Lombard, Association Manager  
1855 Gateway Boulevard, Suite 340  
Concord, CA 94520

RE: Diablo South Homeowners Association  
Certificate of Second Amendment to Bylaws

Dear Board Members:

We are pleased to enclose your original Certificate of Second Amendment to Bylaws. It should be dated and executed by the Secretary. There is no need to record bylaws or bylaw amendments and, in fact, they should not be recorded.

Copies of the Certificate of Second Amendment to Bylaws should be disseminated to each Member of the Association and the original document should be kept with the Diablo South Homeowners Association's Governing Documents. Once executed, please send us a copy of the certificate so that we can update our records.

As required by Government Code Section 12956.1(b)(1) (the "Burton Bill"), please remember to attach the enclosed Notice too the Certificate, and for that matter, all governing documents, before distribution.

If you have any questions, please call.

Very truly yours,

**BERDING & WEIL**

  
Stephanie J. Hayes

Enclosure

P:\WDOCS\1417\01\Letter\00384576.DOC

## NOTICE

**If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the *Government Code*. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**

**CERTIFICATE OF SECOND AMENDMENT TO  
BY-LAWS OF  
DIABLO SOUTH HOMEOWNERS ASSOCIATION**

I, Toni Drucker, hereby certify that:

1. I am the Secretary of DIABLO SOUTH HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation (the "Association"); and

2. On or about July 24, 1986, the By-Laws of Diablo South Homeowners Association were adopted by the Board of Directors of the Association and certified by its Secretary (as amended, the "By-Laws"); and

3. On or about March 20, 2003, the Board of Directors of the Association and the Members of the Association constituting the requisite vote or written consent of the Members approved an amendment to the By-Laws; and

4. On May 11, 2005, the Board of Directors received a petition signed by at least five percent (5%) of the Members requesting a Special Membership meeting to vote on an amendment to the By-Laws to increase the size of the Board from three (3) to five (5) Directors; and

5. As authorized by Corporations Code section 7513(a), the Board of Directors elected to conduct the vote on the Member-proposed amendment by ballot and written consent instead of at a Membership meeting; and

6. The requisite number of Members of the Association by vote conducted by ballot and written consent and concluded on August 16, 2005 approved the following Resolutions to amend the By-Laws:

RESOLVED that Article IV, Section 1, of the By-Laws entitled "Number and Qualifications" is hereby deleted in its entirety and the following is substituted in its place:

Section 1. Number and Qualifications: The affairs of this Association shall be managed by or under the direction of a Board of five (5) Directors.

A. Any member duly elected to serve as a Director must be a Member in Good Standing of the Association. "Member in Good Standing" shall mean a Member of the Association who is current in the payment of all assessments, fines, penalties, and other charges imposed in accordance with the Association's Governing Documents (as that term is defined in *Civil Code* section 1351), and who is in compliance with all of the provisions of the Governing Documents.


B. Directors shall not use confidential information received or learned as a result of being a Director of the Association for personal gain or any improper purpose and shall not disclose such confidential information to anyone other than to the Association's officers, directors or the Association's managing agent unless otherwise required by law.

C. Each Director must be a Unit Owner.

RESOLVED FURTHER that Article IV, Section 2, of the By-Laws entitled "Term of Office" is hereby deleted in its entirety and the following is substituted in its place:

Section 2. Term of Office: At the annual meeting of the Members held in September 2005, the Members shall elect three (3) Directors for two (2) year terms. At the annual meeting of the Members held in September 2006, the Members shall elect (2) Directors for two (2) year terms. At each annual meeting thereafter, the Members shall elect Directors for a term of two (2) years each to replace those Directors whose terms are then expiring. Each Director shall serve until the expiration of his or her term and thereafter until a successor is elected, or until the earlier disqualification, death, resignation, or removal of such Director.

IN WITNESS WHEREOF I have executed this Certificate on the 24<sup>th</sup> of August, 2005.

