

REGULATION CHECK SHEET
(RE 624 & 658 Filings)

RE 648 (Rev. 1/04)

SUBDIVIDER NAME	HOA NAME
TRACT/MAP NUMBER OR TRACT NAME	COUNTY

INSTRUCTIONS

- Commissioner’s Regulation 2792.8(a) (California Code of Regulations) is an enumeration of the basic elements which should be included in the governing instruments of common interest subdivisions. In addition, governing instruments may not conflict with Civil Code provisions or any other statutes.
- Correct completion of this form (RE 648) will facilitate Deputy review of the proposed governing instruments for the project. Incomplete and inaccurate information will prolong the review process.
- In the columns on the right side of each page in this form, insert the document code, the page number and, the section or paragraph heading where the provisions of the Regulations 2792.4, 2792.8(a), 2792.15–2792.21, 2792.23(c)–(e), 2792.24, 2792.26–2792.28, and 2791.8 are to be found. Also check the appropriate boxes within the text of the Regulation.

Document Code

R = Restrictions (CC&Rs)
A = Articles

B = Bylaws
N/A = Not Applicable

Example

R p6/A III 1(g)/B p13 10.2

2792.8 Governing Instruments for Common Interest Subdivisions.

*Document Code & Page
Reference & Section or
Paragraph Heading*

(a) Governing instruments for the ownership and management of subdivisions enumerated in Section 11004.5 of the Code (common-interest subdivisions) including the Covenants, Conditions and Restrictions (CC&R’s), Articles of Incorporation (Articles) and Bylaws shall ordinarily provide for, but need not be limited to, the following:

- (1) Creation of an organization (hereafter Association) of subdivision interest owners;
- (2) A description of the common interests of the subdivision owners or lessees;
- (3) Transfer of title and/or control of common interests or of mutual and reciprocal rights of use to the owners in common or the Association; [Reg. 2792.15]
- (4) Procedures for calculating and collecting regular assessments from owners to defray expenses attributable to the ownership, operation or furnishing of common interests or to the enjoyment of mutual and reciprocal rights of use; [Reg. 2792.16]
- (5) Procedures for establishing and collecting special assessments for capital improvements or for other purposes; [Reg. 2792.16 and 2792.21]
- (6) Liens upon privately-owned subdivision interests for assessments levied pursuant to the CC&R’s and foreclosure thereof for nonpayment; [Reg. 2792.16]

- (7) Policies and Procedures relating to the disciplining of members for failure to comply with provisions of the governing instruments; [Reg. 2792.26] _____
- (8) Creation of a governing body for the Association; [Reg. 2792.21] _____
- (9) Procedures for the election and removal of governing body members and officers of the Association; [Reg. 2792.19] _____
- (10) Enumeration of the powers and duties of the governing body and the officers and of the limitations upon the authority of the governing body to act without the prior approval of members representing a majority of the voting power of the Association; [Reg. 2792.21] _____
- (11) Allocation of voting rights to Association members; [Reg. 2792.18] _____
- (12) Preparation of the budgets and financial statements of the Association, and for distribution to the Association members; [Civil Code §1365] _____
- (13) Regular and special meetings of Association members with notice requirements; [Reg. 2792.17] _____
- (14) Regular meetings of the governing body with provision for notice to Association members; [Reg. 2792.20] _____
- (15) Quorum requirements for meetings of members of the Association and of the governing body; [Reg. 2792.17 and 2792.20] _____
- (16) Procedures for proxy voting at members' meetings; [Reg. 2792.17] _____
- (17) Policies and procedures governing the inspection of books and records of the Association by members; [Reg. 2792.23] _____
- (18) Amendment procedures for those provisions of the governing instruments which relate to the ownership, management and control of the Association and/or the common interests; [Reg. 2792.24] _____
- (19) Prohibitions against or restrictions upon the severability of a separately-owned portion from the common interest portion of a subdivision interest; _____
- (20) Conditions upon which a partition of a condominium project may be had pursuant to Section 1359 of the Civil Code; _____
- (21) Action to be taken and procedures to be followed in the event of condemnation, destruction or extensive damage to the subdivision interests, including provisions respecting the use and disposition of insurance proceeds or damages payable to the Association or to a trustee on behalf of owners on account of condemnation, destruction or damage; _____
- (22) Annexation of additional land to the existing development where appropriate; [Reg. 2792.27] _____
- (23) Architectural and/or design control; [Reg. 2792.28] _____
- (24) Special provisions for enforcement of financial arrangements by the subdivider to secure performance of his commitment to complete common-area improvements; [Reg. 2792.4] _____

(25) Granting of easements or use rights affecting the common areas.

