

# Bylaws

of

## Bear Valley Springs Association



*Information contained herein concerning the Environmental Control Committee and the Rules for use of community facilities are subject to change.  
Current information may be obtained at the BVSA Office.*

**29541 Rolling Oak Drive – Tehachapi, California 93561**

Revised: 6/13/15



# **RESTATED COVENANTS, CONDITIONS AND RESTRICTIONS FOR**

**Bear Valley Springs Association**

**January 1, 2012**

**IF THIS DOCUMENT CONTAINS ANY RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, GENDER, GENDER IDENTITY, GENDER EXPRESSION, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, GENETIC INFORMATION, NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN SUBDIVISION (p) OF SECTION 12955, OR ANCESTRY, THAT RESTRICTION VIOLATES STATE AND FEDERAL FAIR HOUSING LAWS AND IS VOID, AND MAY BE REMOVED PUSUANT TO SECTION 12965.2 OF THE GOVERNMENT CODE. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF THE OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS.**

## REVISIONS TO BYLAWS

EFFECTIVE	ACTION	ARTICLE / SECTION AFFECTED
Sept. 1, 1970	Adopted	
June 28, 1980	Amended	Art. V – Membership Meetings, Section 3
June 10, 1989	Amended Added	Art. IV – Membership Voting, Section 4 Art. VII – Membership Rights, Section 6
June 10, 1995	Added Amended New	Art. I – Recitals & Definitions, Section 21 Art. VII – Membership Rights, Section 5 Art. XII – Enforcement of Governing Documents ( <i>entire article</i> ) ( <i>old Art. XII was renumbered to Art. XIII</i> )
June 13, 1998	Repealed & Added	Art. IX – Board Meetings, Section 1 ( <i>repealed old &amp; added new</i> )
June 16, 2001	Added	Art. XIII – Miscellaneous, Section 7
June 8, 2002	Amended Amended Amended Amended Added	Art. V – Membership Meetings, Section 1 Art. X – Duties and Powers of the Board, Section 14 Art. XII – Enforcement of Governing Documents, Sec. 5(a),(b) Art. XIII – Miscellaneous, Section 2 Art. XIII – Miscellaneous, Section 8
June 12, 2004	Added	Art. XIII – Miscellaneous, Section 9
June 11, 2011	Amended	Art. IX – Board of Directors Regular Meeting Schedule
February 1, 2013	Amended	Art. VIII – Board of Directors, Sections 3 and 4
June 13, 2015	Amended	Art. VII – Membership Rights, Section 6

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# *Bylaws of Bear Valley Springs Association*

## ARTICLE I

### RECITALS AND DEFINITIONS

**Section 1.** This corporation has been formed pursuant to the General Non-profit Corporation Law of the State of California.

**Section 2.** The specific and primary purpose of this corporation are set forth in Article III(a) of the Articles of Incorporation.

**Section 3.** The corporation is referred to as the “Association”.

**Section 4.** The term “*Development*” shall mean all of the real property within the boundaries of that certain real estate development consisting of approximately 24,000 acres in Kern County, California and commonly known as “Bear Valley Springs” and any additional property which is annexed thereto pursuant to the provisions of the Covenants and Restrictions recorded in the Office of Recorder of the County of Kern, State of California in connection with the Development.

**Section 5.** The property which the Association shall initially own and control is a leasehold interest in certain Community Facilities in the Development, which Community Facilities are more particularly described as follows:

- (1) An Equestrian Center consisting of a clubhouse (with Manager’s quarters), barn, tackroom, stables, corrals, paddocks, training ring, pond and parking area; and
- (2) A Recreation Center including clubhouse (with restaurant and bar), swimming pool, locker room, tennis courts, miscellaneous game areas, picnic and barbecue area, and parking area; and
- (3) Park Areas including campgrounds, overnight equestrian stops, rifle range, trail bike course, and ponds; and
- (4) Any other facilities which the Association shall own, lease or otherwise control and/or operate for the common use and benefit of the members.

The Association shall own and/or lease such equipment and personal property as is reasonably required from time to time by the Association to be used in connection with the Community Facilities. The Association may own and/or lease other property, whether real or personal, from time to time for the common benefit, use and enjoyment of the Members of this Association.