  
Toni Drucker, Secretary

P:\WDOCS\1417\01\form\00384331.RTF;2



---

**CERTIFICATE OF AMENDMENT OF  
BY-LAWS OF  
DIABLO SOUTH HOMEOWNERS ASSOCIATION**

I, Russell Rome, hereby certify that:

1. I am the Secretary of Diablo South Homeowners Association, a California nonprofit corporation; and

2. On or about July 24, 1986, the By-Laws of Diablo South Homeowners Association were adopted and certified by its Secretary; and

3. On March 20, 2003, the Board of Directors of Diablo South Homeowners Association, and the Members of said Association constituting the requisite vote or written consent of the Members of the Association approved the following Resolution to amend the said Diablo South Homeowners Association By-Laws:

RESOLVED that the number of Directors shall be reduced from five (5) to three (3), and the following Articles and Sections shall be amended to read as follows:

Article IV ("BOARD OF DIRECTORS"), Section 1 ("Number") shall be deleted and in its place inserted:

Section 1. Number and Qualifications: The affairs of this Association shall be managed by or under the direction of a Board of three (3) Directors.

A. Any member duly elected to serve as a Director must be a Member in Good Standing of the Association. "Member in Good Standing" shall mean a Member of the Association who is current in the payment of all assessments, fines, penalties, and other charges imposed in accordance with the Association's Governing Documents (as that term is defined in *Civil Code* section 1351), and who is in compliance with all of the provisions of the Governing Documents.

B. Directors shall not use confidential information received or learned as a result of being a Director of the Association for personal gain or any

improper purpose and shall not disclose such confidential information to anyone other than to the Association's officers, directors or the Association's managing agent unless otherwise required by law.

C. Each Director must be a Unit Owner.

Article IV ("BOARD OF DIRECTORS"), Section 2 ("Election Procedure") shall be deleted and in its place inserted:

Article IV, Section 2. Term of Office: At each annual meeting, the members shall elect three (3) Directors for a term of two (2) years.

Article VII ("OFFICERS AND THEIR DUTIES"), Section 1 ("Enumeration of Offices") shall be deleted and in its place inserted:

Article VII, Section 1. Enumeration of Offices. The officers of this Association shall be a President, a Secretary, and a Chief Financial Officer (sometimes referred to as "Treasurer"), who shall at all times be members of the Board of Directors.

Article VII ("OFFICERS AND THEIR DUTIES"), Section 7 ("Multiple Offices") shall be deleted in its entirety.

Article VII ("OFFICERS AND THEIR DUTIES"), Section 8 B ("Vice President") shall be deleted in its entirety.

IN WITNESS WHEREOF I have executed this Certificate on this 24<sup>th</sup> day of April, 2003

Russell Rome  
Russell Rome, Secretary

O:\WDOCS\1417\01\GDABLS\00329874.WPD

BY-LAWS  
OF DIABLO SOUTH HOMEOWNERS ASSOCIATION

TABLE OF CONTENTS

<u>Article</u>		<u>Page</u>
I	Name and Location	1
II	Definitions	1
III	Meetings of Members	4
IV	Board of Directors	5
V	Meetings of Directors	6
VI	Powers and Duties of the Board of Directors	7
VII	Officers and Their Duties	9
VIII	Committees	10
IX	Books and Records	10
X	Assessments	11
XI	Corporate Seal	11
XII	Amendments	11
XIII	Miscellaneous	11

BY-LAWS  
OF DIABLO SOUTH HOMEOWNERS ASSOCIATION

ARTICLE I

NAME AND LOCATION

The name of the Association is Diablo South Homeowners Association, hereinafter referred to as the "Association." The principal office of the Association shall be located at Concord, California.

ARTICLE II

DEFINITIONS

Unless the context clearly indicates a different meaning therefore, the terms used herein shall have the meaning given in the following definitions:

Section 1. Architectural Control Committee: The term "Architectural Control Committee" shall mean the Committee created pursuant to Article X of the Declaration of Covenants, Conditions and Restrictions of the Diablo South Homeowners Association.

Section 2. Architectural Control Committee Rules: The term "Architectural Control Committee Rules" shall mean the Rules adopted by the Architectural Control Committee pursuant to Article X of the Declaration.

Section 3. Articles: The term "Articles" shall mean the Articles of Incorporation of Diablo South Homeowners Association as they may be amended from time to time, and as filed with the Office of the Secretary of State for the State of California.

Section 4. Association: The term "Association" shall mean and refer to the Diablo South Homeowners Association, and its successors and assigns.

Section 5. Board: The term "Board" shall mean the Board of Directors of the Association as provided in the Declaration and these By-Laws.

