

**BYLAWS OF
OCEANA MARIN ASSOCIATION ©
(As Amended in 2006)**

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**BYLAWS OF
OCEANA MARIN ASSOCIATION
(As Amended in 2006)**

These Amended **Bylaws** of the Oceana Marin 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 "OCEANA MARIN ASSOCIATION" (hereinafter referred to as the "**Association**"). The principal location of the **Association** is in the County of Marin, 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 Oceana Marin Association, including the **CC&Rs** and the rules;

1.2(c) to enhance and promote the use and enjoyment of the **Common Areas** and common facilities by the residents and/or **Members**;

1.2(d) to maintain the aesthetic and architectural standards of Oceana Marin;

1.2(e) to enhance and protect the quality of life of residents.

**ARTICLE II
MEMBERSHIP**

Every **Owner** of a residence within Oceana Marin is a **Member** of the **Association**. Membership in the **Association** is linked to, and may not be separated from, record ownership of any residence. Upon the sale, conveyance or other transfer of an **Owner's** interest, the **Owner's** membership shall automatically transfer to the new **Owner(s)**.

ARTICLE III
MEMBERSHIP MEETINGS

Section 3.1. Member Meetings.

3.1(a) Semi-Annual Report and Informational Meetings. The **Board** shall have discretion to schedule and conduct a Semi-Annual Meeting and Report to **Members** to be held in the first and third quarter of each calendar year. Any such meetings shall be held on the premises or at a location within a reasonable distance. There shall be no **Member** quorum requirements to convene and conduct these meetings as informational meetings. The meetings may be simultaneously conducted as **Board** meetings so the **Board** can make decisions relevant to the subject matter. Secret balloting conducted by mail may be coordinated with or independent of the Semi-Annual Report and Informational Meetings (“Semi-Annual Meetings”).

3.1(b) Special Meeting of the Members. Special Meetings 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**.

Section 3.2. Conducting Meetings.

3.2(a) Parliamentary Procedures. Meetings of **Members** shall be conducted in accordance with a recognized system of parliamentary procedures or such parliamentary procedures as the **Board** may adopt.

3.2(b) Special Meeting Restriction. Only those matters specifically described in the special meeting notice may be addressed at the special meeting.

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

3.3(a) 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) 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 supplied by such **Member** to the **Association** for the purpose of notice. The **Association** may transmit notices by email or facsimile if the **Member** approves use of this method.

3.3(c) 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.

Section 3.4. Quorum Requirements. Since 2006, membership voting is done by secret “mail-in ballot.” While **Member** quorums may no longer be necessary to convene a Semi-Annual Meeting, quorum requirements still exist for certain secret mail-in **Member** balloting. For those subjects not otherwise addressed by statute or the **Governing Documents**, the following quorum requirements shall apply for the mail-in ballot process:

3.4(a) 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 those casting ballots.

3.4(b) If the **Members** are asked to approve the minutes from the prior Semi-Annual meeting (if any), approval shall be by a majority of those casting ballots.

3.4(c) 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 more than fifty percent (50+%) of the voting power.

ARTICLE IV **MEMBERSHIP VOTING**

Section 4.1. Member Voting Rights. 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**. When more than one (1) **Person** owns an interest in a single **Lot**, any vote cast by a single **Member** shall be deemed the authorized vote 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 4.2. Nominations. The **Board** may appoint a Nominating Committee to solicit qualified **Members** to run for the **Board**. Any **Member** may put his or her own name into nomination. The close of nominations may be anytime specified by the **Board**, such as at the end of the applicable Semi-Annual Meeting or to otherwise coincide with the printing/distribution of ballots.

Section 4.3. No Cumulative Voting. There shall be no cumulative voting.

Section 4.4. Voting Procedures. As of July 2006, **Member** decision-making shall be accomplished by secret mail-in ballot in accordance with the **Association’s** policy and/or as required by law. Unless the **Board** otherwise decides, voting for Directors (and any related **Member** approvals) shall be conducted after and independent of the Semi-Annual Meeting. At the time of the mailing of the ballots, the instructions shall specify that the voting will be conducted exclusively by mail-in ballot (or otherwise timely delivered).

4.4(a) Proxies. With the direct mail-in balloting, use of proxies is no longer routine. The **Association** may, but shall not be required to, make proxy forms available.

4.4(b) Voting and Election Procedures Policy.

4.4(b)(1) When any issues are put to a vote of the **Members**, if required by law, 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**. If there is no policy, the **Association** may use the provisions of Civil Code §1363.03. The 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.

4.4(b)(2) If the **Board** opts to permit casting of ballots at a meeting, the Voting Policy or voting instructions delivered with the ballot shall describe the process.

4.4(b)(3) 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.

Section 4.5. 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:

4.5(a) Determine the number of memberships entitled to vote and the voting power of each.

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

4.5(c) Receive ballots.

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

4.5(e) Count and tabulate all votes.

4.5(f) Determine when the voting (or polling) shall close.

4.5(g) Determine the result of the election.

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

Section 4.6. 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.

ARTICLE V BOARD OF DIRECTORS

Section 5.1. 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 5.2. Directors. All Directors shall be **Members** of the **Association**.

