

CC&Rs

DECLARATION OF RESTRICTIONS, COVENANTS, CONDITIONS AND
AGREEMENTS AFFECTING REAL PROPERTY COMMONLY KNOWN AS

CRESTMONT NO. 1

TRACT 1614, OAKLAND, ALAMEDA COUNTY, CALIFORNIA

AND

CRESTMONT NO. 2

TRACT 1710, OAKLAND, ALAMEDA COUNTY, CALIFORNIA



AMENDMENT TO DECLARATION OF RESTRICTIONS,
COVENANTS, CONDITIONS AND AGREEMENTS
AFFECTING REAL PROPERTY COMMONLY KNOWN AS

TRACT 1710

CRESTMONT NO. 2

Amended November 15, 2000



BY-LAWS

HOMEOWNERS OF CRESTMONT ASSOCIATION

A Non-Profit Corporation

Amended May 14, 2003

**DECLARATION OF PRESTRICTIONS, COVENANTS,
CONDITIONS AND AGREEMENTS**

**HOMEOWNERS OF CRESTMONT ASSOCIATION, INC.
95 KIMBERLIN HEIGHTS DRIVE
OAKLAND, CA 94619**

Amended November 15, 2000

AMENDED

DECLARATION OF RESTRICTIONS, COVENANTS AND
AGREEMENTS AFFECTING REAL PROPERTY COMMONLY KNOWN AS

CRESTMONT NO. 1

TRACT 1614, OAKLAND, ALAMEDA COUNTY, CALIFORNIA

AND

CRESTMONT NO. 2

TRACT 1710, OAKLAND, ALAMEDA COUNTY, CALIFORNIA

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DECLARATION OF RESTRICTIONS, COVENANTS AND
AGREEMENTS AFFECTING REAL PROPERTY COMMONLY KNOWN AS

CRESTMONT NO. 1

TRACT 1614, OAKLAND, ALAMEDA COUNTY, CALIFORNIA

AND

CRESTMONT NO. 2

TRACT 1710, OAKLAND, ALAMEDA COUNTY, CALIFORNIA

THIS AMENDED DECLARATION OF RESTRICTIONS, COVENANTS AND AGREEMENTS (the "Declaration") is made effective the 15th day of November, 2000 (the "Effective Date," as further defined below) by owners of record of lots in Crestmont No. 1, Tract 1614, and Crestmont No. 2, Tract 1710, Oakland, Alameda County, California.

RECITALS:

A. STERLING DEVELOPMENT COMPANY, a partnership composed of ODDSTAD HOMES and WUNDERLICH DEVELOPMENT COMPANY, both corporations, as original owner, and CONTINENTAL AUXILIARY COMPANY, a corporation, as trustee, and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, a national banking association, as beneficiary, under the Deed of Trust recorded March 22, 1956 as Recorder's Series Nos. AL-30840 through AL-30344, under the Deed of Trust recorded June 12, 1956 in Book 8056 of Official Records of Alameda County, Page 447, and under the Deed of Trust recorded September 26, 1956, as Recorder's Series No. AL-101242, (all of whom are hereinafter called "Declarant"), executed that certain Declaration of Restrictions, Covenants and Agreements Affecting Real Property Commonly Known as Crestmont No. 1 Tract 1614,

Oakland, Alameda County, California recorded on June 27, 1956 in the Official Records of the Alameda County Recorder as Recorder's Series No. AL-67907 and that certain Declaration of Restrictions, Covenants and Agreement Affecting Real Property Commonly Known as Crestmont No. 2 Tract 1710, Oakland, Alameda County, California recorded on October 5, 1956, in the Official Records of the Alameda County Recorder as Recorder's Series No. AL-104964 (together, the "Original Declaration").

B. The Original Declaration was amended by an Amendment to Declaration of Restrictions, Covenants and Agreements Affecting Real Property Commonly Known as Crestmont No. 2 Tract 1710, Oakland, Alameda County, California recorded on December 3, 1956 as Recorded Series No. AL-125294 (the "Amendment").

C. The owners of the property subject to the Original Declaration, as amended by the Amendment, wish to continue to subject the real property described in said Clause I to the covenants, restrictions, reservations, servitudes, easements, liens, and charges previously imposed but as amended herein, each and all of which is and are for the benefit of said property and of each present and future owner thereof, and any part thereof, and shall inure to the benefit of and pass with said property, and each and every part thereof and shall apply to and bind every present and future owner of said property, and any part thereof, and their and each of their heirs, successors and assigns:

THEREFORE, the parties hereto hereby rescind, revoke, cancel and annul the Original Declaration and Amendment and substitute this Declaration in the place of such Original Declaration and Amendment, hereby declaring that the real property described in Clause I hereof is, and hereafter shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, restrictions, reservations, servitudes, easements, liens, and charges hereinafter set forth.

CLAUSE I

Property Subject to this Declaration

The real property which is, and shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, restrictions, reservations, servitudes, easements, liens and charges with respect to the various portions thereof set forth in the various clauses and subdivisions of this Declaration is all located in the City of Oakland, County of Alameda, State of California, and is more particularly described as follows:

Lots 1 to 128, inclusive, as shown on the map entitled "Tract 1614, Oakland, Alameda County, California," which map was filed in the Office of the Recorder of the County of Alameda, State of California, on May 16, 1956, in Book 37 of Maps at Pages 19 and 20 thereof

Lots 1 to 6, inclusive, in Block 1; Lots 1 to 12, inclusive, in Block 2; Lots 1 to 18, inclusive, in Block 3; Lots 1 to 26, inclusive, in Block 4; Lots 1 to 26, inclusive, in Block 5; Lots 1 to 29, inclusive, in Block 6; Lots 1 to 20, inclusive, in Block 7; Lots 1 to 19, inclusive, in Block 8; Lots 1 to 14, inclusive, in Block 9; Lots 1 to 6, inclusive, in Block 10; and Lots 1 and 2 in Block 11, as said lots and blocks are shown on the map of Tract 1710, Oakland, Alameda County, California, which map was filed in the Office of the Recorder of the County of Alameda, State of California, on October 4, 1956, in Book 37 of Maps at Pages 75 and 76 thereof.

Excepting therefrom those portions thereof described as follows:

- (1) All that portion of the northeasterly one (1) foot of said Block 1, which lies contiguous to the southwesterly line of Skyline Boulevard.
- (2) All that portion of the southwesterly one (1) foot of said Block 2, which lies contiguous to the northeasterly line of Crestmont Drive and the northeasterly line of Kimberlin Heights Drive, extending from the southeasterly line of Lot 1 to the northwesterly line of Lot 10.
- (3) All that portion of the southwesterly one (1) foot of said Block 4, which lies contiguous to the northeasterly line of Crestmont Drive and the northeasterly line of Colgett Drive, and the southwesterly line of Lot 22, extending from the southwesterly terminus of the ten (10) foot radius property line return of Lot 1 to the southeasterly line of Lot 22.

(4) All that portion of the southwesterly one (1) foot of said Block 5, which lies contiguous to the northeasterly line of Crestmont Drive, extending from the northwesterly line of Lot 3 to the southeasterly line of Lot 18.

