

**BYLAWS OF
CHABOT PARK HIGHLANDS ASSOCIATION
(As Amended in 2007)**

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**BYLAWS OF
CHABOT PARK HIGHLANDS ASSOCIATION
(As Amended in 2007)**

These Amended **Bylaws** of the Chabot Park Highlands Association ("**Bylaws**") supersede any and all earlier **Bylaws** and amendments thereto ("Former Bylaws"). These **Bylaws** are a companion document to the **Declaration** and defined terms (in bold) in these **Bylaws** have the same meaning as in the **Declaration**.

**ARTICLE I
ASSOCIATION GENERALLY**

Section 1.1. Name and Location. The name of this Nonprofit Mutual Benefit Corporation is "CHABOT PARK HIGHLANDS ASSOCIATION" (hereinafter referred to as the "**Association**"). The principal location of the **Association** is in the City of Oakland, County of Alameda, State of California.

Section 1.2. Purpose. The purposes of the **Association** are:

1.2(a) to control, own, repair, maintain, manage, protect and/or enhance the **Common Areas** and **Common Facilities**;

1.2(b) to generally enforce and implement the **Governing Documents** of the Chabot Park Highlands Association, including the **CC&Rs** and the rules;

1.2(c) to maintain and preserve the **Common Areas** and **Common Facilities** for the enjoyment of the residents and/or **Members**;

1.2(d) to maintain the aesthetic and architectural standards of Chabot Park Highlands;

1.2(e) to maintain and protect property values and the quality of life of residents.

**ARTICLE II
MEMBERSHIP**

Every **Owner** of a **Lot** within Chabot Park Highlands is a **Member** of the **Association**. Membership in the **Association** is linked to, and may not be separated from, record ownership of any **Lot**. Upon the sale, conveyance or other transfer of an **Owner's** interest, the **Owner's** membership shall automatically transfer to the new **Owner(s)**. **Lot**, as used in this context, includes the entire separate interest (whether improved or not) owned by the **Member** (see generally, definition of **Lot** under **Section 2.13** of the **CC&Rs**). Any person claiming to be a **Member** of the **Association** shall establish his or her right to membership to the satisfaction of the **Board**.

ARTICLE III

MEMBERSHIP VOTING

Section 3.1. Member Voting Rights. At the time of passage of these amended **Bylaws**, the **CC&Rs** contained provisions regarding the **Members'** voting eligibility and number of votes allowed. Those provisions have been repeated here, with some additional clarifications. However, if the **CC&Rs** are amended, by the required vote of the **Members**, and changes are made to either the good standing requirement and/or the number of votes allowed, the **Board** may, upon unanimous vote of the Directors, confirm this **Bylaw** provision to the CC&Rs.

3.1(a) Good Standing Requirement. A **Member** delinquent in payment of any **Assessment** shall not be entitled to vote in affairs of the **Association**. Further, said ineligible votes shall not be counted toward the general quorum requirements which may be necessary to conduct **Association** business (see generally, **CC&R** Sections 3.3.1 and 7.6). A **Member's** voting rights may be suspended only after notice, hearing and **Board** determination of delinquency.

3.1(b) Number of Votes. On each matter submitted to a vote of the **Members**, each **Member** shall be entitled to cast one vote for each **Lot** owned by such **Member**, plus one additional vote if there is a completed dwelling **Residence** on the **Lot** (see **CC&Rs**, Section 3.3.2). When more than one (1) person owns an interest in a single **Lot**, any vote(s) cast by a single **Member** shall be deemed the authorized vote(s) for that **Lot**. If conflicting votes are cast for the **Lot**, no vote shall be counted except a single vote shall be counted for purposes of a quorum (when a quorum is necessary).

Section 3.2. Voting Procedures. **Member** decision-making shall be accomplished in accordance with the **Association's** policy and/or as required by law. Voting by **Members** is by ballot, which may be cast by mail (or otherwise delivered) and/or cast at a **Member** meeting. Most **Member** voting shall be conducted by secret mail-in ballot, as required by law. While return mail may be the most commonly used, hand-delivery, facsimile or such other method of return specified by the **Board** can be used.

3.2(a) Voting and Election Procedures Policy.

3.2(a)(1) When any issues are put to a vote of the **Members**, direct ballots by mail will be used. The specific procedures to accomplish this type of secret ballot vote shall be set forth in a policy adopted by the **Board**. Mailed ballots and instructions will be delivered to **Members** at least 30 days before the close of voting. The ballots can be returned by mail or otherwise delivered, such as by hand-delivery. Even if there is no policy, the provisions of Civil Code §1363.03 or successor statutes still apply.

3.2(a)(2) The counting of the ballots will be conducted by one or three duly appointed Inspector(s) of Election at the scheduled **Board** meeting or general membership meeting referenced in the balloting material.

3.2(b) Inspectors of Election. The **Board** shall appoint one or three individuals to be “Inspectors of Election.” Their job is to assure confidentiality in the voting, to process and count ballots as well as to make judgment calls if there is a problem in the paperwork. An Inspector of Election must be an independent third party (i.e., a **Member** of the **Association** but not a member of the **Board**, candidate or related to a **Board** member or candidate). The Inspectors of Election have the following responsibilities:

3.2(b)(1) Determine the number of memberships entitled to vote and the voting power of each.

3.2(b)(2) Determine the authenticity, validity, and effect of proxies, if any.

3.2(b)(3) Receive ballots.

3.2(b)(4) Disqualify any ballot that is not an Official Ballot prepared by the **Association**.

3.2(b)(5) Disqualify any ballot received from a **Member** whose voting rights have been suspended by the **Board** (for example, for being delinquent in payment of any **Assessment**).

3.2(b)(6) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.

3.2(b)(7) Count and tabulate all votes.

3.2(b)(8) Determine when the voting (or polling) shall close.

3.2(b)(9) Determine the result(s) of the voting.

The Inspectors of Election may also take other actions to assure fairness in the election process and compliance with the voting policy.

Section 3.3. Member Meetings. Meetings of **Members**, if any, shall be conducted in accordance with a recognized system of parliamentary procedures or such parliamentary procedures as the **Board** may adopt.

3.3(a) Types of Meetings.

3.3(a)(1) Regular Meeting. A regular meeting of the **Members** is not required as matters to be voted on by **Members** shall be conducted using mail in ballots.