All of the above-described property which the Association shall own, lease, control and/or operate is herein collectively referred to as “Association Property”.

**Section 6.** The term “*Lot*” shall mean any lot designated on a duly recorded final Subdivision Map.

**Section 7.** The term “*Condominium*” shall mean those single family residential units consisting of an interest in a condominium lot coupled with a separate exclusive interest in an apartment unit in the building situated on said condominium lot.

**Section 8.** The term “*Condominium Lot*” shall mean a parcel of land intended to be used for residential purposes upon which the construction of an apartment building containing condominium apartment units is allowed under the applicable laws of the County of Kern. The term “*Unimproved Condominium Lot*” shall mean a condominium lot upon which no condominium apartment unit has been occupied for residential purposes. The term “*Improved Condominium Lots*” shall mean a condominium lot upon which a condominium apartment unit has been occupied for residential purposes.

**Section 9.** The term “*Residential Lot*” shall mean any lot intended to be improved with a residence to be used for single-family residential purposes.

**Section 10.** The term “*Owner*” shall mean the person or entity holding the beneficial ownership of a lot or condominium.

**Section 11.** The term “*Covenants and Restrictions*” shall mean all limitation, restrictions, covenants, terms and conditions set for in the Declaration of Covenants, and Restrictions recorded in the Office of Recorder of the County of Kern with respect to the Development, as such declaration may from time to time be amended, supplemented or modified by a subsequent Declaration so recorded.

**Section 12.** The term “*Subdivision Map*” shall mean (a) any final map within the meaning of the provisions of Division 4, Part 2, Chapter 2, of the Business and Professions Code of the State of California, or (b) any final record of survey map within the meaning of the provisions of Division 3, Chapter 15, Article 5 of the Business and Professions Code of the State of California as such provisions may from time to time be amended.

**Section 13.** The term “*Common Area*” shall mean and include collectively all real property (with the exception of dedicated roads) conveyed to the Bear Valley Community Services District by Developer, including (without limitation) any real property upon which Community Facilities defined in Article I, Section 5, are now, or are hereafter, located.

**Section 14.** The term “*Member*” as used herein shall mean a member of this Association in good standing whose rights under these Bylaws are not suspended.

**Section 15.** The term “*Board*” shall mean the duly elected and acting Board of Directors of the Association.

**Section 16.** The term “*Road*” shall mean any vehicular way designated on a Subdivision Map as a road, court or street.

**Section 17.** The term “*County*” shall mean the County of Kern, State of California.

**Section 18.** The term “*Office of Recorder*” shall mean the Office of Recorder, County of Kern, State of California.

**Section 19.** The term “*Person*” shall mean and include any individual, corporation, partnership, association or other entity recognized by the laws of the State of California.

**Section 20.** The term “*Developer*” shall mean Dart Industries, Inc., a corporation, and any of its successors or assigns, engaged in developing the Development or any portion thereof.

**Section 21.** The term “*Governing Documents*” shall mean the Declaration of Covenants and Restrictions, the Bylaws, Association Rules and any other documents such as operating rules of the Association and the Association’s Articles of Incorporation which govern the operation of this common interest development, the Association or Association Common Areas and other property. **(Added 6-10-95)**

## **ARTICLE II**

### **PRINCIPAL OFFICE**

**Section 1.** The principal office of the Association shall be located at such place in the County, as the Board shall from time to time designate by resolution.



## ARTICLE III

### MEMBERSHIP

**Section 1.** The following persons shall be members of the Association:

- (a) Each Owner of a residential lot within the Development; and
- (b) Each Owner of an unimproved condominium lot within the Development; and
- (c) Each Owner of a condominium on an improved condominium lot.

**Section 2.** Each Owner who is a member shall remain a member until he no longer qualifies as such under Section 1 above.

**Section 3.** The Board shall provide for the issuance of certificates evidencing membership in the Association which shall be in such form as determined by the Board. Said certificates shall be consecutively numbered. The name and address of each member and the date of issuance of the certificate shall be entered in a Membership Register maintained by the Secretary.

**Section 4.** If more than one person owns a residential lot, an unimproved condominium lot, or an improved condominium lot, all of said persons shall be deemed to be one member.