(5) All that portion of the southwesterly one (1) foot of said Block 6, which lies contiguous to the northeasterly line of Creighton Way, extending from the northwesterly line of Lot 7 to the southeasterly line of Lot 15.

(6) All that portion of the southwesterly one (1) foot of said Block 7, which lies contiguous to the northeasterly line of Van Cleave Way, extending from the northwesterly, line of Lot 16 to the southeasterly line of Lot 18.

CLAUSE II

General Purposes of this Declaration

The real property described in Clause 1 hereof is subjected to the covenants, restrictions, reservations, servitudes, assessments, liens and charges hereby declared so as to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on lots; to prevent haphazard and inharmonious improvements of lots; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and in general, to provide adequately for a high type and quality of improvement in said property, and thereby to enhance the value of investments made by purchasers of lots therein.

CLAUSE III

Definition of Terms

1. DWELLING HOUSE. The words “Dwelling House” wherever used in this Declaration shall be deemed and construed to include both the main portion of such structures and all projections therefrom, such as bay, bow or oriel windows, exterior chimneys, covered porches, or porticoes, and the like, including any garage incorporated in or forming a part thereof, but shall not include the eaves of such structures, nor any open pergola, nor any uncovered porch, stoop, or steps, or balustrades, the sides of which do not extend more than three (3) feet above the level of the ground floor of said building.

2. LOT. The word “Lot” wherever used in this Declaration means and refers to one of the numbered Lots of land described in Clause I hereof, as shown on the map referred to therein. The numbers following the word “Lot” refer to the particular lot or lots so numbered on the aforesaid map.

3. SAID MAP. The words “Said Map” wherever used in this Declaration mean and refer to the map referred to in Clause I hereof.

4. SAID PROPERTY. The term “Said Property” wherever used in this Declaration means and refers to the property described in the aforesaid Clause I hereof.

5. SETBACK. The term “Setback” wherever used in this Declaration means the distance between the dwelling house or other structure referred to and the given street or side or rear lines of the particular lot.

6. STREET. The word “Street” wherever used in this Declaration means and refers to any street, highway or other thoroughfare shown on said map, or contiguous to the real property designated on said map, whether designated thereon as street, avenue, boulevard, drive, place, court, road, terrace, way, circle, lane, walk, path, or otherwise.

7. PLOT. The word "Plot" wherever used herein refers to an individual site for a residence, together with the ground in connection therewith, whether composed of one or more lots or portions or combinations thereof (as said term "Lot" is defined above).

8. ASSOCIATION. The word "Association" wherever used in this Declaration refers to HOMEOWNERS OF CRESTMONT ASSOCIATION, a corporation organized under the laws of the State of California.

CLAUSE IV

Uses Prohibited and Permitted

1. Said property, and all lots or plots located therein, are declared to be residential in character, and shall not be used for any purpose or purposes other than residence purposes, and for the purposes enumerated in subdivision (7) of this Clause IV.

2. No building other than a detached single family dwelling house and appurtenant garage for private use shall be erected, constructed or maintained on said property, nor shall any building constructed or erected on said property be used for any purpose other than a private dwelling house or appurtenant garage for private use.

3. No structure more than two and one-half stories in height shall be erected, constructed or maintained on said property. For the purposes of this paragraph, a basement shall not be considered a story.

4. For the purposes of this Declaration, a private garage is limited to a building for vehicle parking for the use of the owners or occupants of the lot upon which said garage is erected. A private garage may be incorporated in and made a part of any private dwelling house erected on the lot in the manner prescribed in this Declaration.

5. When the construction of any building on any lot is once begun, work thereon must be prosecuted diligently and it must be completed within a reasonable time. No

building shall be occupied during construction, or until made to comply with all requirements of this Declaration.

6. No outbuilding, garage, shed, shack, tent, trailer or temporary building of any kind shall be erected, constructed, permitted or maintained on any lot prior to commencement of the erection of a dwelling house, and no outbuilding, garage, shack, shed, tent, trailer, motor home, bus, basement, storage units or temporary building shall be used for permanent or temporary residence purposes, whether on a street or lot.

7. The Association, being an association of owners and occupants of said property and of other properties in the general vicinity, and existing for the benefit of its members and said property, and said other properties, shall have the right to conduct its business connected with said property, and said other properties, and to do all things that may be necessary or convenient in furtherance of its purposes upon any part or parts of said property owned or controlled by it.

8. No trade or commercial or manufacturing enterprise or activity of any kind or nature shall be carried on or conducted upon said property, or upon any lot or plot therein located, nor shall any act or thing be done or performed thereon which may be or become an annoyance or nuisance to the neighborhood.

9. Except as provided in Subdivision (10), below, no animals, birds, or fowls shall be kept or maintained on any part of said property.

10. Dogs, cats and pet birds (not including roosters and other potentially disruptive birds) may be kept upon any lot or plot in reasonable numbers as pets for the pleasure and use of the occupants of said lot, but not for any commercial use or purpose. The Association shall have the right to determine what is a reasonable number of such animals and the right to approve the keeping of other customary indoor household pets. Rabbits and poultry may not be

kept upon any lot or plot for any purpose, unless and until authorized in writing by the Association, and in granting any such authorization the Association shall have the right to limit the number and prescribe the conditions under which any such rabbits and poultry may be kept. In no event shall any roosters, guinea hens, or other noisy fowl be kept for any purpose on any lot or plot.

11. No stable, livery stable, or riding academy shall be erected, conducted, carried on, kept, permitted, or maintained, nor shall any horses, ponies, donkeys, or burros, be kept upon any part of said real property.

12. No radio or television aerial or antenna shall be erected or maintained upon any lot or plot or upon any building upon any lot or plot. Any satellite dish exceeding twenty-four inches (24") in diameter, including support for any such item must have prior written approval of the Association for installation upon any lot or plot or upon any building upon any lot or plot. Any solar panel must be installed on the roof of the dwelling in the least objectionable location. Solar panels installed prior to November 15, 2000 may remain where installed. Replacements thereof, however, shall be subject to the objection and approval provision of this Section 12.

13. The portion of any lot or plot in front of the front line of the building thereon shall be kept free at all times from rubbish, litter and weeds, and, with the exception of walks, driveways, or patios, shall be properly landscaped to grow and maintain trees, plants, flowers, shrubs or lawn. No building materials or other substances shall be piled, placed or otherwise stored on such portion of any lot or plot after the completion of the residence thereon, nor shall any automobile, recreational vehicle, truck, or other vehicle or equipment be parked or left on any area thereof except the driveway, nor shall any house trailer, recreational vehicle,

truck or other commercial type vehicle be stored upon the driveway for a period in excess of forty-eight (48) hours.

14. No lot or plot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept, except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All garbage containers, recycling containers, incinerators and other equipment for storage or disposal shall be kept out of sight from the street except on regularly scheduled garbage pick-up days for a period not to exceed twelve (12) hours except as may be approved in writing by the Association.

15. No vehicular access over the rear of any double front lot shall be permitted except for purposes of installation and maintenance of screening, utilities, and drainage facilities except as may be approved by the Association.