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

5.2(b) Residency Qualification. It is the intention of the **Association** to maintain a **Board of Directors** comprised primarily of volunteers who are active and involved in the community and whose ability to participate in the **Association** is expanded by the fact that they spend more time living in OMA than away. Therefore, at least five (5) **Board** members must maintain OMA as their primary residence for the duration of their tenure on the **Board** (“Resident Directors”). The **Board** shall have the authority to adopt a policy which describes the criteria for “primary residence”.

5.2(c) Transition. In order to accomplish the transition from five (5) to seven (7) Directors, the sitting **Board** may appoint to fill one or both positions, which appointees will serve until formal election by the **Members**. At the first election of Directors following adoption of these amended **Bylaws**, in addition to the number of Director positions to be filled under the previous Bylaws, the **Members** shall elect one (1) Director for a term of one (1) year and one (1) Director for a term of two (2) years. The candidate receiving the highest number of votes shall be deemed elected for the two (2) year term.

5.2(d) Term of Office. After the transition to seven (7) Directors 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 one year, and three (3) positions shall be elected the following year. 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.

5.2(e) Compensation. No Director shall receive compensation by the **Association** 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.

5.2(f) Determination of Election Results and Succession to Office. Election to the **Board** shall be by secret written ballot (see generally **Section 4.4**). 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 tie shall be broken by random drawing conducted by the Inspectors of Election. Each newly elected Director, if present, shall take office at the conclusion of voting. If not present, he or she shall take office after notification and acceptance of the election results.

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

- 5.2(g)(1)** the disqualification, death, resignation, or removal of a Director under section (g) below;
- 5.2(g)(2)** the failure of the **Members** to elect the proper number of Directors;
- 5.2(g)(3)** a declaration of vacancy by the **Board** for any reason permitted by law.

5.2(h) 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.

5.2(i) Removal.

5.2(i)(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:

- 5.2(i)(1)(i)** has been declared of unsound mind by a final order of court;
- 5.2(i)(1)(ii)** has been convicted of or pled guilty to a felony;
- 5.2(i)(1)(iii)** fails to attend two (2) consecutive regular meetings of the **Board of Directors** that have been duly noticed or regularly scheduled;
- 5.2(i)(1)(iv)** becomes more than thirty (30) days delinquent in the payment of any **Assessment**;

5.2(i)(1)(v) no longer maintains his or her residence at OMA as a primary residence, thereby causing the number of Resident Directors to fall below five (5);

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

5.2(i)(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 Corporation.

5.2(i)(3) By Members.

5.2(i)(3)(i) Individual Director. Any membership action to recall or remove a **Director** shall be conducted in accordance with the provisions of Corporations Code section 7222, as amended from time to time.

5.2(i)(3)(ii) Entire Board. In order to recall the entire **Board**, at least a majority of a quorum must vote in favor of the recall.

5.2(j) 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**.

5.2(j)(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.

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

Section 5.3. 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.

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

5.3(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.

5.3(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.

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

5.3(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.

5.3(f) Multiple Offices. One **Person** may hold two or more offices, except that neither the Secretary nor the Treasurer may serve concurrently as President.

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

5.3(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**.

5.3(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**.

5.3(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**.

5.3(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 VI **BOARD MEETINGS**

Section 6.1. Board Meetings.

6.1(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**.

6.1(b) Semi-Annual Report and Informational Meeting. The **Board** may convene a **Board** meeting to occur simultaneously with a Semi-Annual Report and Informational Meeting of the **Members**.

6.1(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 6.2. Notice.

6.2(a) Notice of the time and place of meetings of the **Board** (except emergency meetings) shall be given to **Members** at least four (4) 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.

6.2(b) Notice to a Director shall be given at least four (4) 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.

6.2(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 with one another.

Section 6.3. 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 6.4. 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 6.5. Participation by Members. With the exception of executive sessions of the **Board** (see **Section 6.6** below) and any meetings conducted by conference telephone or 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. 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** may be established by the **Board**. The agenda for **Board** meetings may include a specific time for **Member** comments. The **Board** may, at its discretion, exclude any **Person** not a **Member** from the **Board** meeting.

Section 6.6. Executive Session.

6.6(a) The **Board** may meet in executive session to address personnel matters, contracts with third parties, or actual or possible litigation.

6.6(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.

6.6(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 6.6(a) above.

Section 6.7. 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 VII COMMITTEES

Section 7.1. 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 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:

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

Section 7.2. 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 7.3. Other Committees. The **Board** may appoint such other committees as it deems appropriate in carrying out the purposes of the **Association**.

ARTICLE VIII DUTIES AND POWERS OF THE BOARD

Section 8.1. Generally. The **Board** shall have the power or duty to:

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

8.1(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.

8.1(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.

8.1(d) Enforce all applicable provisions of the **Governing Documents** relating to the control, management, and use of the **Lots** within Oceana Marin and the **Common Areas**.

8.1(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**.

