

Bennett Valley Heights



By-laws



Bennett Valley Heights Homeowners Association

FOR YOUR INFORMATION AND FUTURE REFERENCE

THE FOLLOWING AMENDMENT TO THE BENNETT VALLEY HEIGHTS BY-LAWS WAS APPROVED ON JANUARY 1, 1988 BY A VOTE OF 84 IN FAVOR, 4 OPPOSED.

Replacement of Article 4, Section 4.1 "Number and Term of Directors", with the following:

4.1 Number and Term of Directors

The initial Board shall consist of not less than five (5) Directors named in the Articles. Such Board shall serve until the first annual meeting of Members at which time not less than (5) Directors shall be elected to replace them.

YOU SHOULD KEEP A COPY WITH YOUR ORIGINAL CC&R'S, BYLAWS AND ARTICLES OF INCORPORATION.

Distributed 11/26/90

BYLAWS OF
BENNETT VALLEY HEIGHTS HOMEOWNERS ASSOCIATION

ARTICLE 1

GENERAL PROVISIONS

1.1 Purpose and Location

These Bylaws are made for the purpose of governing the affairs of the Bennett Valley Heights Homeowners Association ("Association"), a California nonprofit mutual benefit corporation. The principal office of the Association shall be located at such location in the County of Sonoma, State of California, as the Board may designate from time to time.

1.2 Declaration and Articles Defined

"Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions of Bennett Valley Heights recorded on 19 October, 1984, as Document No. 64070518, in Book 363, Page 45, of the Official Records of the Sonoma County Recorder, and any duly recorded amendments thereto.

"Articles" shall mean and refer to the Articles of Incorporation of Bennett Valley Heights Homeowners Association, filed with the Secretary of State of the State of California on Oct. 22, 1984.

1.3 Incorporation by Reference

The provisions of the Declaration and the Articles are hereby incorporated in these Bylaws by reference, as though fully set forth herein.

1.4 Definitions

The terms defined in the Declaration shall have the same meaning when used in these Bylaws as when used in the Declaration.

ARTICLE 2

MEETINGS OF MEMBERS

2.1 Regular Meetings

Regular meetings of Members shall be held at least once each calendar year. The first meeting of Members, whether regular or special, shall be held within forty-five (45) days after the conveyance, under authority of a Final Public Report, of the Lot which represents the fifty-first (51st) percentile interest authorized for conveyance under authority of the Final Public Report for the Project, but in no event shall the first meeting be held later than six (6) months after the first conveyance, under authority of a Final Public Report, of a Lot for the Project.

Thereafter, a regular annual meeting shall be held on the same date as the first meeting, provided that if such day falls on a legal holiday, then on the first day following which is not a legal holiday.

2.2 Special Meetings

A special meeting of Members shall be promptly called by the Board upon the vote for such a meeting by the Board, or upon receipt of a written request therefore signed by Members representing at least five percent (5%) of the total voting power of the Association. Such special meeting shall be held at a time fixed by the Board not less than thirty-five (35) nor more than ninety (90) days after the receipt of the request.

2.3 Notice and Location of Meetings

Written notice of regular and special meetings shall be given by the Board by mailing a notice either by first class, registered or certified mail, to each Member entitled to receive notice, in the manner prescribed in the Declaration. Such notice shall be given not less than ten (10) nor more than ninety (90) days before the date of any meeting at which Members are required or permitted to take any action; provided, however, that in the case of a special meeting such notice shall be given within twenty (20) days after receipt of the request.

Such notice shall specify the place, date and time of the meeting and (1) in the case of a special meeting, the nature of the business to be transacted, and no other business may be transacted, or (2) in the case of a regular meeting, those matters which the Board, at the time the notice is given, intends to present for action by the Members, however, any proper matter may be presented at a regular meeting for such action. The notice of any meeting at which a Director(s) is to be elected shall include the names of all nominees at the time the notice is given.

The Board shall specify the meeting place, which shall be held within the Project or as close thereto as reasonably possible.

2.4 Special Notice Requirements

Any approval by the Members of the following actions, other than by unanimous approval of all Members, shall be valid only if the general nature of the proposed action was stated in the notice or in any written waiver of notice or consent to the holding of a meeting or approval of the minutes;

- (1) Removal of a Director(s);
- (2) Filling vacancies on the Board;
- (3) Approving a contract or other transaction in which a Director has a material financial interest;
- (4) Amendment of the Declaration or Articles;
- (5) Plans for distribution of assets to Members in connection with dissolution.