**Section 5.** A person shall not be entitled to exercise rights of a member until such person has advised the Secretary in writing that he is qualified to be a member under Article III, Section 1 above, and has provided the Secretary with evidence of such qualification in the form of a recorded grant deed or a currently effective policy of title insurance.

# ARTICLE IV

## MEMBERSHIP VOTING

**Section 1.** The Association shall have but one class of voting membership.

**Section 2.** At any meeting of the membership called and held pursuant to the provisions of these Bylaws, each member shall be entitled to vote as follows:

- (a) One vote for each residential lot owned by such member; and
- (b) One vote for each condominium allowed under the Covenants and Restrictions on each unimproved condominium lot owned by such member; and
- (c) One vote for each condominium owned by such member on each improved condominium lot.

**Section 3.** Any member may attend and vote at meetings or cast his ballot, as the case may be, in person, or by proxy holder duly appointed by a written proxy signed by the member and filed with the Secretary. Any proxy shall be for a term of not to exceed eleven (11) months unless otherwise expressly provided therein and may be revoked at any time by written notice delivered to the Secretary. A proxy shall be deemed revoked when the Secretary shall receive actual notice of the death or judicially declared incompetence of such member, or upon termination of such member's status as an Owner as provided for in Article III, Section 1 (a), (b), and (c) above.

**Section 4.** Unless the Secretary of the Association is given written notice to the contrary, where two or more persons constitute a membership, any proxy with respect to the vote of that membership may be signed by any one of the persons and any vote at the meeting may be cast by any one of the persons on behalf of that membership. **(Amended 6-10-89)**

**Section 5.** Any matter or issue requiring the vote of the members, other than the election of directors, may be submitted for vote by written ballot without a meeting of the members. The determination to conduct an election in this fashion shall be made by a majority of the Board or by members having 10% of the total votes of the membership signing a written request and delivering same to the Secretary. In the event of such an election, the Board shall give written notice thereof, specifying the time and place where the ballots are to be cast, and the question or questions to be voted on. Said notice shall be mailed to the members at least fifteen (15) days prior to the date that the ballots are to be received and counted, and shall include the form of ballot to be used. The conduct of the election shall be in accordance with procedures prescribed by a firm of certified public accountants of good repute who shall also be retained to supervise the secrecy and control of the election, if deemed necessary by the Board, or if requested by the members requesting the election. A quorum shall be deemed to have been present for purposes of the election if members having a majority of the total votes cast ballots in any such election. Upon tabulation of the ballots, the Board shall notify the members of the outcome of the election. If insufficient votes to constitute a quorum are cast, the Board shall so notify the members.

# ARTICLE V

## MEMBERSHIP MEETINGS

**Section 1.** There shall be an annual meeting of the Members on the second Saturday of June each year at 2:00 P.M. The meeting of the Members shall be at the offices of the Association at the Development, or at such other reasonable place (within the County) and time (not more that thirty (30) days before or after such date) as may be designated by written notice by the Board of the meeting. The Board shall give notice to the Members of any membership meeting, special or, regular not less than seven (7) days nor more than sixty (60) days prior to the date fixed for said meeting. **(Amended 6-8-02)**

**Section 2.** Special meetings of the members may be called at any time to consider any reasonable business of the Association. Said meetings shall be called by written notice as provided for in Section 1 above, signed by a majority of the Board, or by members having one-third (1/3) of the total votes of the membership, and mailed to the members not less than seven (7) days nor more than sixty (60) days prior to the date fixed for said meeting. Said notice shall specify the date, time and place of the meeting and the matters to be considered thereat. The place for such special meetings shall be the offices of the Association at the Development, or at such other reasonable place within the County, as designated by the persons calling same.

**Section 3.** The presence at any meeting, in person or by proxy, of members having at least one-third (1/3) of the total votes of the membership shall constitute a quorum. If a quorum is not met at a meeting, such meeting shall be adjourned to a time not less than forty-eight (48) hours, nor more than thirty (30) days, after the time the original meeting was called, at which time the presence, in person or by proxy, of members having twenty-five percent (25%) of the total votes of the membership shall constitute a quorum. **(Amended 6-28-80)**

**Section 4.** Unless otherwise provided in these Bylaws or in the Covenants and Restrictions, a vote of a majority of the votes present at any meeting, in person or by proxy, or a vote of a majority of the votes cast in an election conducted under Section 5 of Article IV, shall prevail with respect to any issue presented to the membership.