16. No fence, wall, hedge or shrub planting on a lot which obstructs sight lines at elevations between 2 and 6 feet above the roadways, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. The Association shall have the right to exempt any lot from these provisions.

CLAUSE V

Approval of Plans and Location of Structures

1. No building, outbuilding, garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed, or maintained on said property, or any part thereof, nor shall any alteration, addition, changing, repairing, remodeling or adding to the exterior thereof, including any driveway or other improvement, be made, unless prior to the commencement of the construction, excavation, or other work, two complete plans and specifications therefor, including front, side and rear elevations and floor plans for each floor and basement, color schemes thereof, and the two plot plans indicating and fixing the exact location of such structures, or such altered structure on the lot with reference to the street and side lines thereof, shall have been first submitted in writing for approval, and approved in writing by the Association, or its duly appointed agent. Submittal for approval shall be made in accordance with such "Submittal General Form" as the Association shall provide.

2. In the event the proposed improvement be one for repainting or redecorating the exterior of such structure, without remodeling or changing it or making additions thereto, it shall be necessary to submit two color schemes of such proposed work and have the same so approved prior to the commencement of such work. Submittal for approval shall be made in accordance with such "Submittal General Form" as the Association shall provide.

3. Approval of such plans, specifications and location of buildings by the Association shall be endorsed on both sets of said plans and specifications, and one set shall forthwith be returned by the Association to the person submitting the same to the Association, and the other shall be retained by the Association in its permanent records.

4. The approval by the Association of any plans or specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the Association of the right to object to any of the features or elements embodied in such plan or specifications and if and when the same features or elements are embodied in any subsequent plans or specifications submitted for approval for use on other lots or plots.

5. After such plans and specifications, and other data submitted have been approved by the Association, no building, outbuilding, garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said property unless the same shall be erected, constructed or altered in conformity with the plans and specifications, color scheme, and plot plan theretofore approved by the Association, or its duly appointed agent, as provided in subdivision (1) and (2) of Clause V hereof. If any building, outbuilding, garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said property, other than in accordance with the plans and specifications, color scheme and plot plan therefor, approved by the Association, such erection, constructions, placing, alteration and maintenance shall be deemed to have been undertaken without the approval of the Association ever having been obtained as required by this Declaration.

6. (a) After the expiration of one year from the date of completion of any structure, or alteration, such structure or alteration shall be deemed to comply with all of the provisions of subdivisions (1) and (2) of Clause V, unless notice to the contrary shall have been recorded in the office of the County Recorder of the County of Alameda, or legal proceedings shall have been instituted to enforce such compliance.

(b) In the event the Association shall fail for a period of thirty (30) days to approve or disapprove any plans, specifications, color scheme or plot plans, submitted to it for approval, the same shall be deemed to have been approved.

7. Any agent or officer of the Association may at any reasonable time enter and inspect any building or property subject to the jurisdiction of the Association, under construction or on or in which such agent or officer may believe that a violation of the covenants, restrictions, reservations, servitudes or easements is occurring or has occurred.

8. The Association may, from time to time, delegate to a person or persons of its own selection the right to approve or disapprove the plans and specifications, color scheme and plot plans in this clause referred to.

9. Neither the Association, nor any representative thereof, shall be entitled to receive any compensation for services performed pursuant to this Clause V.

CLAUSE VI

Setback and Free Spaces of Building

1. Declarant named in the Original Declaration of the said property constructed the residential unit on each lot or plot with setbacks and free spaces so fixed with respect to each lot and each group of lots in said property in such manner that the same will make the improvements on each lot, and in said property as a whole, most desirable and most attractive, and except as otherwise provided in subdivisions (2) and (3) of this Clause VI it is desirable that the setbacks and free spaces so established and to be established by Declarant be maintained.

Accordingly:

(a) No fence, wall, overhead structure or other structure shall be erected, constructed, placed or maintained, nor shall any hedge be grown, planted or

permitted to remain upon any lot or plot, or along any boundary line of any lot or plot, unless erected and constructed originally on such lot by Declarant, which exceeds the following heights: Two (2) feet if situated within six (6) feet of the front lot line; or six (6) feet if situated more than six (6) feet to the rear of the said front line; nor shall any such structure or hedge be permitted to encroach upon street rights of way:

(b) No building (other than the dwelling originally constructed) and no addition to any building, and no structure, hedge or object of any kind more than six (6) feet in height, excepting trees, shrubs and plants, shall be erected, placed or maintained on any lot nearer than ten (10) feet to any side street line;

(c) No building, garage, shack, shed, tent, overhead structure, trellis, except the dwelling and attached garage originally constructed, shall be constructed, erected or maintained on any lot nearer than five (5) feet to any interior side lot line or nearer than twenty (20) feet to any front property line;

2. Anything in this Clause VI to the contrary notwithstanding, in the event one lot and the whole or a portion of a contiguous lot, all in one ownership, shall be used as one outbuilding permitted by this Declaration, then while so owned and used the side lines and rear line of such site shall, for the purpose of this Clause VI, be deemed to be the side lot lines and the rear lot lines of such site.

CLAUSE VII

Lots

1. Not more than one dwelling house/residence shall be erected, constructed or maintained upon any one lot, or upon any building site consisting of a lot and a portion of a contiguous lot in the same ownership. For purposes of this Clause VII, a "lot" is defined as one of the original lots of the Crestmont Subdivision as depicted on Maps of Tract 1614 or Tract

1710, Oakland, Alameda County, California and as set forth with particularity in Clause I of this Declaration.

2. No residential structure shall be erected or placed on any plot which has an area of less than 6,000 square feet or a width of less than 60 feet at the front building setback line, except that a dwelling house may be erected or placed on any original lot shown and delineated on the above-referred to map.

CLAUSE VIII

Area of Improvements and Construction Materials

1. The ground floor area of the main structure or dwelling house on any lot or plot, exclusive of one-story open porches and garages, shall be not less than eight hundred (800) square feet, whether said structure be a one, one and one-half, two or two and one-half story structure.

2. All dwelling houses, outbuildings, garages and other structures on said property shall be constructed with new material. If other materials are to be used, the prior written authorization must be obtained from the Association.

3. No dwelling shall be permitted on any lot in at a cost of less than \$10,000.00, based upon cost levels prevailing on the date of the original recordation of these covenants (namely, June 27, 1956), it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 1,100 square feet for a one-story dwelling, nor less than 300 square feet for a dwelling of more than one story.

4. The entire area of each lot, including backyards and side areas, shall be maintained in compliance with all applicable fire codes and regulations.

CLAUSE IX

Removal of Trees

1. The Association shall have the right at any time, and from time to time, at its own cost, to cut and remove any trees on any lots, plots, or other portion of the property or remove or trim the branches of any trees located thereon, if it deems it desirable to do so for the benefit of the other lots in said property, or for the general benefit of said property. If such cutting is for the benefit of the entire Association, the cost shall be borne by the Association. If the Association determines, after a request by a lot owner to remove branches from any tree or trees that are blocking the view of that lot owner and the Association has determined that such is the case, then the Association will act as provided herein and the requesting lot owner and the owner of the tree or trees will be responsible for reimbursing the Association for one-half each of all costs, including, but not limited to, arborist costs, costs of a tree cutting specialist, and any legal costs and attorney's fees associated therewith.