2.5 Quorum

The presence in person or by proxy of at least a majority of the total voting power of the Association shall constitute a quorum. Where Members are meeting to (i) elect or remove a Special Director as provided in Bylaws subarticle 4.2 and 4.3, or (ii) to enforce Declarant's completion bond, if any, as provided at Declaration Article 10; then at least a majority of the Members other than Declarant shall constitute a quorum. The Members present

at a duly called and held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that at least one-third (1/3) of the total voting power permitted to vote at such a meeting remains present in person or by proxy and provided further that any action taken shall be approved by at least a majority of the Members required to constitute a quorum.

2.6 Proxies

At all meetings of Members each Member entitled to vote may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Except for an irrevocable proxy permitted by Corporations Code Section 7613(d), every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot, or upon receipt of notice by the Secretary or the Board of the death or judicially declared incompetence of a Member, or upon the expiration of eleven (11) months from the date of the proxy, unless otherwise provided in the proxy, except that the maximum term of any proxy other than an irrevocable proxy permitted by Corporations Code 7613(d) shall be three (3) years from the date of execution.

Any revocable proxy covering a matter requiring a vote of the Members with respect to any of the following is not valid as to such matter(s) unless the proxy sets forth the general nature of the matter(s) to be voted on:

- (1) Any matter referred to in subarticle 2.4 above;
- (2) Amendment of these Bylaws with respect to proxy rights;
- (3) Merger with another corporation;
- (4) Transfer of all or substantially all of the Association assets;
- (5) Dissolution of the Association;

2.7 Adjournment

In the absence of a quorum at a Members' meeting, a majority of the Members present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum shall be to a date not less than five (5) days nor more than thirty (30) days from the original meeting date. The quorum for such an adjourned meeting shall be one-third (1/3) of the total voting power permitted to vote at such a meeting. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if a new date is fixed for the adjourned meeting after adjournment or if after adjournment a new record date is fixed for the adjourned meeting, then notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

2.8 Action Without Meeting

Any action which may be taken by the vote of Members at a regular or special meeting, except the election of Directors where cumulative voting is required, may be taken without a meeting if done in compliance with the provisions of Section 7513 of the Corporations Code.

2.9 Consent to Meetings

The transactions of any meeting of Members however called and noticed, and wherever held, are valid as though had at a meeting duly held after proper call and notice, if a quorum is present either in person or by proxy, and if each Member entitled to vote not present at the meeting signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof, either before or after the meeting. All such waivers, consents, or approvals are subject to the requirements of subarticle 2.4 of these Bylaws. All such waivers, consents and approvals shall be filed with the Secretary or made a part of the minutes of the meeting.

2.10 Membership and Voting

The qualifications for Membership in the Association, restrictions on transfer, and voting rights shall be as set forth in Article 4 of the Declaration.

ARTICLE 3

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

The Association shall have those powers, rights and duties provided for in the Project Documents. Subject to the provisions of the California Nonprofit Mutual Benefit Corporations Law and any limitations in the Project Documents relating to action required to be approved by the Members, the Association shall be managed and all Association powers shall be exercised by, or under the direction of, the Board.

ARTICLE 4

TERM OF OFFICE, ELECTION, AND REMOVAL OF DIRECTORS

4.1 Number and Term of Directors

The initial Board shall consist of the five (5) Directors named in the Articles. Such Board shall serve until the first annual meeting of Members at which time five (5) Directors shall be elected to replace them.

The Directors shall serve staggered terms on a three-two basis as follows: Each of the first three Directors (the two Directors with the most votes plus the Special Director) elected at the first meeting of the Members shall serve a two-year term, and each of the next two Directors elected at that meeting shall serve a one-year term. Thereafter, all Directors shall be elected to two-year terms. All elections and appointments of Directors under these Bylaws shall be for such terms as will preserve the staggering of terms as provided in this subarticle. Each Director shall serve until his replacement is elected and qualified.

4.2 Election of Directors

Nomination

Nominations for election to the Board shall be made by the Board. The Board shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

In addition, any Member present, in person or by proxy, at a meeting at which Directors are to be elected, may place names in nomination.

Cumulative Voting

All elections of Directors by Members shall be by secret written ballot at a duly called and held regular or special meeting of Members.

All elections in which more than two (2) positions on the Board are to be filled shall be conducted by cumulative voting, provided however, that no Member shall be entitled to cumulate votes for a candidate(s) unless such candidate's name(s) has been placed in nomination prior to the voting and at least one Member has given notice at the meeting of his intention to cumulate votes.

Special Directors

From the first election of the Board and thereafter for so long as a majority of the voting power of the Association resides in Declarant, or for so long as there are two (2) outstanding classes of Membership in the Association, not less than twenty percent (20%) of the incumbent Directors on the Board shall be elected solely by the votes of Members other than Declarant.