**Section 5.** Any vote taken for the election of Directors shall be by secret written ballot in form prescribed by the Board. All other issues presented at any meeting for a vote by the membership, shall be voted upon either by oral vote or by raise of hands or by secret written ballot at the election of the chairman of the meeting, unless ten percent (10%) of the votes present at such meeting request the vote be by secret ballot, in which event the vote shall be by secret ballot.

# ARTICLE VII

## MEMBERSHIP RIGHTS

Subject to the provisions hereof, and the provision of the Covenants and Restrictions, and the Laws and Regulations of the Bear Valley Community Services District, the members shall have the following rights

**Section 1.** Each member shall be entitled to the use and enjoyment of all Common Areas and Community Facilities within the Development.

**Section 2.** Each member shall have the right to designate members of his or her family who reside with the member who may use and enjoy the Common Areas and Community Facilities within the Development.

**Section 3.** Each member shall have the right to assign his rights as a member to a tenant residing upon said member's lot or in said member's condominium. Such assignment shall only be effective so long as said tenant is so residing on said member's lot or in said member's condominium. Said assignment shall not be effective until such time as the member has given the Secretary written notice thereof setting forth the name of the assignee and the members of his or her family who will be entitled to the use and enjoyment of the Common Areas and the Community Facilities within the Development by virtue of said assignment.

**Section 4.** The invitees, licensees and guests of a member or assignee of a member under Section 3 above shall have the right to use and enjoy the Common Areas and Community Facilities within the Development.

**Section 5.** The right of use and enjoyment hereunder, shall at all times be subject to all existing published rules and regulations promulgated by the Board and the Bear Valley Community Services District, and shall at all times be subject to the limitations and restrictions set forth in the lease of the Community Facilities and the Covenants and Restrictions. In accordance with the provisions of Article XII of these Bylaws, the Board shall have the right to suspend the use and enjoyment of any Common Area and Community Facility for the failure of a person to comply with such rules and regulations and the said lease and Covenants and Restrictions. **(Amended 6-10-95)**

**Section 6.** Notwithstanding any provision of Article 2 of the Bear Valley Springs Association Rules, no member may be nominated, elected or appointed to the Association Board of Directors who is at that time a party to any civil litigation against the Bear Valley Springs Association.  
**(Added 6-10-89; Amended 6-13-15)**

## ARTICLE VIII

### BOARD OF DIRECTORS

**Section 1.** The corporate powers of the Association are vested in, and shall be executed by, the Board consisting of five (5) persons.

**Section 2.** The initial directors shall hold office until the first meeting of the membership to be held pursuant to Article V, Section 1.

**Section 3.** At each annual meeting of the members, the members shall elect members to the Board to fill the vacancies of directors whose terms are expiring. Each member may cumulate his votes and give one or more candidates for director a number of votes equal to the number which such member has hereunder multiplied by the number of directors to be elected. The candidates receiving the highest number of votes up to the number of directors to be elected shall be deemed elected. *(Amended 2/01/13)*

**Section 4.** At the annual meeting in June 2012, the members shall elect five (5) directors. The three (3) members who receive the highest number of votes shall be elected for two-year terms; the other two (2) members elected shall serve a term of one year. Thereafter, directors shall be elected for two-year terms at each annual meeting of members to fill the vacancies of those directors whose terms then expire. Directors shall serve their terms of two years or until their respective successors are elected, or until their death, resignation or removal, whichever is the earlier. Vacancies on the Board shall be filled by a majority vote of the remaining directors though less than a quorum, and each director so elected shall hold office until his successor is elected by the members. *(Amended 2/01/13)*

**Section 5.** The membership has the power to remove the entire Board or an individual member of the Board at any time, provided, however, that an individual director shall not be removed if the number of votes cast against his removal exceed twenty percent (20%) of the total number of votes of the ownership.