8.1(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 Areas** and other portions or components of Oceana Marin which the **Association** is obligated to maintain, repair or replace. This shall include engaging the services of a properly licensed engineer on a regular basis (at least once every three (3) years) to review the overall conditions of the **Common Area** in order to mitigate soil erosion and implement recommended landslide control measures. Note, however, that the County of Marin may require an annual engineering report.

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

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

8.1(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 VII entitled *Committees*.

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

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

8.1(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 **Exhibit B** to the **CC&Rs**.)

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

8.1(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.

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

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

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

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

8.1(s) Access **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 Areas** or the **Members** in common.

8.1(t) Adopt parliamentary procedures for conducting **Member** meetings and make a copy of such procedures available to **Members** upon request.

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

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

8.1(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.

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

8.1(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 Area**).

8.1(z) Adopt, revise and update rules and policies as required by law.

Section 8.2. 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 8.3. Limitations on Power of Board. In addition to approval of the **Board**, certain actions must also have the affirmative vote of a majority of a quorum of **Members**. These include:

8.3(a) Pledge, deed in trust or otherwise encumber any or all of the **Association's** real property as security for money borrowed or debts incurred.

8.3(b) Dedicate, sell or transfer any part of the **Common Area** to any public agency, authority, or utility.

8.3(c) Participate in mergers and consolidations with other nonprofit corporations organized for the same purpose, or annex additional residential property and **Common Area**.

8.3(d) Enter into a contract with a third party for the furnishing of goods or services to the **Common Area** or the **Association** for a term longer than one (1) year. This restriction shall not apply to:

8.3(d)(1) public utility contracts in which the rates charged for materials or services are regulated by the Public Utilities Commission, provided that the term of the contract may not exceed the shortest term for which the supplier will contract at the regulated rate;

8.3(d)(2) prepaid casualty or liability insurance policies not to exceed three years' duration, provided that the policies provide for short-rate cancellation by the insured;

8.3(d)(3) agreements for communications services and equipment (such as television, cable or satellite dish) not to exceed five (5) years in duration;

8.3(d)(4) agreements for sale or lease of security alarm and fire alarm equipment, installation and services not to exceed five (5) years in duration; or

8.3(d)(5) agreements that may be terminated without cause upon thirty (30) days notice.

Section 8.4 Inspection of Books and Records.

8.4(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.

8.4(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**.

8.4(c) Documents Available for Inspection.

8.4(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).

8.4(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.

8.4(d) Timing of Association Response.

8.4(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.

8.4(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.

8.4(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.

8.4(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.

8.4(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 8.5. 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 **Property** and the conduct of the **Members** and their guests, tenants or others on the premises.

Section 8.6. 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 8.7. Enforcement. The **Association** shall have the power to enforce the provisions of the **Governing Documents**.

ARTICLE IX
DEFENSE AND INDEMNIFICATION

Section 9.1. Member Responsibility. Each **Member** shall be liable to the **Association** for any damage to the **Common Areas** or areas which the **Association** must maintain, repair or

replace caused (directly or indirectly) by the **Member** or his or her family, guests, 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 9.2. 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 9.3. 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 9.4. 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 9.5. Limitations on Personal Liability of Individual Directors/Officers.

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

9.5(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 X
TAX EXEMPT STATUS

Section 10.1. Tax-Exempt Status. The **Board** shall take all steps reasonably possible to ensure the continued tax exempt status of the **Association**.

Section 10.2. 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 XI
MISCELLANEOUS

Section 11.1. Amendment of Bylaws. 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.

11.1(a) By Members. These **Bylaws** may be amended (including replacement) by the affirmative vote of a majority of a quorum of **Members**. A quorum is more than fifty percent (50+%) of the **Members**.

11.1(b) By Directors. Except as provided below, these **Bylaws** may be adopted, amended, or repealed by the vote of a majority of the **Board**. The right of the **Board** to change these **Bylaws** shall not apply to any amendment that:

11.1(b)(1) Changes the number of **Directors**;

11.1(b)(2) Changes any provision pertaining to **Directors** who hold office by designation;

11.1(b)(3) Changes any provision pertaining to the filling of vacancies on the **Board** which must, by the terms of these **Bylaws**, be filled by a vote of the **Members**;

11.1(b)(4) Changes the quorum requirements for membership meetings;

11.1(b)(5) Changes the **Bylaws** provisions governing the use of proxies;

11.1(b)(6) Materially and adversely affects the rights of the **Members** as to voting, dissolution, redemption or transfer;

11.1(b)(7) Increases or decreases the number of **Members** authorized in total or for any class;

11.1(b)(8) Effect and exchange, reclassification or cancellation of all or part of the memberships;

11.1(b)(9) Authorizes a new class of membership.

Section 11.2. 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 11.3. Fiscal Year. The fiscal year of the **Association** shall be July 1 through June 30, unless otherwise determined by the **Board**.

Section 11.4. 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 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 **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 Oceana Marin Association, I hereby certify that the foregoing amended **Bylaws** consisting of 19 pages (excluding the Table of Contents), were duly adopted by the **Members** of said **Association** on the ____ day of _____, 2006 and that they are now the official **Bylaws**.

By: Secretary of Oceana Marin Association

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dlr: 5/22/06

Glenn H. Youngling, PLC
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