Such Directors shall be known as Special Directors. To implement the intent of this provision the following procedure shall be followed. At the first election of Directors, candidates for Special Director shall first be nominated and elected by Members other than Declarant. After election of the prescribed number of Special Directors, the remaining Directors shall be elected as directed by this subarticle. The above procedure shall be used in any election where it is necessary to maintain the prescribed percentage of Special Directors.

4.3 Removal

A Director may be removed from office with or without cause prior to the expiration of his term by a vote of the Members as follows:

(1) The entire Board may be removed from office at a regular or special meeting of the Members by the vote of at least sixty-six and two-thirds percent (66 2/3%) of the total voting power of each class.

(2) Unless the entire Board is removed from office by the vote of the Members, an individual Director shall not be removed prior to the expiration of his term of office if the number of votes

cast against his removal, or not consenting in writing to such removal, would be sufficient to elect the individual Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the Director's most recent election were then being elected.

(3) A Special Director may be removed from office prior to the expiration of his term of office only by the vote of at least a bare majority of the voting power residing in Members other than Declarant.

(4) A reduction in the number of authorized Directors shall not remove any Director prior to the expiration of such Director's term of office.

4.4 Filling Vacancies

A vacancy on the Board created by the removal of a Director, other than a Special Director, shall be filled by the Members pursuant to subarticle 4.2.

A vacancy on the Board created by the removal of a Special Director shall be filled by a majority of the voting power of Members other than Declarant at any regular or special meeting of the Members other than Declarant.

A vacancy on the Board created by a reason other than the removal of a Director, may be filled by the vote of a majority of the remaining Directors, whether or not less than a quorum, or by a sole remaining Director. The Members may elect a Director pursuant to subarticle 4.2 at any time to fill such a vacancy not filled within a reasonable time by the Directors.

Each Director elected to fill a vacancy shall serve for the remainder of the term of the Director he replaces.

ARTICLE 5

MEETINGS OF DIRECTORS

5.1 Regular Meetings

The first meeting of the Board shall be held immediately following the first meeting of the Members. Thereafter, regular meetings of the Board shall be conducted at least semi-annually at a time and place within the Project, as may be fixed by the Board. The meeting place may be held outside the Project, if, in the judgment of the Board, a larger meeting room is required than exists within the Project in which case the meeting place selected shall be as close as possible to the Project. Notice of the time and place of regular meetings shall be communicated to each Director, personally or by mail, telephone or telegraph, at least four (4) days prior to the day named for the meeting, and shall also be posted at a prominent place within the Common Area.

5.2 Special Meetings

A special meeting of the Board may be called by written notice signed by the President of the Association or by any two (2) Directors other than the President. Notice of the time and place of the meeting and a description of the nature of any special business to be considered shall be sent by first-class mail to all Directors not less than four (4) days prior to the scheduled time of the meeting and posted at a prominent place within the Common Area.

5.3 Action Without a Meeting

The Board may take actions without a meeting if all of the Directors consent in writing to the action to be taken. If the Board resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the Common Area within three (3) days after the written consents of all Directors have been obtained.

5.4 Telephone Meeting

The Board may hold a meeting through the use of conference telephone or similar communications equipment, so long as proper notice has been given and all Directors participating in the meeting can hear one another. Participation by a Director in such a meeting constitutes presence in person at the meeting. An explanation of any action taken at such meeting shall be posted at a prominent place or places within the Common Area within three (3) days after such meeting.

5.5 Waiver of Notice

Notice of a meeting of the Board need not be given to any Director who has signed a waiver of notice or a written consent to the holding of such meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting at the earliest reasonable opportunity, the lack of notice to such Director. All such waivers, consents, and approvals shall be filed with the Secretary or made a part of the minutes of the meeting.

5.6 Quorum; Voting

The presence in person of a majority of the authorized number of Directors at a meeting of the Board shall constitute a quorum for the transaction of business.

The vote of a majority of the Directors present at a meeting duly held at which a quorum is present shall constitute the act of the Board, unless a different vote is expressly provided for in the Project Documents.

5.7 Adjournment

A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of the adjourned meeting shall be given to all Directors not present at the time of adjournment. Such notice shall be in compliance with subarticle 5.1.

5.8 Board Meetings Open to Members

Regular and special meetings of the Board shall be open to all Members of the Association; provided, however, that Members who are not on the Board may not participate in any deliberation or discussion unless expressly so authorized by the Board. Upon request to the Board, any Member shall be provided a connection to any meeting of the Board held pursuant to subarticle 5.4.

5.9 Executive Session

The Board may, with the approval of a majority of the Directors present, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation 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.