Section 6. By-Laws: The term "By-Laws" shall mean the By-Laws of Diablo South Homeowners Association as they shall be adopted by the Board of Directors and any duly adopted Amendments thereto.

Section 7. Common Area: The term "Common Area" shall mean all the Project which is not included within any Unit, as shown on the Plan. Common Area shall include, but shall not be limited to, Restricted Common Area, all facilities and improvements located within the Common Area including driveways, open spaces, planted and landscaped areas, roofs, foundations, stairs, walkways, pipes, ducts, flues, chutes, conduits, wires and other utility

installations to the outlets, bearing walls and columns and girders to the unfinished surfaces thereof, regardless of location, and all other improvements which may be placed upon or located in the Common Area.

Section 8. Condominium: A "Condominium" consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a Unit, the boundaries of which are described in this Declaration, in the Condominium Plan, attached hereto as Exhibit "B."

Section 9. Declaration: The term "Declaration" shall mean the Declaration of Covenants, Conditions and Restrictions of Diablo South Homeowners Association and as said Declaration may from time to time be amended.

Section 10. Maintenance: The term "Maintenance" shall mean the exercise of reasonable care to keep buildings, roads, landscaping, lighting and other related improvements, structures and fixtures in a state similar to their original conditions, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of regular fertilization, irrigation, and other garden management practices necessary to promote a healthy weed-free environment for optimum plant growth.

Section 11. Manager: The term "Manager" refers to the person or corporation appointed as set forth in the By-Laws.

Section 12. Map: The term "Map" refers to that certain Subdivision Map recorded on February 5, 1980, in Book 235, at Page 13; Official Records of the Recorder of Contra Costa County, State of California, and entitled "Subdivision 5621, Contra Costa County, California."

Section 13. Member: The term "Member" shall mean each person or entity who holds membership in the Association, as provided in the By-Laws.

Section 14. Parking Stall: The term "Parking Stall" as used in the Declaration shall mean those portions of the Common Area which are individual parking stalls. These parking stalls are part of the Common Area, and the use thereof shall be assigned by the Association and shall be subject to the control of the Association.

Section 15. Plan: The term "Plan" shall mean that certain Condominium Plan entitled "Subdivision 5621 Diablo South Condominium Plan" prepared in accordance with the provisions of Section 1351 of the California Civil Code.

Section 16. Project: The term "Project" shall mean the entire parcel of real property described in the Declaration which is divided into Condominiums,

including all structures thereon.

Section 17. Restricted Common Area: The term "Restricted Common Area" as used herein and on the Plan shall mean any portion of the Common Area, the exclusive use of which is restricted to a particular Unit. Restricted Common Area shall include the Yards, Balconies, Storage, and Garages as defined herein. Each Yard, Balcony, and Garage shall be granted as an exclusive easement appurtenant to each Unit according to Exhibit "A" of the Declaration - Schedule of Units. Said grants of exclusive easement shall be specifically designated in each individual Condominium Grant Deed. Restricted Common Area shall also include any parking stall contained in the Common Area to which the Association, pursuant to its authority herein contained, has assigned the exclusive use to a particular Unit Owner.

Section 18. Single Family: The term "Single Family" shall mean one or more persons each related to the other by birth, marriage, or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a Unit.

Section 19. Storage, Yards, Balconies, and Garages: The terms "Yard", "Balcony", "Storage", and "Garage" as used in the Declaration and on the Plan shall mean that portion of the Common Area (defined and delineated herein and on said Plan as a portion of the Restricted Common Area) shown on the Plan as "Y" for Yard, "B" for Balcony, Storage (See "Note" on Condominium Plan), and "G" for Garage. An exclusive appurtenant easement for the use and possession of the Balconies, Yards, and Garages shall be granted to each Unit according to Exhibit "A" - Schedule of Units. Notwithstanding any provision herein to the contrary, storage spaces shall be as described on the Condominium Plan, i.e. located within the garages, and will not be conveyed as a separate exclusive easement to the Unit purchaser.