**Section 6.** Notwithstanding the above provisions, if after ninety percent (90%) of the residential lots and condominium lots of the Development have been sold and conveyed by the Developer, more than three (3) members of the Board are employees, officers, directors or agents of Developer, the then existing Board shall call a special Membership Meeting for the purpose of electing at least three (3) members to the Board who are not officers, directors or agents of Developer. Said special Membership Meeting shall be called and held within ninety (90) days after the date that ninety percent (90%) of the residential lots and condominium lots in the Development shall have been sold and conveyed. Upon such election being so held, and thereafter, not more than two (2) members of the Board shall be employees, officers, directors or agents of Developer unless it is not possible to find others who will serve on the Board. It is the intent of this Section to provide that after ninety percent (90%) of the lots in the Development are so sold and conveyed by Developer that the Board be thereafter controlled by members, other than Developer.

## ARTICLE IX

### BOARD MEETINGS

**Section 1.** Regular meetings of the Board shall be held on a day of each month following the annual meeting of the membership and election of Directors in June. The meeting day and time may be established and changed by a unanimous vote of the entire Board of Directors at their first regular Board meeting in June. **(Repealed and added 6/13/98; Amended 6/11/11)**

**Section 2.** Special meetings of the Board shall be held when called by any Officer of the Association or by any two (2) directors after not less than three (3) days prior written notice, unless such notice is waived in writing by all of the directors.

**Section 3.** The Board may act without a meeting if all of the Board shall individually or collectively consent in writing to such action. Such consent shall be filed with the minutes of the Board.

**Section 4.** Notice of the regular Board meeting schedule will be posted at the Association Office, Whiting Center, Oak Tree Country Club, Town Center, Equestrian Center and District Office no later than four days following the first regular Board meeting in June.  
**(Added 6/11/11)**

# ARTICLE X

## DUTIES AND POWERS OF THE BOARD

**Section 1.** To exercise all powers vested in the Board under these Bylaws, the Covenants and Restrictions, and under the laws of the State of California.

**Section 2.** To appoint and remove all Officers of the Association and the General Manager of the Association as it sees fit.

**Section 3.** To appoint and remove members of the Environmental Control Committee created under Paragraph 10 of the Covenants and Restrictions when the right to appoint and remove members of said Committee is vested in the Board pursuant to the Covenants and Restrictions. Each member of the Environmental Control Committee shall hold his office until such time as he has resigned, has been removed, or his successor has been appointed by the Board.

**Section 4.** To appoint such agents and employ such employees, including attorneys and accountants, as it sees fit to assist in the operation of the Association, and to fix their duties and to establish their compensation.

**Section 5.** Subject to the provisions of the Covenants and Restrictions, to adopt and establish rules and regulations governing the use of the Community Facilities within the development, and to take such steps as is deems necessary for the enforcement of such rules and regulations.

**Section 6.** To enforce all applicable provisions of the Covenants and Restrictions, these Bylaws and all other regulations relating to the control, management, and use of the lots, Common Areas, and Community Facilities within the Development.

**Section 7.** Contract and pay premiums for fire, casualty, liability, and other insurance and bonds (including indemnity bonds) which may be required from time to time by the Association.

**Section 8.** Contract and pay for maintenance, landscaping, utilities, materials, supplies, labor and services that may be required from time to time in relation to Association Property, and the Community Facilities in the Development.

**Section 9.** Pay all taxes, special assessments and other assessments and charges which are or would become a lien on Association Property, including any possessory interest tax.

**Section 10.** To contract for and pay for construction or reconstruction of Association Property damaged or destroyed.

**Section 11.** If and when the Board deems it appropriate, to sublease the Equestrian Center or portions thereof, and to sublease the Restaurant and Bar, to be operated by the sublessee or sublessees, as the case may be, for the benefit of the Members, provided, however, that any such sublease shall not exceed a term of five (5) years without prior approval of the membership.

**Section 12.** If and when the Board deems it appropriate, to grant concessions to be operated, in conjunction with the use of the Community Facilities, provided, however, any such concession shall not exceed a term of five (5) years without the prior approval of the membership.

**Section 13.** If and when the Board deems it appropriate, to delegate its duties and powers hereunder to the Officers of the Association.