2. The Association may require the owner of any lot to cut and remove any trees, or any branches of any trees, which in the opinion of the Association are dangerous to adjoining property, or the streets shown on said map, or bordering thereon, or any hedges which shall be maintained in violation of the provisions of Clause VI hereof. If such owner shall fail so to do within thirty (30) days after written notification from the Association, then the Association may cut and remove such trees or branches, or make such hedges conform to the provisions of Clause VI hereof, and such owner agrees to reimburse the Association, upon demand, for all moneys so expended by it.

CLAUSE X

Streets, Easements, Reservations and Rights of Way - Generally

1. No title to land in any street is intended to be conveyed, or shall be conveyed, to the grantee under any deed, or to the purchaser under any contract of purchase, unless expressly so provided in such deed or contract of purchase.
2. Easements, reservations and rights of way as shown on said map shall be, and are, reserved on and across said property for the erection, construction and maintenance of
 - (a) Poles, wires and conduits for the transmission of electricity, power, lighting, telephone and other purposes, pipes and mains for water, gas and heating, and for necessary attachments in connection therewith.
 - (b) Public and private sewers, storm drains, and land drains.
 - (c) Any other method of conducting or performing any public or quasi-public utility, function, or use beneath the surface of the ground.
3. Such easements, reservations and rights of way are designated on said map, and additional easements, reservations and rights of way may be reserved, created or conveyed by Declarant, its successors and assigns, in any conveyance it or they may make of said property, or any portion thereof.
4. No dwelling house and, except with the prior approval of the Association, or its duly appointed agent for the approval of plans, no outbuilding, garage, or other structure of any kind, shall be built, erected or maintained upon any such easement, reservation or right of way, and said easements, reservations and rights of way shall, at all times be open and accessible to public and quasi-public utility corporations, and other persons erecting, constructing or servicing such utilities and quasi-public utilities and to the Association, its successors and assigns, all of whom shall have the right of ingress and egress thereto and therefrom, and the

right and privilege of doing whatever may be necessary in, under and upon said locations for the carrying out of any of the purposes for which said easements, reservations and rights of way are hereby reserved, or may hereafter be reserved.

5. The Association shall have the right at any time to extinguish such easements, reservations and rights of way, provided that the holder of such easement, reservation or right of way consents thereto and joins in the extinguishing thereof.

6. The Association, shall have the right at any time to cut and remove any trees or branches, or any other unauthorized object from such easements, reservations and rights of way.

Streets, Easements, Reservations and Rights of Way — Tract 1710 Only

7. Easements for installation and maintenance of utilities and drainage facilities are reserved over the rear five feet of each Tract 1710 lot. (Refer to easements shown on the recorded map.) Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

8. Easements shall be and are reserved on, across and under those strips of land shown on the recorded map of said Tract 1710 and designated on said map as “10’ Private Drainage Easement” and “15’ Private Drainage Easement” and “20’ Private Drainage Easement” and “25’ Private Drainage Easement” and “30’ Private Drainage Easement”, for the maintenance therein and thereon of storm water drains and their appurtenances. The owner or owners of the

lots in said tract shall be liable for their proportionate share of the cost of the upkeep and maintenance of said storm water drains and their appurtenances.

CLAUSE XI

Signs

1. No sign of any kind shall be displayed to the public view on any lot or plot, except one professional sign of not more than one (1) square foot in size, or one sign of not more than five (5) square feet in size advertising the property for sale or rent. Temporary political signs may be displayed during election periods. All such political signs must be removed within ten (10) days following the election date.

CLAUSE XII

Restriction of Drilling

1. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

CLAUSE XIII

Provisions for Upkeep

1. All of the residential lots subject to this Declaration, and each of said lots, shall be subject to an annual assessment to be established annually by the Association based on an approved budget. In no event shall said annual assessment exceed One Hundred Dollars (\$100.00) per year. Streets now or hereafter opened, laid out, or established, open spaces maintained for the general use of owners of lots or plots, land taken, conveyed or reserved for

public improvements or uses, and easements and rights of way for public utility purposes, shall not be subject to said charge, and hereby expressly exempted therefrom.

2. The Association shall establish such annual assessment, and is hereby expressly delegated and vested with the sole authority to fix such annual assessment, which in no event shall exceed One Hundred Dollars (\$100.00) per year per lot, and shall not vary in amount as to lots in the Association.

3. The Association shall have a separate lien, and a separate lien is hereby created in favor of the Association upon each lot in said property to secure the payment of each annual assessment which shall during the continuance of such annual assessments become payable with respect to such lot. The priority of all such liens on each lot shall be in inverse order, so that upon the foreclosure of the lien for any particular year's assessment on any particular lot, any sale of such lot pursuant to such foreclosure will be made subject to all liens securing the respective annual assessments on such lot for succeeding years. Each such lien for any particular year's assessment shall likewise secure interest thereon if the same be not paid when due, and shall likewise secure costs of suit and reasonable attorney's fees to be fixed by the court in the event any action or suit is brought to collect such charge.

4. Each annual assessment shall become due and payable on the second day of January of each year. Each such assessment shall, if not paid within ninety (90) days after its due date, shall be subject to a late charge of Twenty Five Dollars (\$25.00) and shall thereafter bear interest from the ninetieth (90th) day after its due date, at the rate of ten per cent (10%) per annum until paid. The Association may, in its discretion, waive any interest in any particular instance or instances. If any suit or action be brought to collect any such charge, then there shall be added to the amount thereof costs of suit and reasonable attorneys' fees to be fixed by the court and included in any judgment in such suit or action.

5. Declarant and each purchaser of any part of said property hereby waives as to each annual charge for a period of ten (10) years from and after the due date of such annual charge all Statutes of Limitations, and agrees that any action or suit for the collection of any such annual charge, or for the foreclosure of the lien securing the payment of such annual charge, may be brought and prosecuted to judgment at any time within ten (10) years after the due date of such annual charge.

6. The purchasers of portions of said property by the acceptance of deeds therefor whether from Declarant or subsequent owners of such property or by signing contracts or agreements to purchase the same, shall become personally obligated, and agree to pay such charges, costs of suit, and reasonable attorneys' fees as above provided, and shall thereby vest in the Association the right and power to bring all actions for the collection of such charges, costs of suit and attorneys' fees, and for the enforcement of such liens. Such right and power shall continue in the Association, and such obligations shall run with the land, so that the successive owner or owners of record of any portion of said property, and the purchaser or purchasers under any contract or agreement for the purchase thereof shall in turn become liable to pay all such charges which shall become a lien thereon during the time that they may be the owner or purchaser of any portion of said property, or which were a lien against such portion at the time they become the owner or purchaser of any portion of said property, or which were a lien against such portion at the time they become the owner or purchaser of such portion, costs of suit and reasonable attorneys' fees as above provided. After an owner or purchaser under a contract or agreement of purchase of any portion of said property shall transfer of record the real property owned by him or her, or assign of record his or her right under a contract or agreement of purchase, he or she shall not be liable for any charges thereafter to accrue against such portion of said property.