Section 20. Unit: The term "Unit" shall mean the elements of a Condominium not owned in common with the Owners of other Condominiums in the Project. Each Unit is an individual apartment residence and is a numbered Parcel or Unit as shown, defined and delineated on the Plan. The boundary lines for each Unit are the interior unfinished surfaces (exclusive of paint, paper, wax, tile, enamel, or other finishes) of the ceilings, floors, perimeter walls, bearing walls, interior beams and columns, windows and window frames, doors and door frames and trim, and the interior and/or exposed surfaces of

the fireplaces, if any, (excluding the flue) and the airspace so encompassed, excluding all bearing walls and all walls containing any utility conduit to the unfinished surfaces of any such walls.

Section 21. Unit Owner: shall mean the record Owner or Owners of a fee simple title to any Unit which is a part of the properties, including contract sellers, but excluding those holding such interest merely as security for the performance of any obligation.

### ARTICLE III

#### MEETING OF MEMBERS

Section 1. Annual Meetings: An Annual Meeting of the Members shall be held on a date during the first three (3) weeks of September of each year.

Section 2. Special Meetings: Special Meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to cast five percent (5%) of all of the votes of the Membership.

Section 3. Notice of Meetings: Written notice of each Meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the Meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) but not more than thirty (30) days before such Meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the Books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the Meeting, and, in the case of a Special Meeting, the purpose of the Meeting.

Section 4. Quorum: The presence at a Meeting, in person or by proxy, of Members entitled to cast at least fifty percent (50%) of the total votes of the Membership shall constitute a quorum for the transaction of any business, except as otherwise provided in the Articles of Incorporation, the Declaration or these By-Laws. If, however, such a quorum shall not be present in person or by proxy at any Meeting, the Members present or represented and entitled to vote thereat, shall have the power to adjourn the Meeting to another time without notice other than announcement at the Meeting, but may not transact any business other than set forth in the original written notice. An adjournment for lack of a quorum shall be to a date and time not less than forty-eight (48) hours nor more than thirty (30) days from the time of the

adjourned Meeting. The quorum for an adjourned Meeting shall be 25 percent (25%) of the total voting power of the Association. If a time and place for the adjourned Meeting is not fixed by those in attendance at the original Meeting, or if for any reason a new date is fixed for the adjourned Meeting after adjournment, notice of the time and place of the adjourned Meeting shall be given to Members in the manner prescribed for Regular Meetings.

Section 5. Proxies: At all Meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing, dated, signed by the Owners and filed with the Board of Directors before commencement of any Meeting. No proxy shall extend beyond a period of eleven (11) months after the filing of such proxy with the Board. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Unit, or the death or judicial determination of mental incapacity of a Member.

#### ARTICLE IV

##### BOARD OF DIRECTORS

Section 1. Number: The affairs of this Association shall be managed by a Board of five (5) Directors.

Section 2. Election Procedure: At each Annual Meeting, the Members shall elect Board Members as hereinafter set forth.

A. All Directors shall be elected for a term of two (2) years commencing on the date of the Annual Meeting at which he or she is elected;

B. Each Director must be a Unit Owner;

C. Two (2) Directors will be elected at alternate Annual Meetings as scheduled;

D. Three (3) Directors will be elected at the opposite alternate Annual Meetings as scheduled.

Section 3. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the Annual Meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each Annual Meeting of the Members, to serve from the close of the next Annual Meeting, and such appointment shall be announced at each Annual Meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but no



less than the number of vacancies that are to be filled.

Section 4. Election: Election to the Board of Directors shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration.

Section 5. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 6. Resignation: Any Director may resign at any time by delivering a Notice of Resignation to the Board.

Section 7. Removal: Any Director or all of the Directors may be removed from Office at any Regular or Special Meeting of the Association provided that unless the entire Board is removed from office by the vote of Members of the Association, no individual governing body member shall be removed prior to the expiration of his term of office if the votes cast against removal would be sufficient to elect the governing body member if voted cumulatively at an election at which the same total number of votes were cast and the entire number of governing body members authorized at the time of the most recent election of the governing body members were then being elected. The Board may not fill a vacancy on the Board created by the removal of a Board Member pursuant to Article VII, Section 1E, of the Declaration.

## ARTICLE V

### MEETINGS OF DIRECTORS

Section 1. Regular Meetings: Regular Meetings of the Board of Directors shall be held monthly, at a time and place within the subdivision as may be fixed from time to time by resolution of the Board. Notice of the time and place of such Meetings shall be provided to all Members. Should said Meeting fall upon a legal holiday, then that Meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings: Special Meetings of the Board of Directors shall be held when called by written notice by the President of the Association, or by any two Directors, after not less than seventy-two (72) hours notice to each Director. The notice shall specify the time and place of the Meeting and the nature of the business to be considered.