**Section 14.** To establish and levy assessments on the members of the Association and to collect same all in accordance with the Covenants and Restrictions, and to establish and collect reasonable use charges on non-members for the use of any or all of the Community Facilities as the Board may deem necessary or desirable from time to time for the purpose of equitable allocation among the non-member users a portion of the cost of operation thereof.

This section shall not be construed to prohibit the Board from establishing and collecting from members reasonable fees or charges for the use of Association property and services, including, but not limited to, golf cart and golf ball rentals, horse rentals, horse boarding, other Equestrian Center fees and charges, tennis-ball-machine rentals, campsite rentals and cleanup, Whiting Center classes and training, use of Community Facilities for commercial and special activities, and all other existing and future member fees or charges for such use of Association property and services at the various Community Facilities. **(Amended 6-8-02)**

**Section 15.** To perform all acts required of it under the Covenants and Restrictions.

**Section 16.** To maintain a full set of books and records showing the financial condition of the affairs of the Association in a manner consistent with generally accepted accounting principals, and at no greater than annual intervals obtain an independent audit of such books by a certified public accountant, a copy of which shall be delivered to each member within thirty (30) days after completion.

**Section 17.** To appoint a nominating committee for the nomination of persons to be elected to the Board, and to prescribe rules under which said nominating committee is to act.

**Section 18.** To appoint such other committees as it deems necessary from time to time in connection with the affairs of the Association.



# ARTICLE XI

## OFFICERS

**Section 1.** The officers of the Association shall be members of the Association and shall consist of a president, vice-president, a secretary and a treasurer. The Association may also have, at the discretion of the Board, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of Section 3 following. One person may hold two or more offices, except that the offices of president and secretary shall not be held by the same person.

**Section 2.** The officers of the Association, except such officers as may be appointed in accordance with the provisions of Section 3 and 5 following, shall be chosen annually by the Board, and each shall hold his office until he shall resign or shall be removed or otherwise disqualified to serve, or his successor shall be elected and qualified.

**Section 3.** The Board may appoint, and may empower the president to appoint, such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the Bylaws or as the Board may from time to time determine.

**Section 4.** Any officer may be removed, either with or without cause, by the Board or by any officer upon whom such power of removal may be conferred by the Board; provided, however, that no such officer shall remove an officer chosen by the Board. Any officer may resign at any time by giving written notice to the Board or to the President or to the Secretary. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 5.** A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in the Bylaws for regular appointments to such office.

**Section 6.** The President shall be elected by the Board from among the directors. He shall be the chief executive officer of the Association and shall, subject to the control of the Board, have general supervision, direction and control of the affairs and officers of the Association. He shall preside at all meetings of the Board, and shall have the general powers and duties of management usually vested in the office of the President of a corporation, together with such other powers and duties as may be prescribed by the Board or the Bylaws.

**Section 7.** The Vice-President shall be elected by the Board from among the directors. In the absence or disability of the President, the Vice-President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President. He shall have such other powers and perform such other duties as from time to time may be prescribed by the Board or the Bylaws.

**Section 8.** The Secretary need not be a director, but shall be elected by the Board of Directors. He shall keep or cause to be kept, at the principal office or such other place as the Board may order, a book of minutes of all meetings of Directors and members, with the time and place of holding same, whether regular or special, and, if special, how authorized, the notice thereof given, the names of those present at directors' meetings, the number of members present in person or by proxy at members' meetings, and the proceedings thereof. The Secretary shall keep, or cause to be kept appropriate current records showing the members of the Association, together with their addresses. He shall give, or cause to be given, notice of all meetings of the Board required by the Bylaws or by law to be given, and he shall keep the seal of the Association in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board or by the Bylaws.

**Section 9.** The Treasurer need not be a director, but shall be elected by the Board of Directors. He shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts and disbursements. The books of account shall at all reasonable times be open to inspection by any director or member. The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. He shall disburse the funds of the Association as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all his transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or the Bylaws.