An executive session shall not be open to Members of the Association unless approved by the Board.

ARTICLE 6

OFFICERS

6.1 Enumeration and Term

The officers of this Association shall be a President, Vice-President, and Secretary who shall at all times be elected from current Directors, and a Chief Financial Officer, and such other special officers as the Board may from time to time by resolution create. Each officer 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 be disqualified to serve.

6.2 Election of Officers

The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

6.3 Resignation and Removal

Any officer or Director may resign effective upon giving written notice to the Board, the President or Secretary, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Any officer may be removed from office by a vote of the Board at any time with or without cause.

6.4 Filling Vacancies

A vacancy in any office may be filled by election by the Board. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

6.5 Multiple Offices

The offices of Secretary and Chief Financial Officer 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 subarticle 6.1.

6.6 President

The President shall be the chief executive officer of the Association and shall, subject to the control of the Board, have general supervision, direction, and control of the business and the officers of the Association. He shall preside at all meetings of the Board and at all meetings of the Members. He shall have such powers and duties as may be prescribed by these Bylaws, the Declaration, or the Board. The President shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

6.7 Vice-President

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

6.8 Secretary

The Secretary shall keep at the principal office of the Association, the minutes of all meetings of the Board and of the Members. Such minutes shall include the time and place of each meeting, whether regular or special, the notice given, the names of Directors present at a Board meeting, the number of Members present in person or by proxy at a Members' meeting, and the proceedings of each meeting.

The Secretary shall give notice of all meetings of the Board and of the Members as required in these Bylaws.

The Secretary shall keep at the principal office of the Association, a current membership register of all Members, showing the names of all Members, their addresses, and the class of membership held by each.

6.9 Chief Financial Officer

The Chief Financial Officer 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; shall co-sign all checks and promissory notes of the Association; and shall keep proper books of account and prepare or have prepared financial statements as required in Article 5 of the Declaration.

ARTICLE 7

COMMITTEES

7.1 Committees

The Board may appoint such committees, composed of Directors and/or non-directors, with such authority, as the Board shall deem necessary from time to time.

7.2 Minutes

All committees shall serve at the pleasure of the Board. All committees shall keep written minutes of their proceedings, report their proceedings to the Board, and file their minutes with the Secretary.

ARTICLE 8

AMENDMENT OF BYLAWS

These Bylaws may be amended only by the vote or written assent of the Members as follows:

A. So long as the Class A and Class B Memberships exist, upon the vote or written assent of a majority of the voting power of each class, or

B. After conversion of the Class B to Class A Memberships, upon the vote or written assent of a majority of the total voting power of the Association including a majority of the voting power of Members other than Declarant.

Provided, however, that the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes or written assents prescribed for action to be taken under that clause or provision.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 Indemnity

To the extent permitted by the California Corporations Code for nonprofit mutual benefit corporations each Director and Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including reasonable attorney's fees, reasonably incurred by or imposed upon him by judgment or settlement in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Association, except in cases of fraud, gross negligence, or bad faith of the Director or Officer in the performance of his duties or exercise of his powers.

9.2 Compensation

Except as provided in subarticle 5.4 of the Declaration, no Director or Officer of the Association shall receive any salary or other compensation for services performed in the conduct of the Association's business, provided, however, that the Board may authorize reimbursement for expenses actually incurred by a Director or Officer in carrying on the business of the Association.

9.3 Conflicts

Conflicts between provisions of these Bylaws and the other Project Documents shall be resolved as set forth in the Declaration.

9.4 Fiscal Year

Unless otherwise resolved by the Board, the fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year except the first fiscal year which shall begin on the date of incorporation.

ADOPTION OF BYLAWS

We, the undersigned, being all of the Directors of Bennett Valley Heights Homeowners Association, do hereby certify:

That we are entitled to exercise all of the voting power of the Board of said Association; and that we hereby assent to the within and foregoing Bylaws and hereby adopt the same as the Bylaws of said Association.

Executed by the undersigned on October 19, 1984

Frank Denney
FRANK DENNEY, Director

Maureen Middlebrook
MAUREEN MIDDLEBROOK, Director

Bob Peterson
BOB PETERSON, Director

Bernard Yosten
BERNARD YOSTEN, Director

Bob Harber
BOB HARBER, Director

I, the undersigned, the duly elected and acting Secretary of Bennett Valley Heights Homeowners Association, a California nonprofit mutual benefit corporation, do hereby certify:

That the within and foregoing Bylaws were adopted as the Bylaws of said Association on November 20, 1984, and that the same do now constitute the Bylaws of said Association.

Executed by the undersigned on November 20, 1984.

Maureen Middlebrook
Secretary