3.3(a)(2) Annual Report and Informational Meeting. The **Board** shall have discretion to schedule and conduct an Annual Report to **Members** Meeting to be held in the third quarter of each calendar year. Any such meeting shall be held in the **Subdivision** or at a

location within a reasonable distance. There shall be no **Member** quorum requirements to convene and conduct this as an informational meeting. The meeting may be simultaneously conducted as a **Board** meeting so the **Board** can make decisions relevant to the subject matter. Secret balloting conducted by mail may be coordinated with or independent of the Annual Report and Informational Meeting (“Annual Meeting”). Voting for Directors (and any related **Member** approvals) may be conducted before, after and may be independent of the Annual Report Meeting. At the time of the mailing of the ballots and/or other voting material, the instructions shall explain how the voting will be conducted.

3.3(a)(3) Special Meeting of the Members. A Special Meeting of the **Members** may be called at any time by the President or by two Directors. Additionally, a Special Meeting of the **Members** shall be promptly called by the **Board** upon receipt of a written request signed by **Members** representing not less than five percent (5%) of the total voting power of the **Association**. Only those matters specifically described in the special meeting notice may be addressed at the special meeting.

3.3(b) Meeting Notices. Written notice of annual and special meetings of the **Members** shall be given as follows:

3.3(b)(1) Time of Notice. Notice for a meeting shall be given not less than ten (10) nor more than ninety (90) days before the date of the meeting. As provided by the Corporations Code, a meeting called pursuant to petition of the **Members** shall be set at least thirty-five (35) but not more than ninety (90) days after receipt by the **Board** of the request. Attendance at a meeting shall constitute a waiver of any defect in the notice, other than content.

3.3(b)(2) Delivery of Notice. Notice of each meeting shall be given to each **Member** at either (1) the address of the **Lot** or (2) the address(es) supplied by such **Member** to the **Association** for the purpose of notice (a **Member** may request, in writing, that notices be delivered to up to two different addresses). The **Association** may transmit notices by email or facsimile if the **Member** approves use of this method.

3.3(b)(3) Content of Notice. Notice of a meeting shall specify the place, day and hour of the meeting. It shall also specify those matters which, at the time the notice is given, are to be presented for action by the **Members** (if any). Notice of a special meeting must state the purpose of the special meeting and no other business can be conducted.

3.3(c) Minutes of Member Meetings. At any quorum-qualified **Member** meeting, whether regular or special, minutes shall be taken. The minutes may be approved either by a vote of the **Members** (see **Section 3.4(b)(2)**) or approval of the **Board**. As a third option, the **Board** may appoint a **Committee** of non-Director **Members** who are present at the meeting, to review the draft minutes, review any suggested edits and formally adopt the final minutes.

3.3(d) Parliamentary Procedures. If there is a quorum-qualified meeting of the **Members**, it shall be conducted in accordance with a recognized system of parliamentary procedures or such parliamentary procedures as the **Board** may adopt.

Section 3.4. Other Voting Provisions.

3.4(a) Election of Directors.

3.4(a)(1) Nominations. Any qualified **Member** may put his or her own name into nomination. The **Board** may appoint a Nominating **Committee** to solicit qualified **Members** to run for the **Board**. The close of nominations may be anytime specified by the **Board**, typically to coincide with the printing/distribution of ballots. "Write in" candidates are not permitted.

3.4(a)(2) Director Qualifications. The **Association** may refuse to include a name on the ballot, and/or the Inspectors may not count any votes received, for a nominee who is subject to any of the following disqualifications at the time of nomination or any time thereafter. The following conditions make a **Member** ineligible for nomination to or candidacy for the **Board**:

3.4(a)(2)(i) He or she has been declared of unsound mind by a final order of court;

3.4(a)(2)(ii) He or she has been convicted of or pled guilty to a felony;

3.4(a)(2)(iii) He or she is more than thirty (30) days delinquent in the payment of any **Assessment**;

3.4(a)(2)(iv) He or she maintains an adversarial proceeding, such as arbitration or litigation, against the **Association** or any Director in his or her capacity as a Director

3.4(a)(2)(v) He or she maintains a continuing **Governing Document** violation for which a hearing has been held, a determination of violation made and where the **Member** has failed to timely remedy the matter as directed by the **Board** or is subject to a Court restraining order or injunction in any way related to the **Association**, the **Property** or any **Owner(s)**.

3.4(a)(3) No Cumulative Voting. There shall be no cumulative voting.

3.4(a)(4) Acclamation. The **Board** may declare that all of the qualified nominees are elected without further action if, after the close of nominations, the number of qualified nominees is equal to or less than the number of Directors to be elected. In that event, the **Board** shall send notice to **Members** that the candidates have been elected by "acclamation."

3.4(b) Quorum Requirements. Membership voting is done by secret "mail-in ballot." While **Member** quorums may no longer be necessary to convene an Annual Report to **Members** Meeting, quorum requirements still exist for certain **Member** balloting. For those subjects not otherwise addressed by statute or the **Governing Documents**, the following quorum requirements shall apply:

3.4(b)(1) If the **Members** are asked to approve the rollover of any excess operating funds into the budget for the following year (IRS Revenue Ruling 70-604), approval shall be by approval of a majority of a quorum, with a quorum defined for this purpose as the number of ballots received.

3.4(b)(2) If the **Members** are asked to approve the minutes from a meeting of the **Members**, approval shall be by a majority of a quorum, with a quorum defined for this purpose as the number of ballots received. (Note that this does not apply to the Annual Report to **Member** Meeting, for which no **Member**-approved minutes are required.)

3.4(b)(3) In the event that the **Board** adopts, amends or changes a rule or policy and the **Members** seek to reverse the rule or policy pursuant to the provisions in the **Davis-Stirling Act** (Civil Code §1357.140(c)), reversal shall require the approval of a majority of the voting power of the **Members**.

3.4(b)(4) Unless otherwise specified by statute or the **Governing Documents**, a decision requiring approval of the **Members** shall be subject to approval of a majority of a quorum of **Members**, with a quorum defined as one-third (1/3) of the voting power. The **Board** may extend the time for voting so that at least a quorum of **Members** participate in the vote (as may be necessary).

