

**AMMENDED BYLAWS  
OF  
DEANE GARDENHOME ASSOCIATION**

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**AMENDED BYLAWS  
OF  
DEANE GARDENHOME ASSOCIATION**

**ARTICLE I. NAME AND LOCATION.**

The name of the corporation is DEANE GARDENHOME ASSOCIATION; hereinafter referred to as the "Association." The principal office of the corporation shall be located in Orange County, California. The meetings of members and directors may be held at such places within the State of California, County of Orange as may be designated by the Board of Directors.

**ARTICLE II. DEFINITIONS.**

The definitions contained in the Restated Declaration are incorporated by reference herein.

The "Restated Declaration" shall mean and refer to the Restated Declaration of Covenants, Conditions, and Restrictions (CC&R's) of Deane Gardenhome Association approved concurrently with these bylaws and thereafter duly recorded with the County of Orange.

**ARTICLE III. PERSONAL APPLICATION.**

All present or future Owners, tenants, future tenants, or their employees, or any other person who might use the facilities of the Project in any manner, are subject to the regulations set forth in these bylaws and all governing documents of the Association. The mere acquisition or rental of any of the Lots of the Project or the mere act of occupancy of any of the Lots will signify that these bylaws are accepted, ratified and will be complied with.

**ARTICLE IV. MEMBERSHIP VOTING AND MEETING OF MEMBERS**

**SECTION 1. MEMBERSHIP AND VOTING**

Section 1.1. Membership. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association.

The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership, and such membership shall continue until such time as the Owner's ownership terminates, at which time his/her membership shall automatically cease. Proof of membership (such as a grant deed), if called for by the Association or its managing agent, must be provided to the Secretary of the Association (or other designated representative) prior to any rights of membership being exercised.

Section 1.2. Voting of Member. Members shall be all those Owners as defined above. Voting rights are based on one vote per Lot owned. When more than one person holds title, all such persons collectively shall be the member (for the Lot in question). The vote shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. The Association shall be entitled to presume that any ballot tendered by one or more Owners of the Lot was the result of agreement by all other Owners. If Owners cast conflicting ballots, none will be counted.

Section 1.3. Suspension of Member's Rights. Members are subject to suspension of membership for voting purposes when their assessment payments fall delinquent or a violation of these Amended bylaws, the Restated

Declaration, or the rules and regulations occurs. Refer to the Restated Declaration for the limitations and notice provisions relating to suspensions of membership.

Section 1.4. Majority of Owners. As used in these bylaws, the term 'majority of owners' shall mean those Owners entitled to cast fifty-one percent (51%) of the total votes.

## **SECTION 2. MEETINGS OF MEMBERS AND NOTICE**

Section 2.1. Annual Meeting. Annual meetings of the members shall be held each year at the time and place indicated in the notice described in Section 3 below.

Section 2.2. Special Meetings. Special meetings of the members may be called at any time by the President or by a majority of the Board of Directors. A special meeting shall be called upon presentation of a written request of thirty-three percent (33%) of the membership unless the subject of the meeting is a dispute that is resolved prior to the date set or the subject is not for a lawful purpose. No other action may be taken at a special meeting that does not fall within the purpose stated on the meeting notice.

Section 2.3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call a meeting not less than ten (10) days nor more than ninety (90) days before such meeting. The notice shall specify the place, day and hour of such meeting. Written notice for special meetings must include the purpose of the meeting. Notice of a meeting shall be deemed to be received when delivered to the member's address or 48 hours after first-class mailing.

Section 2.4. Quorum. The presence at the meeting of the members entitled to cast, or of proxies entitled to cast, fifty-one percent (51%) of the votes shall constitute a quorum for any stated action unless otherwise provided in the Articles of Incorporation, the Restated Declaration, these bylaws, or by California law. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than an announcement at the meeting, to a date not less than 5 days, nor more than 30 days, from the original meeting date. The quorum for the adjourned meeting shall be thirty-three percent (33%) of the total voting power of the Association. When a quorum is present, a majority of the voting interests present shall decide any stated question brought before the membership unless a different percentage of approving votes is required for the specific act under California law, these bylaws, the Restated Declaration, or the Articles of Incorporation. In those cases, the specific requirement under that section shall control.