7. In any case where it shall become necessary to apportion the annual charge on any lot to various portions thereof, such apportionment shall be made by the Association on an area basis.

8. The amount of the annual assessment to be levied pursuant to this Declaration shall be fixed and determined by the Association during the month of November of the preceding year in such sum, but subject to the other limitations herein contained, as the needs of said property may, in the sole judgment of the Association require. Each annual assessment shall be payable at the office of the Association, in Oakland, California, on or before the second day of January of the year for which said charge is levied.

9. Said assessments shall be applied by the Association toward payment of the costs of doing any and all things which shall be reasonably necessary or proper for the accomplishment of the purposes of this Declaration and said Association, which are:

(a) To improve, light, provide for, beautify, equip, operate, supervise and maintain streets, recreational areas, and other open spaces, including all grass plots and strips and other planted areas and trees and shrubs within the lines of said streets in and bordering upon said property as shall be maintained for public use, or for the general use of the owners of the lots in said property.

(b) To care for vacant, unimproved and unkempt lots in said property, remove and destroy grass, weeds, and rodents therefrom, and any unsightly and obnoxious thing therefrom, and to do any other things, and perform any labor necessary or desirable in the judgment of the Association to keep the property, and the land contiguous and adjacent thereto neat and in good order.

(c) To sweep, clean and sprinkle the streets within and bordering upon and adjacent to said property; to collect and dispose of street sweepings, garbage, rubbish,

and the like from said property; to provide for community police and fire protection of said property, and to construct, maintain and keep in repair fire hydrants and mains, sewers, and any sewage disposal system.

(d) To pay the taxes and assessments, if any, which may be levied by any governmental authority upon any areas maintained and/or lands used or acquired for the general use of the owners of said property, including taxes and assessments, if any, which may be levied by any governmental authority on ornamental or functional structures owned by or subject to the control of the Association, and on any property of the Association, or which may be held in trust for the Association.

(e) To pay for the examination and approval, or disapproval, of plans, specifications, color schemes, plot plans and grading plans, for any building, outbuilding, garage, fence, wall, retaining wall, or other structure of any kind which shall be erected, constructed, placed, or maintained on said property, or any part thereof, and for any alteration, condition, changing, repairing, remodeling, or adding to the exterior thereof, and for such supervision of construction and inspection as may be required to insure compliance therewith, including the services of architect and other persons employed to examine and advise upon such plans, specifications, color schemes, plot plans, and grading plans.

(f) To enforce the covenants, restrictions, reservations, servitudes, easements, liens and charges existing upon and created for the benefit of said property over which the Association has jurisdiction; to pay all expenses incidental thereto; to enforce the decisions and rulings of the Association having jurisdiction over any of said property; to pay all of the expenses in connection therewith.

(g) To collect the assessments affecting such property; to pay all expenses in connection therewith, and all office and other expenses incident to the conduct of the business of the Association, and all licenses, franchise taxes and governmental charges levied or imposed against the property of the Association.

(h) To acquire by gift, purchase, or otherwise, to own, hold, enjoy, lease, operate, maintain, and to convey, sell, lease, transfer, mortgage or otherwise encumber, dedicate for public use, or otherwise dispose of real or personal property in connection with the business of the Association.

(i) To perform such acts as are appropriate in connection with this Declaration and the conduct of the Association's business.

The Association shall be required to perform only such of the foregoing enumerated purposes as it shall, from time to time, deem to be in the best interests of said property and the owners thereof, and then only to the extent of the moneys available for such purposes. Neither the Association nor Declarant shall in any way be liable to any owner, purchaser, or other person for any act of omission under this Clause.

In the event any city, county, district or other municipality, or quasi-municipality, should at any time assume and perform with respect to the real property covered by this Declaration any of the services which are within the purposes of the Association, then during any period in which such services are assumed and performed by any such city, county, district or other municipality, or quasi-municipality, the Association shall not apply any of said assessments for the purpose of duplicating such services.

CLAUSE XIV

Scope, Duration of Covenants, Restrictions, Reservations,

Servitudes, Easements, Liens and Charges

1. All of the covenants, restrictions, reservations, servitudes, easements, liens and charges set forth in this Declaration are imposed upon said property for the direct benefit thereof and of the owners thereof as a part of the general plan of development, improvement, building, equipment and maintenance of said property. Each guarantor or purchaser under a contract of sale or agreement of purchase, by accepting a deed or contract of sale or agreement of purchase, accepts the same subject to the covenants, restrictions, reservations, servitudes, easements, liens and charges set forth in this Declaration, and agrees to be bound by each such covenant, restriction, reservation, servitude, easement, lien and charge. Said covenants, restrictions, reservations, servitudes, easements, liens and charges shall run with the land.

2. Said covenants, restrictions, reservations, servitudes, easements, liens and charges, as in force on said first day of January, 1986 as applied to Tract 1614 and October, 1986 as applied to Tract 1710, shall be perpetual and continued automatically thereafter.

3. Damages are hereby declared not to be adequate compensation for any breach of the covenants, restrictions, reservations, servitudes, or easements of this Declaration, but such breach and the continuation thereof may be enjoined, abated and remedied by appropriate proceedings by the Declarant, the Association, or by an owner of any other lot in said property.

CLAUSE XV

Modification, Cancellation and Annulment of Restrictions and Charges

The owners of record of lots in the property who hold not less than sixty six and 2/3 per cent (66-2/3%) of such lots then subject to this Declaration on which dwelling houses are

then located may change, modify, cancel and annul with respect to the property then subject to this Declaration any or all of the covenants, restrictions, reservations, servitudes, easements, liens and charges contained in this Declaration, by an instrument in writing signed by said owners.

CLAUSE XVI

Subordination of Covenants, Restrictions, Reservations,

Servitudes, Easements, Liens and Charges

1. All of the covenants, restrictions, reservations, servitudes, easements, liens and charges set forth in this Declaration shall be subject to and subordinate to any recorded mortgage or deed of trust in good faith and for value at any time heretofore or hereafter executed covering any part of said property, and the breach of any such covenants, restrictions, reservations, servitudes, easements, liens or charges shall not defeat the lien or encumbrance of any such mortgage or deed of trust, and in the case of re-entry by the Association title shall remain subject to such mortgage or deed of trust; provided, however, that except as hereinafter provided in this Clause XVI, the purchaser at any foreclosure sale under any such mortgage or deed of trust and at any trustee's sale under any such deed of trust, his or its successors and assigns, shall take and thereafter hold the title subject to all of the covenants, liens and charges set forth in this Declaration; provided, further that if title to any of the lots described in Clause I hereof, which at any time subsequent to the filing of the Tract maps therein referred to, has or at any time hereafter shall become subject to a mortgage or deed of trust, shall be acquired by the original mortgages or original beneficiary under a deed of trust, or its successors or assigns pursuant to any foreclosure sale under any such mortgage or deed of trust, or pursuant to any trustee's sale under any such deed of trust, or by conveyance in satisfaction of any such mortgage or deed of trust, then and in that event said original mortgagee or original beneficiary under a

deed of trust, or its successors or assigns, shall take title thereto, free and clear of all delinquent charges and liens provided for in Clause XIII hereof, until said property shall have been conveyed to a third person, and after such conveyance the liens for charges subsequent to said conveyance shall attach as provided for by said Clause XIII hereof.