3.4(b)(5) For purposes of election of Directors, a quorum equals the number of ballots received (see also **Section 4.2(d)**).

3.4(c) Contract Purchasers. A **Member** who has sold his or her **Lot** to a contract purchaser under an agreement to purchase must delegate his or her membership rights in the **Association**. Any such delegation shall be in writing and shall be delivered to the **Board** before such contract purchaser may vote.

3.4(d) No Proxies. Proxies shall not be permitted.

ARTICLE IV **BOARD OF DIRECTORS**

Section 4.1. General Association Powers. The **Board of Directors** shall have the power and authority to conduct the business of the **Association**, except as may be limited by the **Governing Documents** or the law generally. Reference in the **Governing Documents** to action by the **Association** shall mean action by the **Board**, unless the authority for the action is expressly assigned to the **Members** by the **Governing Documents**.

Section 4.2. Directors. All Directors shall be **Members** of the **Association** (see **Section 3.4(a)(2)** above for Director qualification requirements).

4.2(a) Number. The business of the **Association** shall be conducted by a **Board** of seven (7) Directors.

4.2(b) Transition. In order to accomplish the election transition necessitated by adoption of revised Bylaws, at the first election of directors following adoption of these amended **Bylaws**, the **Members** shall elect three (3) Directors for a term of two (2) years and one (1) Director for a term of one (1) year. The candidates receiving the highest number of votes shall be deemed elected for the two (2) year terms.

4.2(c) Term of Office. Once the transition is accomplished, the term for all Directors shall be two (2) years. The terms shall be staggered such that four (4) positions shall be elected in even years, and three (3) positions shall be elected in odd years. Each Director, including a Director elected to fill a vacancy or elected at a special meeting of **Members**, shall hold office until the later of the expiration of the term for which elected or until a successor has been elected (or appointed) and qualified.

4.2(d) Compensation. No Director shall receive compensation for any services rendered to the **Association** as a Director. If approved by the **Board**, a Director may, however, be reimbursed for his or her reasonable expenses actually incurred in the performance of his or her duties as a Director. Expenses for which reimbursement is sought shall be supported by a proper receipt or invoice signed and dated by the Director claiming the expense.

4.2(e) Determination of Election Results and Succession to Office. Election to the **Board** shall be by secret written ballot (see generally **Section 3.2**) or as otherwise provided herein. The vacancies shall be filled by the **Persons** receiving the largest number of votes, up to the number of Directors to be elected. In the event of a tie between those candidates receiving the lowest number of votes necessary to qualify for election to the **Board**, the voting policy may specify the method used to break the tie. Each newly elected Director, if present, shall take office upon presentation to the **Board** of the tabulated election results. Such presentation may be a scheduled item on the agenda. If not present, he or she shall take office after notification and acceptance of the election results.

4.2(f) Vacancies Generally. A vacancy on the **Board** exists on the occurrence of any of the following:

4.2(f)(1) the disqualification, death, resignation, or removal of a Director under section (g) below;

4.2(f)(2) the failure of the **Members** to elect the proper number of Directors;

4.2(f)(3) a declaration of vacancy by the **Board** for any reason permitted by law.

4.2(g) Resignation. Any Director may resign by giving written notice. Such resignation shall be effective on presentation to the President or Secretary, unless the notice specifies a later time.

4.2(h) Removal.

4.2(h)(1) By Board. The **Board** shall have the power, authority and discretion to remove a Director and declare his or her office vacant if he or she:

4.2(h)(1)(i) has been declared of unsound mind by a final order of court;

4.2(h)(1)(ii) has been convicted of or pled guilty to a felony;

4.2(h)(1)(iii) fails to attend three (3) consecutive regular meetings of the **Board of Directors** that have been duly noticed or regularly scheduled;

4.2(h)(1)(iv) becomes more than thirty (30) days delinquent in the payment of any **Assessment**;

4.2(h)(1)(v) maintains an adversarial proceeding, such as arbitration or litigation, against the **Association** or any other Director in his or her capacity as a Director.

4.2(h)(1)(vi) maintains a continuing **Governing Document** violation for which a hearing has been held, a determination of violation made and where the Director has failed to timely remedy the matter as directed by the **Board** or is subject to a Court restraining order or injunction in any way related to the **Association**, the **Property** or any **Owner(s)**.

4.2(h)(2) Arising From Court Action. The Court may remove any Director determined to be guilty of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the **Association**.

4.2(h)(3) By Members. Any or all Directors may be removed by the approval of at least a majority of a quorum of **Members**. For purposes of this **Member** action, quorum shall be as set forth in **Section 3.4(b)(4)** of these **Bylaws**.

4.2(i) Filling Vacancies. The **Board** has the general power to fill vacancies. The exception is when the vacancy is created through removal of the Director by the **Members**.

4.2(i)(1) By the Board. The **Board** can fill the vacancy by a majority vote of the remaining Directors (even if less than a quorum) or by the sole remaining Director. Alternately, the **Board** may permit the **Members** to fill a vacancy.

4.2(i)(2) By the Members. If removed by the **Members**, the vacancy shall be filled by election by the **Members**.

Section 4.3. Officers. The Officers of the **Association** shall be a President and a Vice President, Secretary and Treasurer. The **Board** may, by resolution, appoint such other Officers as the **Board** deems appropriate.

4.3(a) Election. The election of Officers shall take place at the first meeting of the newly elected **Board** following each election by the **Members**.

4.3(b) Term of Office. The Officers of this **Association** shall be elected annually by the **Board**. Each Officer shall hold office for one (1) year unless he or she resigns, is removed or is disqualified.

4.3(c) Resignation. Any Officer may resign from his or her office by giving written notice. Such resignation shall be effective on presentation to the President or Secretary, unless the notice specifies a later time.

4.3(d) Removal. Any Officer may be removed and/or reassigned by the **Board** with or without cause, at any regular or special meeting of the **Board**.

4.3(e) Vacancies. A vacancy in any office may be filled by appointment by the remaining **Director(s)**. The Officer appointed to such vacancy shall serve the remainder of the term of the Officer he or she replaces.

4.3(f) Multiple Offices. The offices of Secretary and Treasurer may be held by the same person.