Section 2.5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his/her vote attendance. No proxy shall be valid after one (1) month from the date of execution or for any other action that is not stated on the proxy.

Section 2.6. Conduct of Meetings. All membership meetings shall be conducted in a manner consistent with generally accepted procedures of parliamentary procedure.

The order of business of all meetings shall be as follows: (a) roll call; (b) proof of notice of meeting or waiver of notice; (c) approval of minutes of preceding meeting; (d) reports of officers; (e) reports of committees; (f) election of inspectors of election; (g) election of Directors; (h) unfinished business; and (i) new business.

Section 2.7. Action by Written Ballot. Any action, which may be taken at a regular or special meeting of members, may be taken without a meeting if a proper ballot is prepared containing all the legal requirements of Corporations Code §7513.

Section 2.8. Action Without Meeting. Any action, which under the provisions of the California Corporations Code may be taken at a meeting of the Owners, may be taken without a meeting if authorized by a writing signed by all of the Owners who would be entitled to vote at a meeting for such purpose, and filed with the Secretary.

Section 2.9. Minutes. Minutes shall be recorded at all meetings and available for review by Owners within thirty (30) days after a meeting, in draft, summary or final form. Owners are to receive notice of the availability of Minutes at least once each year by general mailing or personal delivery.

## ARTICLE V. BOARD OF DIRECTORS

**SECTION 1. NUMBER.** A Board of Directors, seven (7) in number, who are members of the Association, shall manage the affairs of this Association. No two family members (by blood relation or by marriage) shall serve on the Board at the same time.

**SECTION 2. TERM OF OFFICE.** The Directors shall serve staggered three (3) year terms. At the expiration of the initial term of office of each respective Director, his/her successor shall be elected to serve a term of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting.

*\* The current Board of Directors will resign at the Annual Meeting in 2003 and the staggered election of new officers (2 directors serving 1 year, 2 directors serving 2 years, and 3 directors serving 3 years) will occur at that time. The next election year in 2004 the membership will then elect 2 directors for 3 years, the year after that election (2005) the membership will elect the next set of directors for 3 years, etc. on a rotating basis.*

**SECTION 3. REMOVAL.** The entire Board of Directors, or any individual Director, may be removed from office when his/her removal is approved by a majority of the members of the Association. Any vacancy created by removal shall be filled by election of the new Director(s) by the Owners.

**SECTION 4. VACANCY.** If a Board member resigns, the remaining Directors may then choose a successor by election among themselves or by general election (as determined by the board) to serve out the term of the Director who resigned.

**SECTION 5. DERELICTION OF DUTY.** If a Board member is derelict in his/her duties or does not fulfill the responsibilities of his/her position on the Board that director may be removed only after a full and impartial meeting of the association membership, and the director in question is allowed to voice their own defense. At least 51% of the membership must vote for removal.

**SECTION 6. COMPENSATION.** No Director shall receive any form or type of compensation for any service he/she may render to the Association in his or her capacity as a Director. However, any Director may be reimbursed for his/her actual expenses incurred in the performance of his/her duties that have been approved for expenditure by two or more officers of the Board.

## ARTICLE VI. NOMINATION AND ELECTION OF DIRECTORS

**SECTION 1. NOMINATION.** A Nominating Committee shall make nomination for election to the Board of Directors. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who may be a member of the Board of Directors, and two or more members of the Association. The Board of Directors prior to each annual meeting of the members shall appoint the Nominating Committee. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations must be made from members.

**SECTION 2. ELECTION.** Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast one vote per Lot. Cumulative voting for one candidate shall not be permitted. The persons receiving the largest number of votes shall be elected. A vote for a Director nominated may be cast by a member by mail on a ballot forwarded by the Board to the member at least five (5) days prior to the annual meeting, provided such a ballot is received by the Board or the Secretary prior to or at the annual meeting. A member not personally present at the meeting but who has so cast his ballot shall be counted as present at the meeting for quorum purposes.