2. Notwithstanding any contrary provisions in this Declaration, title to property acquired by the holder of a loan guaranteed or insured by the Federal Housing Administration, or property acquired by such agency directly at foreclosure or otherwise, or from the purchaser at foreclosure sale, or otherwise, by reason of, or incident to, or as a consequence of such guarantee of insurance, either by way of purchase at a sale under power of sale or other judicial proceedings, or through foreclosure of deed of trust or mortgage on the property securing such loan, or by way of conveyance in full or partial satisfaction of the debt secured by such deed of trust or mortgage, immediately upon any such acquisition shall be and thereafter remain free from any and all restrictions provided in the following Clause XVII until said property is conveyed to a third party and after such conveyance the provisions contained in said Clause XVII shall immediately attach.

CLAUSE XVII

Violations of Covenants, Restrictions, Reservations,

Servitudes, Easements, Liens and Charges

1. Breach: A breach or violation of any of the covenants, restrictions, reservations, servitudes, easements, liens or charges shall give to the Association the right to immediate re-entry upon the property upon which such violation exists, and summarily to abate and remove, at the expense of the owner thereof, any erection, structure, building, thing or condition that may be or exist thereon contrary to this Declaration, and to the true intent and meaning of the provisions hereof, and the Declarant or the Association shall not thereby be

deemed guilty of any manner of trespass for such entry, abatement, or removal, nor shall the Declarant, or the Association be liable for any damages occasioned thereby. The result of every act of omission or commission, or the violation of any covenant, restriction, reservation, servitude, easement, lien or charge hereof, whether violated in whole or in part, is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against a nuisance either public or private, shall be applicable against every such result and may be exercised by Declarant, or by the Association, or by the owner of any lot, and may be prohibited and enjoined by injunction. Such remedy shall be deemed cumulative and not exclusive.

2. Enforcement: If any assessment is not paid on time, or if any lot is subject to a violation of any of the provisions of this Declaration, the Association shall give written notice thereof to the owner of the lot. If such default is not cured within sixty (60) days, the Association shall give an additional written notice of the default. If, after such second written notice, such default is not cured within sixty (60) days, in addition to all other remedies provided by law, the Association, or its authorized representative, may enforce the obligations of the owners of the lots to pay each assessment and to comply with and/or pay damages for a breach of the terms provided in this Declaration in any manner provided by law or by either or both of the following procedures:

(a) By Suit: The Association may commence and maintain a suit at law against any owner obligated to pay a delinquent assessment and/or to recover damages for a breach of this Declaration and/or to comply with the terms of this Declaration. The suit shall be maintained in the name of the Association. Any judgment rendered in any action shall include the amount of the delinquency, interest, late charges and additional changes as described herein, and any other amounts as the court may award. Any such proceeding to recover a judgment for unpaid assessments or to enforce

this Declaration may be maintained without the necessity of foreclosing or waiving the lien established herein.

(b) By Lien: The Association may commence and maintain proceedings to foreclose the lien established herein. No action shall be brought to foreclose a lien until a notice authorized by the Association and signed by an authorized agent, or by any owner if the Board fails or refuses to act, has been recorded in the Official Records of Alameda County and a copy of the recorded notice has been delivered to the owner(s) named in the notice. The notice shall state the amount of the delinquent assessment(s) and/or the specific provision of the Declaration which is in violation, the interest and late charges incurred to date, a description of the lot, the name(s) of the record owner(s) thereof and shall be signed by the President and Treasurer of the Association. Once (i) thirty (30) days has elapsed since the recordation of the notice and (ii) ten (10) days has elapsed since the mailing or delivery of a copy of the recorded notice to the owner, an action in the name of the Association may then be commenced to foreclose the lien for the delinquent assessment(s). The lien recorded shall continue for a period of one (1) year unless extended for a period of one (1) additional year by the recording of a written extension by the Association. When a notice has been recorded, such assessment and/or violation shall constitute a lien on the respective lot prior and superior to all other liens except (i) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (ii) the lien or charge of any First Mortgage.

3. Additional Charges: In addition to any other amounts due or any other relief or remedy obtained against an owner who is delinquent in the payment of any assessments and/or in violation of this Declaration, each Owner agrees to pay such additional costs, fees, charges and expenditures (“additional charges”) as the Association may incur or levy in the

process of collecting from that owner monies due and delinquent and/or in enforcing this Declaration or seeking damages for the breach thereof. All additional charges shall be included in any judgment in any suit or action brought to enforce collection of delinquent assessments and/or enforce this Declaration and shall be included in any assessment lien. Additional charges shall include, but not be limited to, the following:

(a) Attorneys' Fees: Reasonable attorneys' fees and costs incurred in the event an attorney(s) is employed to collect any assessment or sum due and/or enforce this Declaration, whether by suit or otherwise;

(b) Late Charge: A late charge as provided in Clause XIII to compensate the Association for additional collection costs incurred in the event any assessment or other sum is not paid when due or within any "grace" period established herein or by law and/or in the event of a breach of this Declaration by an owner of a lot.

(c) Violation Charge: A violation charge equal to Thirty Five Dollars (\$35.00) per calendar month during which a violation of this Declaration other than failure to pay the annual assessment exists. Such violation charge shall commence only after the second notice under Section 2, above, has been given.

(d) Costs of Suit: Costs of suit and court costs incurred as are allowed by the court;

(e) Interest: Interest on the additional charges at the rate of ten percent (10%) per annum as provided in Clause XIII;

(f) Other: any such other additional costs that the Association may incur in the process of collecting delinquent assessments or sums.

CLAUSE XVIII

Right to Enforce

The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by the Association, or by the owner or owners of any portion of said property, their and each of their legal representatives, heirs, successors and assigns, and failure by the Association, or by any other property owner, or their legal representatives, heirs, successors or assigns, at any time to enforce any of such covenants, restrictions, reservations, servitudes, easements, liens, or charges herein contained shall, in no event, be deemed a waiver of the right to do so thereafter, unless otherwise herein provided.

CLAUSE XIX

Assignment of Power

Any and all rights and powers and reservations of the Declarant herein contained may be deeded, conveyed, or assigned to the Association, and upon such Association evidencing its consent in writing to accept such assignment and to assume such duties and powers, it shall, to the extent of such deed, conveyance or assignment, have the same rights and powers, and be subject to the same obligations and duties as are given to and assumed by Declarant herein and thereupon Declarant shall be relieved of the performance of any further duty or obligation hereunder to the extent of such deed, conveyance or assignment.