4.3(g) Duties of Officers. Subject to appropriate delegation, the duties of the Officers are as follows:

4.3(g)(1) President. The President shall be the Chief Executive Officer of the **Association** and shall, subject to the control of the **Board**, have general supervision, direction and control of the business and Officers of the **Association**. He or she shall (i) preside at meetings of the **Board**; (ii) see that orders and resolutions of the **Board** are carried out; (iii) sign contracts and other written instruments; and (iv) have the power to co-sign all checks and promissory notes. He or she shall have such other powers and duties as may be prescribed by the **Board** or the **Bylaws**.

4.3(g)(2) Vice President. In the unavailability, 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 or she shall have such other powers and perform such other duties, including co-signatory powers on accounts, as from time to time may be prescribed by the **Board** or the **Bylaws**.

4.3(g)(3) Secretary. The Secretary is responsible for the **Association** records, minutes of all **Board** meetings and **Member** meetings, as well as **Member** rosters. The Secretary is also responsible for giving notice of all **Board** meetings and **Member** meetings. He or she shall keep the seal of the **Association**, if any. He or she shall have such other powers and perform such other duties, including co-signatory powers on accounts, as may be prescribed by the **Board** or by the **Bylaws**.

4.3(g)(4) Treasurer. The Treasurer is responsible for overseeing or maintaining adequate and correct accounts of business transactions of the **Association**. This includes accounts of the **Association's** assets, liabilities, receipts, disbursements, reserves, and other matters customarily included in homeowner association financial statements. The financial records shall at all times be open to inspection by any Director.

The Treasurer is responsible for overseeing the deposit of all monies and other valuables in the name of and to the credit of the **Association** with such depositories as may be designated by the **Board**. The Treasurer is responsible for overseeing the disbursement of 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 of his or her transactions as Treasurer and of the financial condition of the **Association**. The Treasurer has such other powers and perform such other duties, including co-signatory powers on accounts, as may be prescribed by the **Board**, the President or these **Bylaws**.

The Treasurer is responsible for annually reviewing the provisions of the **Davis-Stirling Act** and making recommendations to the **Board** of any changes in financial procedures and reporting that may be required by new or amended sections which involve financial matters. The Treasurer may consult with the **Association's** attorney, certified public accountant, and/or manager on these matters and the **Board** may delegate to the manager the day-to-day financial business of the **Association**.

ARTICLE V BOARD MEETINGS

Section 5.1. Board Meetings.

5.1(a) Regular Meetings. Regular meetings of the **Board** shall be held at least quarterly. Regular meetings shall be held on the premises or within a reasonable distance and on the date and time and at a location fixed by the **Board**.

5.1(b) Annual Report to Members Meeting. The **Board** may convene a **Board** meeting to occur simultaneously with an Annual Report to **Members** Meeting.

5.1(c) Special Meetings. Special meetings of the **Board** shall be held when called by the President of the **Association**, or by any two Directors.

Section 5.2. Notice.

5.2(a) Notice of the time and place of meetings of the **Board** (except emergency meetings) shall be given to **Members** at least five (5) days prior to the meeting. Such notice may be given by posting the notice in a prominent place or places within the **Common Area**, and by mail to any **Member** who has requested notification of **Board** meetings by mail, at the address requested by the **Member**. Notice may also be given by mail or delivery of the notice to each

Lot, or by newsletter or similar means of communication. Any attendance by a **Member** at a meeting shall constitute a waiver of any defect in the notice.

5.2(b) Notice to a Director shall be given at least five (5) days prior to the meeting and may be delivered by mail, personally, by telephone (including an answering machine or voice message system), facsimile, or electronic mail or other similar means.

5.2(c) Nothing contained in subsection (a) above shall be construed to prohibit emergency meetings of the **Board** if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the **Board**, and which of necessity make it impractical to provide notice as required by subsection (a) above. Such emergency meetings may be conducted by telephone, or electronically, provided all participating **Board** members can communicate and deliberate with one another.

Section 5.3. Quorum Requirements. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act done or decision made by the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the **Board**. In the event one or more Directors leaves the meeting, the remaining Directors may continue to transact business, provided that any action taken is approved by the same number of Directors as required at the outset of the meeting. If a quorum cannot be obtained because of vacancies on the **Board**, the remaining Directors may conduct business.

Section 5.4. Action Without Meeting. On an urgency basis, the **Board** shall have the right to take any action that may be required for the efficient and expeditious operation and conduct of the **Association's** business without a meeting if (a) the **Board** would have the power and authority to act at a meeting and (b) the written consent of all Directors to such action is obtained before or after such action. Any action taken by written consent shall have the same effect as if it were taken at a duly noticed meeting of the **Board**. The consents and a summary of decisions made shall be filed with the minutes or other documentation of **Board** activity. Such action without a meeting is, however, generally discouraged because it is inconsistent with the general rights of **Members** to attend meetings.

Section 5.5. Participation by Members. With the exception of executive sessions of the **Board** (see **Section 5.6** below) and any meetings conducted in a judicial proceeding, all scheduled **Board** meetings shall be open to attendance by **Members** of the **Association**, and **Members** shall be allowed to address the **Board**, except for Executive Sessions. The agenda for **Board** meetings shall include a specific time for **Member** open forum comments as well as during Board consideration of an action item. Because the purpose of the **Board** meeting is for the **Board** to conduct the business of the **Association**, a reasonable time limit and time for **Members** to speak to the **Board** shall be established by the **Board**. The **Board** may, at its discretion, exclude any person not a **Member** from the **Board** meeting.

Section 5.6. Executive Session.

5.6(a) The **Board** may meet in executive session to address personnel matters, contracts with third parties, **Assessment** delinquencies, **Governing Document** violations, or actual or possible litigation.

5.6(b) As to **Member** discipline, the **Board** has general discretion as to whether or not it will meet in executive session. Any disciplinary hearing must, however, be conducted in executive session if requested by the **Member** charged.

5.6(c) The **Board** may adjourn any regular or special meeting for purposes of reconvening an executive session to discuss matters described above. Before adjourning into executive session at any open meeting, the topic(s) to be discussed in such session shall be announced, in general terms, to the **Members** in attendance at the meeting. The **Board** may also meet in executive session without notice to the **Members** or after adjourning from a regular or special meeting, for a purpose allowed by Section 5.6(a) above.

Section 5.7. Recording. No meeting of the **Board** or any **Committee** may be electronically recorded without the prior consent of the person presiding over the meeting.