Section 3. Quorum: A majority of the number of Directors shall

constitute a quorum for the transaction of business. Every act done or decision made by a majority of the Directors present at a duly held Meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Open to Members: Regular and Special Meetings of the Board shall be open to all Unit Owners, provided, however, that Unit Owners who are not Directors shall not participate in any deliberation or discussion unless expressly authorized by a majority of a quorum of the Board; except that the Board may, with the approval of a majority of a quorum of the Board Members, adjourn a Meeting and reconvene in executive session to discuss and vote upon personnel matters, litigations in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

#### ARTICLE VI

##### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. The Board of Directors shall have all those powers and duties as set forth in the Declaration.

Section 2. Additional Powers: The Board of Directors shall have additional power to:

A. Adopt and publish Rules and Regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof; provided that any monetary penalty established shall not exceed Fifty Dollars (\$50.00) for each infraction;

B. Suspend the voting rights and right to use of the recreational facilities on the Common Area of any Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association in accordance with the Declaration;

C. Suspend the voting rights and right to use of the recreational facilities on the Common Area of any Member, for a period not to exceed sixty (60) days, for infraction of any provisions of the promulgated Rules and Regulations of the Association or for infraction of any provisions of the Declaration;

D. Any suspension of voting rights or rights to use of recreational facilities on the Common Area shall be effective only after written notice to the

affected Member, mailed to the Member at least fifteen (15) days prior to the effective date of such suspension, which notice shall state the reasons for the suspension and shall provide the opportunity for a hearing before the Board of Directors at least five (5) days before the effective date of the suspension;

E. Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

F. Declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive Regular Meetings of the Board of Directors; and

G. Employ a Manager, an Independent Contractor, or such other employee as the Board deems necessary, and to prescribe their duties.

Section 3. Additional Duties: It shall be the duty of the Board of Directors to:

A. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members, or at any Special Meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

B. Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

C. Cause a copy of any Rules and Regulations to be furnished to each Unit Owner annually, pursuant to Corporate Code, Section 7341.

Section 4. Notice Naming Directors: The Board of Directors shall record with the County Recorder of the County in which the Project is situated a notice stating the names and addresses of the persons elected to the Board of Directors. After the recordation of the first such notice, any two (2) persons who are designated of record as being Members of the most recent Board of Directors may execute, acknowledge and record an affidavit stating the names of all of the Members of the current Board of Directors. The most recently recorded of such notices shall be prima facie evidence that the persons named therein are all of the incumbent members of the Board of Directors and shall be conclusive evidence of the exercise of any authority thereby as to any bona fide purchaser or other third person who supplies labor or material to the managers, or to any other person who relies thereon in good faith.

## ARTICLE VII

### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices: The Officers of this Association shall be a President and Vice-President, who shall at all times be Members of the Board of Directors, a Secretary, and a Treasurer, and such other Officers as the Board may from time to time by resolution create.

Section 2. Election of Officers: The election of Officers shall take place at the first Meeting of the Board of Directors following each Annual Meeting of the Members.

Section 3. Term: Subject to the provisions of Article IV herein, Officers shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments: The Board may elect 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 the Board may from time to time determine.

Section 5. Resignation and Removal: Any Officer may be removed from office with or without cause by the Board. Any Officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or at any time later specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies: A vacancy in any office may be filled by appointment by the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the Officer he replaces.

Section 7. Multiple Offices: The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties: The duties of the Officers are as follows:

A. President: The President shall preside at all Meetings of the Board of Directors and at all Regular and Special Meetings of the Association; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and may co-sign all

checks and promissory notes.

B. Vice President: The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

C. Secretary: The Secretary shall record the votes and keep the minutes of all Meetings and proceedings of the Board and of the Association; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Association; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

D. Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; may sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Association at its Regular Annual Meeting, and deliver a copy of each to the Members.