In the event Declarant shall convey all of its right, title and interest in and to the real property described in Clause I hereof and shall assign all of its right, powers and privileges under this Declaration to another corporation and such other corporation should by instrument in writing duly executed, acknowledged and recorded in the office of the County Recorder of Alameda County, accept such conveyance and assume and agree to be bound by each and all of the obligations and duties hereby imposed upon the Declarant, then and in such event Declarant

shall be relieved of the performance of any further duty or obligation hereunder, and such other corporation shall succeed to all of the rights, powers, reservations, obligations and duties as though such other corporation had originally been named herein as Declarant instead of Declarant.

CLAUSE XX

Membership in Association

Nothing contained in this Declaration or in any supplemental declaration of restrictions or in the by-laws of the Homeowners of Crestmont Association, a non-profit corporation, is intended or shall be construed to make membership in such Association mandatory or a condition to holding title or possession of any residential lot or plot.

CLAUSE XXI

Marginal Notes and Headings of Clauses

The marginal notes and headings as to the contents of particular clauses are inserted only as a matter of convenience and for reference, and in no way are, or are they intended to be, a part of this Declaration, nor are they intended in any way to define, limit or describe the scope or intent of the particular section or clause to which they refer.

CLAUSE XXII

The Various Parts of this Declaration are Severable

In the event any clause, subdivision, term, provision or part of this Declaration should be adjudicated by final judgment of any court of competent jurisdiction to be invalid, or unenforceable, then disregarding such clause, subdivision, term, provision or part of this Declaration so adjudicated to be invalid or unenforceable, the remainder of this Declaration, and each and all of its terms and provisions not so adjudicated to be invalid or unenforceable, shall

remain in full force and effect, and each and all of the clauses, subdivisions, terms, provisions or parts of this Declaration are hereby declared to be severable and independent of each other.

CLAUSE XXIII

Counterparts

This Declaration may be executed in counterparts and in such event each of which shall be deemed an original, and all of which together shall constitute one and the same document.

CLAUSE XXIV

Effectiveness

This Declaration shall be effective as soon as owners of seventy five percent (75%) or more of the lots in Tract 1614 and owners of seventy five percent (75%) or more of the lots in Tract 1710 have executed this Declaration. Said date shall then be inserted in the preamble of this Declaration as the "Effective Date".

IN WITNESS WHEREOF, the undersigned have executed this Declaration on the respective dates set forth below, effective as of the Effective Date.

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STATE OF CALIFORNIA)

COUNTY OF _____) ss.

On _____, 2001 before me, _____, Notary Public, personally appeared _____

personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

_ Witness my hand and official seal.

Notary Public

BY-LAWS

**HOMEOWNERS OF CRESTMONT ASSOCIATION, INC.
95 KIMBERLIN HEIGHTS DRIVE
OAKLAND, CA 94619**

Amended May 14, 2003

BY-LAWS

HOMEOWNERS OF CRESTMONT ASSOCIATION

A Non Profit Corporation

ARTICLE I

Name

The name of this association shall be HOMEOWNERS OF CRESTMONT ASSOCIATION.

ARTICLE II

Purposes

The objectives and purposes of the Association shall be as set forth in the Articles of Incorporation and those certain “DECLARATIONS OF RESTRICTIONS, COVENANTS, CONDITIONS, AND AGREEMENTS AFFECTING REAL PROPERTY COMMONLY KNOWN AS TRACT 1614 and TRACT 1710, OAKLAND, ALAMEDA COUNTY, CALIFORNIA,” made by STERLING DEVELOPMENT COMPANY, a partnership composed of ODDSTAD HOMES and WUNDERLICH DEVELOPMENT COMPANY, both corporations, as owner, and CONTINENTAL AUXILIARY COMPANY, a corporation, as Trustee, and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, a national banking association, as beneficiary, which declarations are recorded in the Official Records of Alameda County, on various dates, commencing June 12, 1956, in Book 8056 at Page 447, and neighboring tracts covered by similar declarations.

The additional purposes of this association shall be to further preserve and maintain the unique character and destiny of the area through the establishment of rules, committees and procedures

for enforcing the provisions of the covenants and deed restrictions of record against each individual lot or home site.

ARTICLE III

Definitions

Section 1. (CRESTMONT AREA) The words “Crestmont area” as used in these By-Laws, shall mean those certain tracts of land in the City of Oakland, County of Alameda, State of California, aforementioned and commonly described as: TRACTS 1614 and 1710, and such other adjacent or neighboring tracts, subdivisions, lots and sites in the immediate proximity of the above particularly described areas which are in the general area known as “Crestmont.”

Section 2. (LOT OWNER) The words “owner of any lot” or “lot owner” as used in these By-Laws shall be construed to include persons holding a contract of purchase.

Section 3. (RESTRICTION) The word “restriction” as used in these By-Laws shall be interpreted to mean the restrictions contained in the grant deed pertaining to parcels or lots within the Crestmont area from the STERLING DEVELOPMENT COMPANY to the purchasers thereof and as set forth in those certain “Declarations of Restrictions” hereinabove designated or other areas subject to comparable deed restrictions or covenants, as such Declaration of Restrictions has been thereafter amended.

Section 4. (LOT) The words “lot,” “parcel” or “building site” as used in these By-Laws shall be deemed to refer to any and all original lots shown and delineated on the parcel maps referred to in Clause I of the recorded Declaration of Restrictions, Covenants, Conditions and Agreements which effectuated the division of the above properties into separate units.

ARTICLE IV

Membership

Section 1. (OWNERS) Membership in this Association shall be open to, and limited to, all persons who are owners of record or holders of a contract for purchase of any recorded parcel of land embraced in the areas more particularly described hereinabove. Membership shall not be available to any person, partnership or corporation taking title as security for the payment of money or other thing of value, or for the performance of any obligation whatsoever.

Section 2. (OTHER AREAS) Membership herein may be extended to other areas, lots, parcels, building sites, tracts or subdivisions not embraced within the above designated recorded tracts, by written application of the owners or contract signers thereof subject to the approval of at least two-thirds (2/3) of the members of the Board of Directors at a meeting in which said application or applications shall be considered.

Section 3. (ONE PER LOT) Regular membership shall be limited to one adult person for each lot or building site.

Section 4. (REGULARS & ALTERNATES) Each lot containing a completed dwelling shall be entitled to one (1) vote. Joint owners shall be limited to one (1) vote among them and shall choose for this purpose one of their number as the regular representative and one as an alternate to act in the absence of the regular representative. The names of both regular and alternate members shall be entered on the records of the Association. Nothing in this section shall be construed to prohibit any joint member from speaking from the floor at any meeting or holding office in the Association. However, only one member from any one lot shall hold an elective office.

Section 5. (PROXY) Any homeowner of record may, by signed authorization on a form provided by the Secretary of the Association upon request, grant a general or limited revocable proxy to a party of the lot owner's choice for the purpose of casting the absentee homeowner's vote.

Section 6. (ASSOCIATES) Associate membership shall be open to one person per lot or where the improvements thereon are rented to a tenant and not occupied by the owner. An associate member may attend meetings and speak from the floor, but shall not be entitled to vote or to hold office in said Association.

Section 7. (TERMINATION) Membership in the Association shall automatically terminate when any member shall cease to be an owner of record of any lot in the designated area or upon the death of a member or formal withdrawal from the Association indicated by a written resignation to the Secretary.