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\* *Codicil*

## ARTICLE VII. MEETINGS OF DIRECTORS

**SECTION 1. REGULAR MEETINGS.** Regular meetings of the Board of Directors shall be held as required or monthly at such place and hour as may be fixed from time to time by resolution of the Board. Should any meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day that is not a legal holiday. Notice shall be given to each Director, at least 48 hours, personally or by telephone or at least four (4) days by mail, prior to the meeting if any rescheduling occurs by necessity.

**SECTION 2. SPECIAL MEETINGS.** Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than seventy-two (72) hours notice to each Director in the manner prescribed by Section 1.

**SECTION 3. EMERGENCY MEETINGS.** In any situation where action is needed and either a special or regular meeting will not suit the purpose, the Board of Directors may handle the action as follows:

The Board member first notified shall make a good faith attempt to notify each and every other Board member and call a meeting at the earliest possible reasonable time. If it appears sufficient Board members are not available for a meeting, said contact person shall attempt to get a "consensus" from the Board member as to the action needed, depending on the circumstances. If the Board member making the calls is unable to schedule a meeting with at least a quorum present, in a reasonable time (consistent with the circumstances) the 'consensus' shall determine what action is to be taken, and shall be the subject of a request for ratification at a later Board meeting. The contact person shall make every possible attempt to achieve at least a majority 'consensus' before taking any specific action.

**SECTION 4. QUORUM.** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**SECTION 5. WAIVER OF NOTICE.** Before, at, or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting or may waive notice by written approval of the Minutes, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him/her of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**SECTION 6. ACTION WITHOUT MEETING.** The Directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the written approval of all or a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors so long as reasonable attempts were made to contact all Directors prior to the action being taken.

**SECTION 7. EXECUTIVE SESSION.** The Board may, with the approval of the majority of a quorum of the Directors, request an executive session. At least two officers must be present for the executive session to be considered valid.

## ARTICLE VIII. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**SECTION 1. POWERS.** The Board of Directors shall have power to:

1. Conduct, manage and control the affairs and business of the Association and to adopt rules and regulations consistent with the Restated Declaration relating to use of the Common Area facilities, painting restrictions, etc., and to establish penalties for the infraction thereof;
2. Suspend the voting rights of any member during any period in which such member is in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing (as provided in the 'Restated Declaration'), for any infractions of published rules and regulations for a period of thirty (30) days or for as long as the infraction persists;

3. Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by official provisions of name Amended Bylaws, the Articles of Incorporation, or the Restated Declaration;
4. Select all officers, agents, a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;
5. Levy, collect and enforce assessments by any means provided in the Restated Declaration, and by California law;
6. Take whatever action in the Board's discretion is necessary to discharge any lien against the Common Area;
7. To change the location of the principal office for business to a different location if deemed advisable by a majority of the Board;
8. To sue others, in the name of the Association, and sue Owners to collect delinquent assessments or cure a violation of any restrictions, covenants, conditions, rules or regulations of the Association or subdivision (where deemed advisable or necessary) as approved prior to any such action, by the majority of members;
9. To borrow money for the purpose of improving the common properties and facilities and with approval of a majority of the homeowners, mortgage those common facilities if necessary. If such property is mortgaged, the rights of mortgagors shall be subordinate to the Owners' rights.
10. Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and common area, provided that any merger, consolidation or such annexation shall have the assent by vote of a majority of the members; and,
11. Enforce applicable provisions of the Covenants, Conditions and Restrictions, Bylaws and Articles by any lawful means or procedures, as deemed in the best interests of the Association.