ARTICLE VI COMMITTEES

Section 6.1. Generally. The **Board** shall appoint **Committees** as deemed appropriate in carrying out its purposes. **Committee** members shall serve at the pleasure of the **Board**. All **Committees** with decision-making authority shall keep written minutes of their proceedings, report their proceedings to the **Board** and file their minutes with the Secretary. No **Committee** shall have the power to:

- 6.1(a)** take any final action on any matter that requires the approval of the **Board** and/or **Members**,
- 6.1(b)** fill vacancies on the **Board** or any **Committee**,
- 6.1(c)** amend or repeal **Bylaws** or adopt new **Bylaws**,
- 6.1(d)** amend or repeal any resolution of the **Board** or
- 6.1(e)** appoint **Committees** of the **Board** or **Members**.

Section 6.2. Nominating Committee. The **Board** may appoint a Nominating **Committee** which shall consist of a Chairperson, who may be a member of the **Board**, and two (2) or more **Members** of the **Association**. The Nominating **Committee**, if any, shall be appointed by the **Board** prior to the distribution of election ballots and shall use a fair and reasonable process to nominate candidates. The Nominating **Committee** shall make as many nominations for election

to the **Board** as it shall, in its discretion, determine, but not less than the number of vacancies that are to be filled.

Section 6.3. Building Committee. The **Board** shall appoint a Building Committee as more fully described in the **CC&Rs**.

Section 6.4. Road Committee. The **Board** may appoint a Road Committee, which shall perform such tasks and serve for such periods of time as may be designated by resolution of the **Board**.

Section 6.5. Other Committees. The **Board** may appoint such other **Committees** as it deems appropriate in carrying out the purposes of the **Association**.

ARTICLE VII
DUTIES AND POWERS OF THE BOARD

Section 7.1. Generally. The **Board** shall have the authority or duty to:

7.1(a) Exercise all powers vested in the **Board** under the **Governing Documents** and under the laws of the State of California.

7.1(b) Appoint, remove and/or reassign the manager of the **Association**, if any, and **Association** employees; prescribe any powers and duties for such persons that are consistent with law and the **Governing Documents**; and fix their compensation.

7.1(c) Appoint such agents and employ such other 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.

7.1(d) Enforce applicable provisions of the **Governing Documents** relating to the control, management, and use of the **Lots** within Chabot Park Highlands and the **Common Facilities**.

7.1(e) Contract for and pay premiums for fire, casualty, liability, director and officer error and omissions, earthquake and other insurance and bonds (including indemnity bonds) that may be required from time to time by the **Association**.

7.1(f) Contract and pay for maintenance, landscaping, utilities, materials, supplies, labor, and services that may be required from time to time in relation to the **Common Facilities** and other portions or components of Chabot Park Highlands which the **Association** is obligated to maintain, repair or replace.

7.1(g) Pay all taxes, special assessments and other assessments, and charges that are or would become a lien on any portion of the **Common Facilities**.

7.1(h) Contract and pay for construction or reconstruction of any portion or portions of Chabot Park Highlands that have been damaged or destroyed and that are to be rebuilt by the **Association**.

7.1(i) Delegate its duties and powers to the Officers of the **Association** or to **Committees** established by the **Board**, subject to the limitations expressed in **Article VI** entitled *Committees*.

7.1(j) Levy and collect **Assessments** from the **Members**.

7.1(k) Perform all acts required of the **Board** under the **Declaration**.

7.1(l) Prepare budgets and maintain a full set of books and records showing the financial condition of the **Association** in a manner consistent with the Davis-Stirling Act and generally accepted accounting principles, and prepare an annual financial report for the **Members**. (See also attached **Exhibit A**.)

7.1(m) Appoint one or three Inspectors of Election pursuant to the **Association's** Voting and Election Procedures Policy;

7.1(n) Appoint, at its discretion, a nominating **Committee** for the nomination of persons to be elected to the **Board** and prescribe **Rules** under which said Nominating **Committee** is to act.

7.1(o) Appoint such other **Committees** as it deems appropriate from time to time in connection with the business of the **Association**.

7.1(p) Fill vacancies on the **Board** or in any **Committee**, except a vacancy created by the removal of a Director by the **Members**.

7.1(q) Open bank accounts on behalf of the **Association** and designate the signatories to such bank accounts.

7.1(r) Bring and defend actions in the best interests of the **Members** and/or the **Association**.

7.1(s) Enter **Lots** as necessary, subject to the notice requirements of the **Declaration**, in connection with construction, maintenance, or emergency repairs for the benefit of the **Common Facilities** or the **Members** in common.

7.1(t) Adopt parliamentary procedures for conducting **Member** meetings.

7.1(u) Negotiate, settle and/or otherwise dispose of disputes and litigation.

7.1(v) After consultation with the **Association's** certified public accountant and/or counsel, at its discretion, establish and maintain a seismic reserve fund. Such funds may be in conjunction with or in lieu of earthquake insurance.

7.1(w) Delegate limited or shared control of an operating account to the management company so long as the **Board** is satisfied that sufficient safeguards are in place.

7.1(x) In the event of a natural disaster, the **Association** may, in conjunction with its **Assessment** powers as provided in the **Declaration** at **Article 4**, seek governmental assistance (such as from the Federal Emergency Management Agency).

7.1(y) Borrow money, including granting a security interest in the **Association's** personal property, including Reserve and Operating funds and **Assessment** stream, (without encumbering any **Association Common Facilities**).

7.1(z) Adopt, revise and update **Rules** and policies regarding voting, **Member** access to records, **Assessment** collection and any other matter as may be required by law or otherwise related to the operation of the **Association**.

7.1(aa) Recommend and/or facilitate the use of Alternative Dispute Resolution between individual **Owners** when there is a dispute arising out of or related to the **Governing Documents** or neighbor relations generally.

Section 7.2. Board Discretion. The **Association** acts by and through the **Board of Directors** unless the decisions on a particular subject have been assigned to the **Members** by the **Governing Documents** or by statute. The **Board** may conduct "straw votes" to determine **Member** preferences or support. In other instances, the **Board** may structure a decision as a funding question to be voted on by **Members**.