## ARTICLE XII

(Added 6-10-95)

### ENFORCEMENT OF THE GOVERNING DOCUMENTS

**Section 1.** The right of any person to use and enjoy the Association Common Areas shall at all times be subject to the rules, limitations, and restrictions set forth herein, in the Declaration of Covenants and Restrictions, and in the Association's published Rules and Regulations as adopted, amended and repealed by the Board from time to time. With the exception of the right of use of any roads, the Board shall have the right to impose monetary penalties or to suspend the use and enjoyment of any Association Common Area for the failure of a member to pay any Assessments when due under the Declaration, or to comply with any other restriction, rule or regulation imposed upon such member, or his or her tenants or guests, pursuant to the Governing Documents, provided, however, that any such suspension shall be imposed only after such person has been afforded the notice and hearing rights more particularly described in this Article.

**Section 2.** In the event of a breach or violation of any Association Rule or of any of the provisions contained in the Governing Document by an Owner, his or her family or the Owner's guests, employees, invitees, licensees, or tenants, the Board for or on behalf of all other Owners and the Association, may enforce the obligations of each Owner to obey such Rules, covenants or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including but not limited to the imposition of fines and monetary penalties, the pursuit of legal action, or in the suspension of the Owner's right of use of Association Common Areas (other than Roads), or suspension of the Owner's voting rights as a Member of the Association; provided that the Association's right to undertake disciplinary action against the Members shall be subject to the conditions set forth in this Article XII. The decision of whether it is appropriate or necessary for the Association to initiate enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Association's Board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement as may exist by virtue of the California Civil Code or otherwise by law.

**Section 3.** The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or other violation of the Governing Documents). Once imposed, a fine or penalty may be collected as a Special Assessment.

**Section 4.** A violation of the Governing Documents shall be defined as single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures. The Association shall take reasonable and prompt action to repair or avoid the continuing damaging effect of a violation or nuisance occurring on Association Property at the cost of the responsible owner.

**Section 5.** The Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Lot due to the failure by the Owner (or his or her family members, tenants, guests or invitees) to comply with any provision of the Governing Documents or of any duly enacted Association Rule except where the loss or forfeiture is the result of the judgement of a court of competent jurisdiction, a decision arising out of arbitration or a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Association, or where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents so long as the Association's actions satisfy the due process requirements of Section 5(a) below.

- (a) Subject to the exceptions set forth in Section 5(b) below, pursuant to Section 7341 of the California Corporations Code and Section 1363(h) of the California Civil Code, no penalty or temporary suspension of rights shall be imposed pursuant to this Article unless the Owner alleged to be in violation is given at least 15 days prior notice of the proposed penalty or temporary suspension and is given an opportunity to be heard before the Board of Directors or appropriate committee established by the Board with respect to the alleged violation(s) at a hearing conducted at least 5 days before the effective date of the proposed disciplinary action. **(Amended 6-8-02)**
- (b) Notwithstanding the provisions of Section 5(a) above, under circumstances involving conduct that constitutes (1) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring owners, (2) a traffic or fire hazard, (3) a threat of material damage to, or destruction of, Association Common Areas or other property, (4) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of other Owners on or in Association Common Areas or other Property; or (5) a violation of the Governing Documents that is of such a nature that there is no material questions regarding the identity of the violator or whether a violation has occurred (including, but not limited to the failure to pay assessments when due), the Board of Directors' duly authorized agents may undertake immediate corrective or disciplinary action (including temporary suspension of the offending Owner's membership rights including the right to vote and the Owner's family member's, tenant's, guest's or invitee's privilege to use and enjoy the Association Common Areas and other property). **(Amended 6-8-02)**
- (c) If the Association acts on its own initiative to schedule a hearing, notice of the date, time and location of the hearing shall accompany the notice of disciplinary action. If the accused owner desires a hearing, a written request therefore shall be delivered to the Association no later than five days following the date when the fine is levied or other discipline imposed. The hearing shall be held no more than 15 days following the date of the disciplinary action or 15 days following receipt of the accused owner's request for a hearing, whichever is later. Under such circumstances, any fine or other disciplinary action shall be held in abeyance and shall only become effective if affirmed at the hearing. Any notice required by this Article shall, at a minimum, set forth the date and time for the hearing, a brief description of the action or inaction constituting the alleged violation of the Governing Documents and a reference to the specific Governing Document provision alleged to have been violated. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice, provided that if notice is given by mail

it shall be sent by first-class or certified mail sent to the last address of the Member shown on the records of the Association.