**SECTION 2. DUTIES.** It shall be the duty of the Board of Directors to:

1. Cause to be kept a complete record of all its acts and corporate affairs;
2. Delegate powers to committees, officers or employees and supervise all officers, agents, and employees of the association and to see that their duties are properly performed;
3. As more fully provided herein, and in the Restated Declaration:
  1. Send written notice of each increase in regular assessment or imposition of special assessment to every Owner subject thereto within thirty (30) to sixty (60) days before the increase or assessment becomes due;
  2. In its discretion, foreclose a recorded lien against any properties for which assessments are at least sixty (60) days delinquent, or to bring an action at law against the Owner personally obligated to pay the same;
4. Issue, or to cause an appropriate officer to issue, upon demand by any person or entity entitled to receive that information, a certificate setting forth whether or not any assessment has been paid. The Board for the issuance of these certificates may make a reasonable charge. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
5. Procure and maintain adequate liability (offering protection for not less than \$1,000,000 per occurrence, with a \$2,000,000 umbrella), hazard, and other risk insurance on property owned by the Association; and errors and omissions insurance on Board members;
6. Cause the Common Area and utility laterals to be maintained as provided more fully in the Restated Declaration;
7. Cause all taxes and assessments against the property of the Association that are or could become a lien on the Common Area to be paid when due.

**SECTION 3. FINANCIAL REPORTING.** The Board of Directors shall fulfill the annual financial reporting requirements of Civil Code §1365 by distributing to all members:

**Section 3.1. Budget Information.** The Directors shall prepare a proforma operating budget (with full disclosure) and distribute it to all of its members not less than 45 days or more than 60 days prior to the beginning of the Association's fiscal year.

\*The preparation and distribution of the 2001 budget took place after a State of California audit was performed.

The proforma operating budget should include:

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 current California law which include all of the following:
  - (a) The current estimated replacement cost, estimated remaining life, and estimated useful life of the exterior surfaces of common walls facing maintenance area, sprinklers, or the three street planters located in the cul-de-sacs.
  - (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 paint exterior surfaces of common walls facing maintenance area, repair sprinklers, or maintain the integrity of the three street planters located in the cul-de-sacs.
    - (ii) The current amount of accumulated cash reserves actually set aside to paint exterior surfaces of common walls facing maintenance area, repair sprinklers, or maintain the integrity of the three street planters located in the cul-de-sacs.
  - (c) The percentage represented by (i) above to the total of (ii) above.
3. A statement as to whether the Board of Directors has determined or anticipates that the levy of one or more special assessments will be required to paint exterior surfaces of common walls facing maintenance area, repair sprinklers, or maintain the integrity of the three street planters located in the cul-de-sacs or to provide adequate reserves therefore.
4. A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacements or additions to the exterior surfaces of common walls facing maintenance area, sprinklers, or the three street planters located in the cul-de-sacs that the Association is obligated to maintain.

**Section 3.2. (Audit) Review.** A (audit) review of the financial statement of the Association which is prepared in accordance with generally accepted accounting principals by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income to the Association exceeds \$30,000 must be distributed within 120 days after the close of each fiscal year to all members of the Association.

**Section 3.3. Delinquent Assessment Policy.** Prepare and distribute a statement describing the Association's policies and practice in enforcing lien rights or other legal remedies for default in payment of its assessment against its members at least annually to the members at the annual meeting.

**SECTION 4. PROHIBITED ACTS.** The Board shall not take any of the following actions, except by vote or written consent of a majority of the voting power of the Association:

1. Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one year with the following exceptions:
  - (a) A contract with a public utility company if the rates charged for the materials or services are regulated by the public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;
  - (b) Prepaid casualty and/or liability insurance policies of not to exceed one year duration provided that the policy permits short rate cancellation by the insured.
  - (c) A contract with a landscape maintenance company of not to exceed three years provided the Board solicited bids by fax or registered mail to qualified agencies in the local market area and received a minimum of three bids.
2. Entering into any management agreement for the properties that are not terminable by the Association in ninety (90) days or less for landscaping services and thirty (30) days or less for all other services with or without cause, upon written notice thereof. The term of any such agreement may not exceed one year.