Section 7.3. Association Finances. In addition to the terms of the **Bylaws** and the **Declaration**, the **Association** is governed by the Davis-Stirling Act including provisions related to financial documents, operating and reserve accounts and **Regular** and **Special Assessments**. Because the legislature periodically amends the Davis-Stirling Act, the **Board** may annually consult with the Treasurer or professional service provider as to any changes in financial procedures and reporting that may be required by new or amended sections and shall conform the **Association's** practices accordingly.

Section 7.4 Inspection of Books and Records.

7.4(a) Member Access to Records. Members may review many of the **Association's** records by submitting a written request which must include the reason for reviewing the records. The **Board** may adopt and require the use of a written request form. The **Member** is responsible for all costs incurred related to the request and production; a deposit may be required in advance.

7.4(b) Adoption of Reasonable Inspection Rules. The **Board** may establish reasonable **Rules** which may include provisions regarding notice of inspection, hours and days of the week when inspection may be made, location of the documents to be inspected, and payment of the costs incurred including reproducing and/or redacting copies of documents requested by the **Member**.

7.4(c) Documents Available for Inspection.

7.4(c)(1) Accounting Books and Records. The following **Association** records shall be available for inspection and copying by any **Member**, or his or her duly appointed representative, during reasonable business hours: any financial document required to be provided to a **Member** in Civil Code section 1365; any financial document or statement required to be provided in Civil Code section 1368; interim unaudited financial statements, periodic or as compiled containing any of the following: balance sheet, income and expense statement, budget comparison, general ledger; executed contracts not otherwise privileged under law; written **Board** approval of vendor or contractor proposals or invoices; state and federal tax returns; reserve account balances and records of payments made from reserve accounts; agendas and minutes of meetings of the **Members**, the **Board** and any **Committees** appointed by the **Board**, excluding, however, agendas, minutes, and other information from executive sessions of the **Board** as described in Civil Code section 1363.05; check registers; enhanced **Association** records (meaning invoices, receipts and canceled checks for payments made by the **Association**, purchase orders approved by the **Association**, statements for services rendered, and reimbursement requests submitted to the **Association**, provided that the person submitting the reimbursement request shall be solely responsible for removing all personal identification information from the request).

7.4(c)(2) Membership Lists. Membership lists, including name, property address, and mailing address shall also be made available for inspection by any **Member**, or his or her duly appointed representative. Note that the **Members** may request that their information not be shared.

7.4(d) Timing of Association Response.

7.4(d)(1) Current Fiscal Year. The **Association** shall provide access to records prepared during the current fiscal year within ten (10) business days following receipt of the requests.

7.4(d)(2) Previous Two Fiscal Years. The **Association** shall provide access to records prepared during the previous two (2) fiscal years within thirty (30) calendar days following receipt of the request.

7.4(d)(3) Meeting Minutes. The minutes of **Board** meetings (other than executive session) shall be available upon request. If the minutes have not been adopted within thirty days of the meeting, the draft shall be made available. Adopted minutes by the **Board** or any **Committee** shall be available within fifteen calendar days following approval.

7.4(d)(4) Membership List. In the case of a request to inspect the **Association's** membership list, access shall be provided within ten (10) business days after receiving the **Member's** written demand.

7.4(e) Director Inspection Rights. Every Director shall have a right at any reasonable time to inspect all books, records, documents, and minutes of the **Association** and the physical properties owned or controlled by the **Association**. The right of inspection by a Director includes the right to make extracts and copies of documents. The **Board** may adopt reasonable restrictions on review of ballots and proxies in order to preserve **Member** expectations of confidentiality.

Section 7.5. Rules. The **Board** shall have the power, pursuant to the provisions in the Davis-Stirling Act, to adopt and establish **Rules** and policies consistent with the **Declaration**, governing the use of the **Subdivision** and the conduct of the **Members** and their **Guests, Tenants** or others on the premises.

Section 7.6. Manager. The **Board** may employ the services of a manager to conduct the business of the **Association**. The **Board** may delegate to the manager any of the day-to-day duties and powers of the **Board** or its officers; however, the manager shall at all times remain subject to the general control of the **Board**.

Section 7.7. Enforcement. The **Association** shall have the power to enforce the provisions of the **Governing Documents**.

ARTICLE VIII DEFENSE AND INDEMNIFICATION

Section 8.1. Member Responsibility. Each **Member** shall be liable to the **Association** for any damage to the **Common Facilities** or areas which the **Association** must maintain, repair or replace caused (directly or indirectly) by the **Member** or his or her family, **Guests, Tenants**, invitees or lessees (including but not limited to negligence or willful misconduct or otherwise), and each **Member** shall protect, defend, hold harmless and indemnify the **Association** and Directors for any third party claim arising out of such conduct.

Section 8.2. Indemnification by Association of Directors and Officers. The **Association** shall, to the fullest extent permitted by law, protect, defend and indemnify its past or present Directors, Officers and **Committee** members from potential liability for their activity while acting in good faith and engaged in **Association** business. Such protection may include that provided for in (a) the **Association's** insurance, including the liability insurance in the case of damage to person or property, and/or (b) the Corporations Code, specifically section 7237. In the event that any claim of indemnification is made to the **Association** by such individual, the **Association** shall, in a timely way, tender the claim to its broker and/or insurance carriers. To the extent that the individual

seeking indemnification has exposure to any uninsured loss, the **Association** shall also submit the matter to its counsel for a legal opinion as to **Association** obligations.

Section 8.3. Advancement of Expenses. To the fullest extent permitted by law, the **Association** shall, consistent with Corporations Code section 7237(f), advance all costs of defense of an Officer, Director or **Committee** Member, if such costs of defense are not being provided by insurance.

Section 8.4. Insurance. The **Association** shall have the power to purchase and maintain that insurance commonly known as Directors and Officers Liability Insurance. It should be noted that this is separate and distinct from general liability insurance which covers damage to persons and property.

Section 8.5. Limitations on Personal Liability of Individual Directors/Officers.

8.5(a) No action shall be brought against an individual Director or Officer unless expressly permitted by the provisions of Civil Code section 1365.7.

8.5(b) No suit or action against a Director or Officer or other volunteer of the **Association** personally shall be sustainable in any court unless commenced within the earliest of twelve (12) months of the date claimant knew or should have known of alleged misconduct and/or the inception of damage or injury.