#### ARTICLE VIII

##### COMMITTEES

The Board of Directors of the Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

#### ARTICLE IX

##### BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

///

///

ARTICLE XI

ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum rate per annum as permitted by law, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

ARTICLE XI

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: DIABLO SOUTH HOMEOWNERS ASSOCIATION.

ARTICLE XII

AMENDMENTS

Section 1. These By-laws may be amended, at a Regular or Special Meeting of the Members, by a vote of a majority of a quorum of Members present, in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIII

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of September and end on the 31st day of August of every year.

///

///

///

///

IN WITNESS HEREOF, we, being all of the Directors of the DIABLO  
SOUTH HOMEOWNERS ASSOCIATION, have hereunto set our hands this \_\_\_\_  
day of JULY 24, 1986.

P.G. Barber

Galen F. Miles

Claretta

Virginia J. Blich

Thomas M. McHugh

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of DIABLO SOUTH HOMEOWNERS ASSOCIATION, a California Nonprofit Mutual Benefit Corporation, and

That the foregoing By-Laws constitute the By-Laws of said corporation, as duly adopted at a meeting of the Board of Directors thereof, held on the 24 day of JULY, 1985.

By: Thomas M. McLaughlin  
Secretary

Through the courtesy of -  
**Fidelity National Title**  
INSURANCE COMPANY



STATE OF CALIFORNIA )  
 ) ss.  
County of CONTRA COSTA )

(Individual Acknowledgment)

On this 24 day of JULY, in the year 1986, before me, the undersigned, a Notary Public in and for said County and State, personally appeared THOMAS M. McLAUGHLIN personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument and acknowledged that it is executed it.

WITNESS my hand and official seal.

William L. Hansen  
Notary Public in and for said County and State.



CD-15



---

**CERTIFICATE OF AMENDMENT OF  
BY-LAWS OF  
DIABLO SOUTH HOMEOWNERS ASSOCIATION**

I, Russell Rome, hereby certify that:

1. I am the Secretary of Diablo South Homeowners Association, a California nonprofit corporation; and
2. On or about July 24, 1986, the By-Laws of Diablo South Homeowners Association were adopted and certified by its Secretary; and
3. On March 20, 2003, the Board of Directors of Diablo South Homeowners Association, and the Members of said Association constituting the requisite vote or written consent of the Members of the Association approved the following Resolution to amend the said Diablo South Homeowners Association By-Laws:

RESOLVED that the number of Directors shall be reduced from five (5) to three (3), and the following Articles and Sections shall be amended to read as follows:

Article IV ("BOARD OF DIRECTORS"), Section 1 ("Number") shall be deleted and in its place inserted:

Section 1. Number and Qualifications: The affairs of this Association shall be managed by or under the direction of a Board of three (3) Directors.

A. Any member duly elected to serve as a Director must be a Member in Good Standing of the Association. "Member in Good Standing" shall mean a Member of the Association who is current in the payment of all assessments, fines, penalties, and other charges imposed in accordance with the Association's Governing Documents (as that term is defined in *Civil Code* section 1351), and who is in compliance with all of the provisions of the Governing Documents.

B. Directors shall not use confidential information received or learned as a result of being a Director of the Association for personal gain or any

improper purpose and shall not disclose such confidential information to anyone other than to the Association's officers, directors or the Association's managing agent unless otherwise required by law.

C. Each Director must be a Unit Owner.

Article IV ("BOARD OF DIRECTORS"), Section 2 ("Election Procedure") shall be deleted and in its place inserted:

Article IV, Section 2. Term of Office: At each annual meeting, the members shall elect three (3) Directors for a term of two (2) years.

Article VII ("OFFICERS AND THEIR DUTIES"), Section 1 ("Enumeration of Offices") shall be deleted and in its place inserted:

Article VII, Section 1. Enumeration of Offices. The officers of this Association shall be a President, a Secretary, and a Chief Financial Officer (sometimes referred to as "Treasurer"), who shall at all times be members of the Board of Directors.

Article VII ("OFFICERS AND THEIR DUTIES"), Section 7 ("Multiple Offices") shall be deleted in its entirety.

Article VII ("OFFICERS AND THEIR DUTIES"), Section 8 B ("Vice President") shall be deleted in its entirety.