Section 8. (QUORUM) For the purposes of holding a valid meeting of the general membership, ten percent (10%) of such members shall constitute a quorum.

ARTICLE V

Governing Body

Section 1. (POWERS) The corporate powers of this corporation shall be vested in the board of nineteen (19) directors who shall be members of this Association.

Section 2. (ELECTIONS) The directors shall be elected at the annual meeting of the general membership to serve for a three (3) year period. The board shall consist of nineteen (19) directors. The Board of Directors shall hold regular meetings at intervals to be

designated by them and special meetings called by the President. They shall make regular reports to the general membership on current matters of interest to the membership.

Section 3. (BALLOT METHODOLOGY) The election of the directors shall be by majority vote at the Annual meeting, determined by a show of hands of attending homeowners. Candidates for Board positions shall be offered by attending homeowners at the Annual meeting upon request for such nominations, and/or by members of the Board.

Section 4. (ELIGIBILITY OF DIRECTORS) For purposes of electing the directors, the Crestmont area shall be divided into twelve (12) local areas by the Membership for the purposes of nominating one (1) director from each area. Said director must be a resident within that area at the time of his nomination and if he should change his residence to any other section of the tract during his term of office, said office shall be declared vacant by the Board of Directors. That vacancy may then be filled either by another resident of that district or, if a director cannot be found who lives within the designated district, a substitute director may be chosen from another district. The Board shall nominate one (1) director who shall be elected by a majority vote of members at a regular general membership meeting. Seven (7) directors shall be at-large directors and shall be elected by the membership at the next Annual meeting.

The nominees from each area and the at large nominees shall be voted upon by the membership attending the Annual meeting.

ARTICLE VI

Officers

Section 1. (NUMBER) The officers of the corporation shall be a President, Vice President, Secretary, and Treasurer, who shall be elected by the directors from among the Board members at the first board meeting following their election.

Section 2. (TERM) The term of office for each of said officers shall be one (1) year. This section shall not be construed to limit or prevent any person from serving more than one (1) term in office, consecutive or otherwise.

Section 3. (VACANCIES) Vacancies on the Board of Directors shall be filled by an appointee of the Board at its first meeting following the vacancy and shall be subject to ratification by the members of said office at the next Annual meeting of the Association thereafter.

ARTICLE VII

Powers of Directors

Section 1. To call meetings of the members whenever they deem it necessary. They shall call a meeting any time upon the written request of at least thirty (30) members of the Association.

Section 2. To conduct, manage and control the affairs and business of the corporation, and to make rules and regulations not inconsistent with the laws of the State of California or the By-Laws of the corporation, for the guidance of the officers and management of the affairs of the corporation.

Section 3. To exercise for the corporation all powers and authority vested in or delegated to this corporation by said declaration, covenants and restrictions.

ARTICLE VIII

Duties of Directors

Section 1. To cause to be kept a complete record of all their minutes and acts, and of the proceedings of the members, and present a full statement at the regular annual meeting of the members, showing in detail the assets and liabilities of the corporation, and generally the condition of its affairs. A similar statement shall be presented at any other meeting of the members when required by members who are the owners of record of at least thirty (30) of said building sites.

Section 2. To supervise all officers, agents and employees of the association and see that their duties are properly performed.

Section 3. To cause an annual audit of the books to be made by auditors who are not members of the Board.

- a. An audit of the Association's books will be performed at the Association's expense under one of the following circumstances:
 - 1) Transfer of Association's books to a new Treasurer;
 - 2) At any time at the request of the Treasurer of the Association;
 - 3) At any time at the request of the majority of the Board of Directors of the Association.
- b. An audit of the Association's books can also be requested by any member of the Association, under the following conditions:
 - 1) It is an audit performed by a licensed C.P.A.;

- 2) It is paid for by the member of the Association requesting such audit;
- 3) Another member-requested audit has not been performed in the twelve (12) month period prior to this request;
- 4) The homeowner requesting and performing such audit must provide the audit report to the HCA within fifteen (15) days of completion and, by written agreement with the Association, allow the Board of Directors to provide the audit report to any homeowner requesting such materials.

ARTICLE IX

President

Section 1. Shall preside over all meetings of the members and directors and shall cast his/her vote only in the event of a tie.

Section 2. The President shall call the directors together whenever he/she deems it necessary, and shall have, subject to the advice of the directors, direction of the affairs of the corporation, and generally shall discharge such other duties as may be required by him/her by the By-Laws and the wishes of the directors of the corporation.

ARTICLE X

Vice President

All powers and duties conferred by law or by this Code of By-Laws on the President shall, in his/her absence or inability, be performed by the Vice President.

ARTICLE XI

Secretary

Section 1. Shall keep a record of the proceedings of the Board of Directors and of the members.

Section 2. Shall keep the corporate seal of the corporation and the book of membership, and shall affix said corporate seal to all papers requiring a seal.

Section 3. Shall serve all notices required either by law or the By-Laws of the corporation, and in case of his/her absence, inability, refusal or neglect to do so, then such notices may be served by any person thereunto directed by the President or Vice President of the corporation.

Section 4. Shall provide copies of the Declaration of Restrictions, Covenants, Conditions and Agreements Affecting Real Property, the By-Laws and other corporation documents as requested by members and shall, as appropriate, charge a reasonable production cost for copies thereof.

Section 5. Shall keep proper books showing the date of membership and the name and address of each member.

ARTICLE XII

Treasurer

The Treasurer shall receive and deposit in such bank or banks, as the Board of Directors may direct, all the funds of the corporation, subject to the scrutiny of such officers as the Board of Directors shall designate.

ARTICLE XIII

Dues and Assessments

Section 1. The annual assessment for all homes and lots will be fixed by the Board, subject to adjustment and ratification by a vote of the membership at the next Annual meeting. The annual assessment will be due and payable on or before the first day of April of the following year in which the assessment is ratified.

Section 2. The total annual assessment shall not exceed one hundred dollars (\$100.00) per lot.

ARTICLE XIV

Amendment

The Articles and By-laws may be amended by a vote of two-thirds (2/3) of the members present at any meeting for which due written notice has been sent to the members setting forth the provisions of the proposed amendment and informing the members that the amendment shall become effective immediately, or upon the date designated by the members.

ARTICLE XV

Meetings

Section 1. The annual meeting of the members shall be held in the County of Alameda, California, in November of each year. Members shall be notified in writing at least seven (7) days before the meeting, at his address, which he shall register with the Secretary for that purpose.

Section 2. Special meetings of the members may be called at any time by the Board of Directors upon seven (7) days written notice to be sent in the same manner as provided in Section 1 hereof.

Section 3. Special meetings must be called, in the same manner, at the written request of at least thirty (30) members so directed by the Board of Directors.

ARTICLE XVI

Books and Records

The corporation shall keep at its principal office the original By-Laws, duly certified by the Secretary, and a membership book of the corporation containing the name and address of each member, the designation of regular or alternate status in cases of joint membership and the date of admission to membership. Said records shall be open to inspection to all members at reasonable times.

Dated adopted: May 14, 2003.

Index for CC&Rs and By-Laws

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