**ARTICLE IX
TAX EXEMPT STATUS**

Section 9.1. Tax-Exempt Status. The **Board** shall take all steps reasonably possible to lawfully minimize the **Association's** tax obligations, which may include using tax exempt status.

Section 9.2. Filing. The **Board** shall cause to be timely filed an annual designation for tax-exempt status as may be required under federal or state law. It shall cause the **Association** to comply with the statutes, rules and regulations adopted by federal and state agencies pertaining to such exemptions.

**ARTICLE X
MISCELLANEOUS**

Section 10.1. Amendment of Bylaws. These **Bylaws** may be amended (including replacement) by the affirmative vote of a majority of a quorum of **Members**. A quorum is one-third (1/3) of the **Members**. Any amendment to or replacement of these **Bylaws** shall become effective immediately upon approval by the **Members**. The Secretary of the **Association** shall certify adoption of any duly approved amendment to the **Bylaws** and a copy of said certificate and the amendment shall be included in the **Association's** corporate records and sent to the **Members**.

Section 10.2. Conflict. In the case of any conflict between the **Articles** and these **Bylaws**, the **Bylaws** shall control; and in the case of any conflict between the **Declaration** and these **Bylaws**, the **Declaration** shall control.

Section 10.3. Fiscal Year. The fiscal year of the **Association** shall be July 1 through June 30, unless otherwise determined by the **Board**.

Section 10.4. Davis-Stirling Common Interest Development Act. “Davis-Stirling Common Interest Development Act” means that set of statutes governing Common Interest Developments which starts with California Civil Code Section 1350 and is also referred to as the Davis-Stirling Act. Given that the statutory law applicable to homeowner associations is frequently amended by the legislature and an overhaul (simplification and clarification) may be forthcoming in 2008 or 2009, and given the **Association's** desire to keep the provisions of the **Governing Documents** consistent with applicable statutory law, the **Association** may find it useful to update the mandatory requirements of or options presented by the Davis-Stirling or the Corporations Code that are included in these **Bylaws** (including any Exhibits). After consultation with counsel, by unanimous endorsement of the sitting **Directors**, and thirty day notice to **Owners** before adopting, the **Board** may periodically update the provisions of these **Bylaws**, including any Exhibits, to reflect changes in the Davis-Stirling Act and the Corporations Code which would otherwise be in conflict with and would pre-empt these provisions. Any such updated provisions shall be distributed to all **Owners**.

SECRETARY'S CERTIFICATION

As Secretary of the corporation known as the Chabot Park Highlands Association, I hereby certify that the foregoing amended **Bylaws** consisting of _____ pages (excluding the Table of Contents), were duly adopted by the **Members** of said **Association** on the ____ day of _____, 2007 and that they are now the official **Bylaws**.

By:
Secretary of Chabot Park Highlands Association

Director and Manager Reference Sheet (Not Formally Part of the Bylaws)

MEMBER VOTING ISSUES	APPROVAL REQUIREMENT / QUORUM*	
<i>*General Quorum Requirement (if not otherwise specified)</i>	<i>Requires participation of 1/3 of the Members</i>	<i>Bylaws, Section 3.4(b)(4)</i>
ANNUALLY:		
Election of Directors	Quorum = ballots received Threshold Quorum not applicable	Bylaws, Section 3.4(b)(5)
IRS Resolution Approval	Majority of Quorum Quorum = ballots received	Bylaws, Section 3.4(b)(1)
Minutes of Member Meeting	Majority of Quorum Quorum = ballots received (or by Board or Committee)	Bylaws, Sections 3.4(b)(2) and 3.3(c))
AMENDMENTS:		
Amendment of CC&Rs	60% of Members plus 1 Threshold Quorum not applicable	CC&Rs, Section 8.1
Amendment of Bylaws	Majority of General Quorum Quorum = 1/3	Bylaws, Section 10.1
Amendment of Articles		Articles, Article ____
OTHER:		
Assessment Approval	Majority of a General Quorum Quorum = more than 50%	Civil Code §1366(b)
Grant of Exclusive Use of Common Area	67% of Members Threshold Quorum not applicable	Civil Code §1363.07
Member Reversal of Rule Change	Majority of voting power Threshold Quorum not applicable	Bylaws, Section 3.4(b)(3)
Recall of Board of Directors	Majority of General Quorum Quorum = 1/3	Bylaws, Section 4.2(g)(3)(ii)

EXHIBIT A TO BYLAWS OF CHABOT PARK HIGHLANDS ASSOCIATION

(Note: This Exhibit may be periodically superseded)

by later exhibits reflecting changes in the law)

This exhibit to the Bylaws of Chabot Park Highlands Association, is hereby incorporated by cross-reference into the Bylaws (as authorized by **Section 10.4**).

The following language is substantially as provided for in Civil Code sections 1365, 1365.2.5 and 1365.5 (as revised and effective 1/1/07).

Section A.1. Financial Records and Reporting. 1365. Unless the governing documents impose more stringent standards, the association shall prepare and distribute to all of its members the following documents:

(a) A pro forma operating budget, which shall include all of the following:

(1) The estimated revenue and expenses on an accrual basis.

(2) A summary of the association's reserves based upon the most recent review or study conducted pursuant to Section 1365.5, based only on assets held in cash or cash equivalents, which shall be printed in boldface type and include all of the following:

(A) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component.

(B) As of the end of the fiscal year for which the study is prepared:

(i) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components.

(ii) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components.

(iii) If applicable, the amount of funds received from either a compensatory damage award or settlement to an association from any person or entity for injuries to property, real or personal, arising out of any construction or design defects, and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. These amounts shall be reported at the end of the fiscal year for which the study is prepared as separate line items under cash reserves pursuant to clause (ii). Instead of complying with the requirements set forth in this clause, an association that is obligated to issue a review of their financial statement pursuant to subdivision (b) may include in the review a statement containing all of the information required by this clause.

(C) The percentage that the amount determined for purposes of clause (ii) of subparagraph (B) equals the amount determined for purposes of clause (i) of subparagraph (B).

(D) The current deficiency in reserve funding expressed on a per unit basis. The figure shall be calculated by subtracting the amount determined for purposes of clause (ii) of subparagraph (B) from the amount determined for purposes of clause (i) of subparagraph (B) and then dividing the result by the number of separate interests within the association, except that if assessments vary by the

size or type of ownership interest, then the association shall calculate the current deficiency in a manner that reflects the variation.