IN WITNESS WHEREOF I have executed this Certificate on this 24<sup>th</sup> day of April, 2003

Russell Rome  
Russell Rome, Secretary

O:\WDOCS\1417\01\GDABLS\00329874.WPD

# DIABLO SOUTH HOMEOWNERS ASSOCIATION

## GENERAL RULES

Est. September 1987

Rev. March 1995

As defined in the By-Laws and the CC&R's, the Board of Directors may establish rules for the management of the project. These rules are intended to protect the investment of each homeowner, reduce homeowner liability to a minimum and to promote a mutually satisfying environment for all residents of the complex.

The following rules are effective and binding on all homeowners, tenants, and their guests. These rules are written to clarify existing rules presented in the By-Laws and CC&R's and to present new rules not covered in these documents as the Board deems necessary. These rules are in immediate effect and supersede all previously dated GENERAL RULES of Diablo South.

### I. PET CONTROL

- A. Dogs are not to be left unattended on the Common Areas of the complex and must be under leash control at all times, for health and liability reasons.
- B. Without exception, the owner of a pet is responsible for the immediate cleanup of any animal waste created by their pets. There is NO part of the Common Area grounds which can accept animal waste for reasons of health and landscape protection.
- C. Pet owners are responsible for making every attempt to minimize any noise that their pet makes which disturbs other residents.

### II. COMMON AREA DRIVEWAYS AND PARKING

- A. The speed limit on the complex driveways is five (5) miles per hour.
- B. No parking of any vehicle is allowed on any part of the Common Area driveways other than in designated (striped) parking spaces. Violators may be towed without further warning.
- C. All vehicles parked in garages must be positioned so that the garage door fully closes without touching the vehicle.
- D. No automotive (includes trucks, trailers, boats, etc.) maintenance can be performed on the Common Area.

- E. Only motor vehicles as defined by the Vehicle Code can be parked in the Common Area parking stalls. No boats, commercial vehicles, campers, trailers, non-operational vehicles, trucks exceeding 3/4 ton or other recreational vehicles may be parked or stored on the Common Area.
- F. Each owner/tenant retains the exclusive use of one (1) parking space, which has been marked as "RESERVED" and marked with a number corresponding to the unit number, on the Common Area driveways.
- G. Parked vehicles must be positioned so that they do not straddle parking stripes, nor are they to extend beyond the end of the stripes or into the landscaping/planter beds.
- H. Eight (8) parking spaces reserved for visitors only are located in the rear of the complex between reserved spaces 20 and 21. The following are rules relative to the use of these spaces which will be strictly enforced:
  1. No vehicle(s) owned or operated by resident owners or tenants will be allowed to use these "Visitor" parking spaces at any time, for any reason.
  2. Visitors of Diablo South residents will be allowed to use these parking spaces for periods not to exceed two days (overnights) per week (seven day period).
  3. No resident may have their guest(s) utilize more than two (2) of these parking spaces at any given time.
  4. Non-resident employees of the Association are allowed access during working hours.
  5. Violators of these rules are subject to fines and/or vehicle tow.
- I. Washing of vehicles, boats, bicycles, trucks, campers, trailers, etc., is no longer allowed on the Common Area driveways.

### III. REFUSE DISPOSAL

- A. All refuse is to be placed inside of the trash dumpsters provided. Under no circumstances is any refuse to be placed outside of or on top of a trash container.
- B. All large boxes are to be broken down before being placed in the trash container.
- C. Trash enclosure doors are to remain closed.
- D. Unit owners and tenants are not to litter the grounds. Unit owners responsible for additional clean-up charges to the Association will be billed, as appropriate. (See Section 10)

### IV. PATIOS, DECKS, ENTRANCES AND GARAGES

- A. Nothing other than a well maintained patio furniture, barbecue equipment, and live plants can be placed on exterior patios and decks without written permission from the Board.

- B. Nothing other than live plants and a welcoming mat may be placed in exterior entrances without written permission from the Board.
- C. The interiors of all patios, decks, entrances and garages will be kept clean and free of debris.
- D. Nothing is to be placed on/attached to the top of fences or deck railings.
- E. Owners/tenants are responsible for trimming ivy or other plants inside the entrances, decks and patios. Vines must be trimmed away from the building as failure to do so would result in damage to the structure.
- F. Garage doors will be kept closed when not attended by the owner/tenant.