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\* Codicil

## **ARTICLE IX. OFFICERS AND THEIR DUTIES**

**SECTION 1. ENUMERATION OF OFFICE.** The officers of this Association shall be a President and Vice President, who shall at all times be members of the Board of Directors, a Secretary, a Treasurer, and such other officers as the Board may, from time to time, by resolution create including, but not limited to Assistant Secretary, Assistant Treasurers, or additional Vice Presidents.

**SECTION 2. ELECTION OF OFFICERS.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

**SECTION 3. TERM.** The Board shall elect the officers of this Association and each shall hold office for their term, unless he/she shall sooner resign, or shall be removed, or otherwise disqualified to serve. No Member shall serve more than two (2) terms (6 years) and cannot serve in the same position for more than one term (3 years).

**SECTION 4. SPECIAL APPOINTMENTS.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**SECTION 5. RESIGNATION AND REMOVAL.** The Board may remove any officer from office with or without cause by a supermajority (66%) of the Board. Any officer may resign at any time giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective upon receipt of that written notice.

**SECTION 6. VACANCIES.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he/she replaces.

**SECTION 7. MULTIPLE OFFICES.** No person shall simultaneously hold more than one of any of the offices except in the case of special offices created pursuant to Section 4 of this Article.

### **SECTION 8. DUTIES OF OFFICERS.**

**Section 8.1. President.** The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and promissory notes; and must approve all other Board of Directors expenses.

**Section 8.2. Vice President.** The Vice President shall have the authority to act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board, and may co-sign all checks.

**Section 8.3. Secretary.** The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board, and may co-sign checks.

**Section 8.4. Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and may disburse such funds as directed by resolution of the Board of Directors; must approve all of President's expenses; keep proper books of account; cause an annual review of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, pursuant to the financial distribution requirements set forth in Article VIII, Section 3. If the Association engages the services of a CPA or managing agent to undertake any of these tasks, the treasurer is relieved of those specific duties delegated to such person or entity.

## **ARTICLE X. COMMITTEES**

The Board of Directors may appoint a Nominating Committee as provided in these bylaws. The Board may appoint an Architectural Control Committee, as provided in the Restated Declaration. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose.

## **ARTICLE XI. BOOKS AND RECORDS**

The books of accounting, general records, minutes, and members name and address information shall, by appointment and upon reasonable written notice and request (stating a purpose, therefore), be generally subject to inspection by any member. The Restated Declaration, the Articles of Incorporation and the bylaws of the Association shall be available for inspection by any member by appointment where copies may be purchased at reasonable cost.

The Board reserves the right to deny access or inspection of sensitive materials subject to Executive session meetings or otherwise exempt from general legal rights of inspection by the members.

Directors have an absolute right of inspection of all books and records of the corporation.

## **ARTICLE XII. ASSESSMENTS**

As provided in the Restated Declaration, each member is obligated to pay to the Association annual, special, and other assessments that are secured by a continuing lien upon the property against which the assessment is made. Any assessments that are not paid when due shall be delinquent and subject to late fees and/or interest as more fully provided in the Restated Declaration. As more fully provided therein, the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his/her Lot.

## **ARTICLE XIII. AMENDMENTS**

These Amended Bylaws may be amended, at a regular or special meeting of the members, or by written ballot, or by approval of a majority of a quorum (as set forth in Article 4, Sections 1 and 2) of members of the Association. If amended, the new bylaws are required to be recorded with the State of California, County of Orange before they are placed in effect.

## **ARTICLE XIV. CONFLICTS**

In the case of any conflict between the Articles of Incorporation and these Amended Bylaws, the Articles shall control; and in the case of any conflict between the Restated Declaration and these Bylaws, the Restated Declaration shall control.

## **ARTICLE XV. RECORD DATE**

Only persons who are owners of record as of the date and time of any meeting shall be entitled to vote at that meeting. In a written ballot campaign, the date of record for voting purposes is the date the ballots are first due to be returned to the Association.