(3) A statement as to all of the following:

(A) Whether the board of directors of the association has determined to defer or not undertake repairs or replacement of any major component with a remaining life of 30 years or less, including a justification for the deferral or decision not to undertake the repairs or replacement.

(B) Whether the board of directors of the association, consistent with the reserve funding plan adopted pursuant to subdivision (e) of Section 1365.5, has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor. If so, the statement shall also set out the estimated amount, commencement date, and duration of the assessment.

(C) The mechanism or mechanisms by which the board of directors will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacements or repairs, or alternative mechanisms.

(D) Whether the association has any outstanding loans with an original term of more than one year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.

(4) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the association is obligated to maintain. The report shall include, but need not be limited to, reserve calculations made using the formula described in paragraph (4) of subdivision (b) of Section 1365.2.5, and may not assume a rate of return on cash reserves in excess of 2 percent above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made. The summary of the association's reserves disclosed pursuant to paragraph (2) shall not be admissible in evidence to show improper financial management of an association, provided that other relevant and competent evidence of the financial condition of the association is not made inadmissible by this provision. Notwithstanding a contrary provision in the governing documents, a copy of the operating budget shall be annually distributed not less than 30 days nor more than 90 days prior to the beginning of the association's fiscal year.

(b) Commencing January 1, 2009, a summary of the reserve funding plan adopted by the board of directors of the association, as specified in paragraph (4) of subdivision (e) of Section 1365.5. The summary shall include notice to members that the full reserve study plan is available upon request, and the association shall provide the full reserve plan to any member upon request.

(c) A review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars (\$75,000). A copy of the review of the financial statement shall be distributed within 120 days after the close of each fiscal year.

(d) Instead of the distribution of the pro forma operating budget required by subdivision (a), the board of directors may elect to distribute a summary of the pro forma operating budget to all of its members with a written notice that the pro forma operating budget is available at the business office of the association or at another suitable location within the boundaries of the development, and that copies will be provided upon request and at the expense of the association. If any member requests that a copy of the pro forma operating budget required by subdivision (a) be mailed to the member, the association shall provide the copy to the member by first-class United States mail at the expense of the association and delivered within five days. The written notice that is distributed to each of the association members shall be in at least 10-point boldface type on the front page of the summary of the budget.

(e) A statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its members shall be annually delivered to the members not less than 30 days nor more than 90 days immediately preceding the beginning of the association's fiscal year.

(f) (1) A summary of the association's insurance consistent with Civil Code Section 1365(f)

Section A.2. Operating and Reserve Accounts.

(a) Unless the governing documents impose more stringent standards, the board of directors of the association shall do all of the following:

(1) Review a current reconciliation of the association's operating accounts on at least a quarterly basis.

(2) Review a current reconciliation of the association's reserve accounts on at least a quarterly basis.

(3) Review, on at least a quarterly basis, the current year's actual reserve revenues and expenses compared to the current year's budget.

(4) Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts.

(5) Review an income and expense statement for the association's operating and reserve accounts on at least a quarterly basis.

(b) The signatures of at least two persons, who shall be members of the association's board of directors, or one officer who is not a member of the board of directors and a member of the board of directors, shall be required for the withdrawal of moneys from the association's reserve accounts.

(c) (1) The board of directors shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components that the association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established.

(2) However, the board may authorize the temporary transfer of moneys from a reserve fund to the association's general operating fund to meet short-term cashflow requirements

or other expenses, if the board has provided notice of the intent to consider the transfer in a notice of meeting, which shall be provided as specified in Section 1363.05. The notice shall include the reasons the transfer is needed, some of the options for repayment, and whether a special assessment may be considered. If the board authorizes the transfer, the board shall issue a written finding, recorded in the board's minutes, explaining the reasons that the transfer is needed, and describing when and how the moneys will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, except that the board may, after giving the same notice required for considering a transfer, and, upon making a finding supported by documentation that a temporary delay would be in the best interests of the common interest development, temporarily delay the restoration. The board shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required by this section. This special assessment is subject to the limitation imposed by Section 1366. The board may, at its discretion, extend the date the payment on the special assessment is due. Any extension shall not prevent the board from pursuing any legal remedy to enforce the collection of an unpaid special assessment.

(d) When the decision is made to use reserve funds or to temporarily transfer moneys from the reserve fund to pay for litigation, the association shall notify the members of the association of that decision in the next available mailing to all members pursuant to Section 5016 of the Corporations Code, and of the availability of an accounting of those expenses. Unless the governing documents impose more stringent standards, the association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by members of the association at the association's office.

(e) At least once every three years, the board of directors shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components that the association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the common interest development, if the current replacement value of the major components is equal to or greater than one-half of the gross budget of the association, excluding the association's reserve account for that period. The board shall review this study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review. The study required by this subdivision shall at a minimum include:

(1) Identification of the major components that the association is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 30 years.

(2) Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.

(3) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1).

(4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (1) during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

(5) A reserve funding plan that indicates how the association plans to fund the contribution identified in paragraph (4) to meet the association's obligation for the repair and replacement of all major components with an expected remaining life of 30 years or less, not including those components that the board has determined will not be replaced or repaired. The plan shall include a schedule of the date and amount of any change in regular or special assessments that would be needed to sufficiently fund the reserve funding plan. The plan shall be adopted by the board of directors at an open meeting before the membership of the association as described in Section 1363.05. If the board of directors determines that an assessment increase is necessary to fund the reserve funding plan, any increase shall be approved in a separate action of the board that is consistent with the procedure described in Section 1366.

(f) As used in this section, "reserve accounts" means both of the following:

(1) Moneys that the association's board of directors has identified for use to defray the future repair or replacement of, or additions to, those major components that the association is obligated to maintain.

(2) The funds received, and not yet expended or disposed of, from either a compensatory damage award or settlement to an association from any person or entity for injuries to property, real or personal, arising from any construction or design defects. These funds shall be separately itemized from funds described in paragraph (1).

(g) As used in this section, "reserve account requirements" means the estimated funds that the association's board of directors has determined are required to be available at a specified point in time to repair, replace, or restore those major components that the association is obligated to maintain.

(h) This section does not apply to an association that does not have a "common area" as defined in Section 1351.