- (d) The Board shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

**Section 6.** Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the Governing Documents is inadequate and that the failure of any owner, tenant, occupant or user of any Lot or any portion of the Association Common Areas or other property, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.

**Section 7.** The respective rights and remedies provided by these Bylaws, the Declaration of Covenants and Restrictions or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different failure of any Owner or others to perform or observe any provision of the Governing Documents.

**Section 8.** The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the provisions contained in the Governing Documents shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents. The failure to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in the Declaration shall not constitute a waiver of the right to enforce the same thereafter. Nor shall any such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

## ARTICLE XIII

### MISCELLANEOUS

**Section 1.** All books, records and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection of any member at the offices of the Association.

**Section 2.** The Board may, from time to time, employ the services of a manager, who may be known as the General Manager, to manage the affairs of the Association and, to the extent not inconsistent with the laws of the State of California, and upon such conditions as are otherwise deemed advisable by the Board, the Board may delegate to the Manager any of its powers under these Bylaws and the Covenants and Restrictions. The General Manager shall not be a member of the Board of Directors. Subject to the control and supervision of the Board of Directors, the General Manager shall have general supervision, direction and control of the affairs of the Association and the officers of the Association who are not required to be Directors, and shall also have any other powers and duties as may be prescribed by the Board from time to time. **(Amended 6-8-02)**

**Section 3.** The Association shall have a seal in circular form having within its circumference the words, "Bear Valley Springs Association, Incorporated August 17, 1970, State of California".

**Section 4.** These Bylaws may only be amended or repealed, and new Bylaws adopted by the members by the majority vote of the total votes cast by the membership, provided, however, that Article III, Section (1) and (2) or Article VIII shall not be amended or repealed without the affirmative vote of members having at least three-fourths (3/4) of the total votes of the membership approving such amendment or repeal.

**Section 5.** Any notice or other document permitted or required to be delivered or provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Association or to the Board, at Star Route 725, Tehachapi, California 93561; if to a director, at the address from time to time given by such director to the Secretary for the purpose of service of such notice; if to a member, at the address from time to time given by such member to the Secretary for the purpose of service of such notice, or, if no such address has been given, to any lot or condominium within the Development owned by such member.

**Section 6.** Notwithstanding anything contained herein to the contrary, neither the Board nor any officer of the Association, shall have the power or authority to enter into any contract with the Developer which will bind the Association for a term in excess of one (1) year, unless there is a provision in said contract for cancellation by the Association after one (1) year upon giving Developer not more than sixty (60) days prior written notice.

**Section 7.** The Association shall not under any circumstances lend any money to, or guarantee the obligation of, any Director, officer, employee, Member of the Association, or any other person, or organization. Nothing in this section shall be construed to prohibit the Association from making investments of its funds with banks and other licensed and qualified institutional investment organizations as allowed by law. **(Added 6-16-01)**

**Section 8.** Without the prior unanimous approval of the Board of Directors, the Association shall not spend more than Five Thousand Dollars (\$5,000.00) to conduct research, studies, or surveys for the expansion or construction of new Community Facilities on property owned by the Community Services District. This section shall not, however, be construed to prohibit or interfere with the Association's and the Board's responsibilities with respect to the maintenance, repair, restoration or replacement of Common Areas and Community Facilities or the conduct of reserve studies as required under the Governing Documents and Sections 1364 and 1365.5 of the Civil Code or comparable superseding statutes. **(Added 6-8-02)**

**Section 9.** The Association shall cause all parts of each open meeting of the Association's Board of Directors to be electronically recorded and such recording to be maintained, preserved and made available upon reasonable request by any Owner for examination, use and copying at the Owner's expense for a period of five years from the date of each such meeting. **(Added 6-12-04)**

## **CERTIFICATE OF SECRETARY**

The undersigned, Secretary of the corporation known as Bear Valley Springs Association, does hereby certify that the above and foregoing Bylaws were revised and duly adopted by the Board of Directors of said Association on the 11<sup>th</sup> day of June, 2011, and that they now constitute said Bylaws.

Karen Luginbuhl

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BVSA Board Secretary