#### V. EXTERIOR COMMON AREA STRUCTURES

- A. All owners/tenants are reminded that all exterior portions of the buildings and grounds are Common Areas of the Association and are not the property of the homeowner.
- B. Screen doors of neutral/standard colors are allowed to be installed providing that they are properly maintained. Maintenance is the tenant/owner responsibility.
- C. Nothing may be altered, attached to or hung from any part of an exterior Common Area building or structure without the prior written approval of the Board.
- D. For safety/liability reasons, nothing (plants for example) shall be placed on the steps leading to the upstairs (Floor Plan A) units.
- E. The Board of Directors has approved that one (1) metal "No Soliciting" sign may be posted in the entranceway of each unit, at the discretion of the homeowner. The sign must be 1) no larger than the standard 2x8 inches, 2) must be black/bronze and must be placed no more than 4 inches above or below the doorbell. These signs must be maintained by the homeowner. Signs posted that do not meet these criteria may be removed by the Association at the homeowner's expense. See Section X-A.

#### VI. SWIMMING POOL

- A. No person under the age of 14 years is allowed in the pool area unless attended by an adult over the age of 18.
- B. Persons wearing cutoffs or street wear are prohibited from entering the water.
- C. No glass is allowed in the pool area.
- D. No animals are allowed in the pool area.
- E. The pool is closed between the hours of 10:00 pm and 10:00 am.
- F. No janitor or lifeguard service is provided. All trash must, therefore be disposed of properly.

- G. Rough play, running, dunking and unsafe conduct is prohibited at all times. NO diving is allowed in the pool for safety reasons. NO climbing on or over the pool fences is allowed.
- H. Owners/tenants/guests must insure that pool gates lock properly behind them when they enter or leave the pool area. The gates are not to be propped open.
- I. Radios and tape players will be played at a volume that does not disturb other residents.
- J. A maximum of four (4) persons, including guests, from any one unit can use the pool facility at any given time.

## VII. NOISE

- A. All residents of Diablo South must be made aware that even loud talking around the exterior Common Area driveways, walkways and the pool area is easily heard inside the complex units. Please keep all unnecessary noise to a minimum after 10:00 pm.....maybe even earlier on weekdays.

## VIII. MISCELLANEOUS

- A. Garage sales are not allowed. Any other special event involving the use of the Common Area must receive prior written approval of the Board.
- B. All curtains, draperies, interior sun shades, blinds, etc. must present an aesthetically pleasing appearance from the exterior and be properly maintained by the tenant/owner. Cardboard, newspapers, aluminum foil, blankets and sheets are examples of inappropriate substitutes.
- C. Unit owners/tenants are responsible for keeping screens, which are properly maintained, on all windows.
- D. Bicycle riding, skateboarding, etc., are not permitted on the complex sidewalks or landscaping. Balls or other objects are not to be bounced against walls, garage doors or roofs of the complex. Ball playing is discouraged in the parking areas due to numerous complaints from homeowners concerned about their cars.
- E. Personal property, toys, skateboards, bicycles, clothing, etc., left unattended on the common area of the complex will be confiscated.
- F. Only small quantities of paper should be burned in fireplaces at any one time for safety reasons.
- G. Owners/tenants will not be allowed to display any sign from or on any window, building structure or location of the Common Area. The only exception to this rule is that unit owners are allowed to post one (1) For Sale or For Rent sign at each side of the unit. i.e. one in the front and one in the back or side. Each sign is to be not more than five (5) square feet.
- H. The unit owner is responsible for providing the tenant with a copy of these General Rules. Owners/tenants are responsible for the behavior of their guests.

- I. The Common Area is not to be defaced, destroyed or otherwise vandalized. Some recent examples include: carving the siding, spray painting signs, chalk on driveways and siding, egg throwing, mud slinging, destroying pool furniture, playing with pool safety equipment. There is a cost to each homeowner as repairs/replacements and/or cleanup is required following each of these incidents.

#### IX. FINES

- A. Unit owners/tenants found in violation of these rules or other portions of the By-Laws or CC&R's are subject to a monetary fine not to exceed \$50 per violation and additional fines for continuing violations. Unit owners are responsible for the payment of fines incurred by the unit tenant(s) or guest(s).

#### X. CHARGES

- A. Any infraction of the above rules, any property damage or any clean up, which results in a cost to the Association will be charged to the owner of the responsible.