(26) Special provisions authorizing the governing body, subject to compliance with Section 1354 of the Civil Code, to institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation, or administrative proceedings in matters pertaining to (A) enforcement of the governing instruments, (B) damage to the common areas, (C) damage to the separate interests which the Association is obligated to maintain or repair, or (D) damage to the separate interests which arises out of, or is integrally related to, damage to the common areas or separate interests that the association is obligated to maintain or repair.

2792.4 Special Provision for Enforcement of Bonded Obligations

When common-area improvements which are included in the subdivision offering have not been completed prior to the issuance of the public report and the subdivision owners' association (hereafter Association) is obligee under a bond or other arrangement (hereafter Bond) to secure performance of the commitment of the subdivider to complete the improvements, the covenants, conditions and restrictions for the subdivision shall include at least the following substantive and procedural provisions relative to the initiation of action to enforce the obligations of the subdivider and the surety under the Bond:

- (1) The governing body of the Association shall be directed to consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvement for which a Notice of Completion has not been filed within 60 days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any common-area improvement, the governing body shall be directed to consider and vote on the aforesaid question if a Notice of Completion has not been filed within 30 days after the expiration of the extension.
- (2) A special meeting of members for the purpose of voting to override a decision by the governing body not to initiate action to enforce the obligations under the Bond or on the failure of the governing body to consider and vote on the question. The meeting shall be required to be held not less than 35 days nor more than 45 days after receipt by the governing body of a petition for such a meeting signed by members representing 5% or more of the total voting power of the Association.
- (3) A vote by members of the Association other than the subdivider at the special meeting called for the purpose set forth in (2) above.
- (4) A vote of a majority of the voting power of the Association residing in members other than the subdivider to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the governing body shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

2792.15 Reasonable Arrangements—Transfer of Common Areas and Facilities to Association.

(a) In subdivisions in which all or a portion of the common areas and facilities are to be transferred to the Association, those areas and facilities shall be transferred to the Association or to a corporate trustee under a trust agreement acceptable to the Commissioner prior to or coincident with the first transfer or conveyance of a subdivision interest by the subdivider.

(b) The subdivider may create a contractual right in himself or may reserve easements of limited duration, for common driveway purposes, for drainage and encroachment purposes, and for ingress to and egress from the common areas for the purpose of completing improvements thereon or for the performance of necessary repair work and, in the case of phased subdivision projects, for entry onto adjacent property in connection with the development of additional phases of the overall project.

2792.16 Reasonable Arrangements—Assessments and Liens.

(a) Regular assessments to defray expenses attributable to the ownership, operation and furnishing of common interests by the Association shall ordinarily be levied against each owner according to the ratio of the number of subdivision interests owned by the owner assessed to the total number of interests subject to assessments.

(b) In the case of a subdivision offering in which it is reasonable to anticipate that any owner will derive as much as 10% more than any other owner in the value of common services supplied by the Association, the assessment against each owner may be determined according to a formula or schedule under which the assessments against the various subdivision interests bear a relationship which is equitably proportionate to the value of the common services furnished to the respective interests.

(c) The subdivider— and his successor in interest, if any— is an owner subject to the payment of regular and special assessments against subdivision interests which he owns provided, however, that the subdivider and any other owner of a subdivision interest which does not include a structural improvement for human occupancy may be exempted by the governing instruments from the payment of that portion of any assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and the use of the structural improvements. The exemption may include, but shall not necessarily be limited to:

- Roof replacement;
 - Exterior maintenance;
 - Walkway and carport lighting;
 - Refuse disposal;
 - Cable television; and
 - Domestic water supplied to living units
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(1) Any exemption from the payment of assessments attributed to dwelling units shall be in effect only until the earliest of the following events.

- (A) A notice of completion of the structural improvements has been recorded.
 - (B) Occupation or use of the dwelling unit.
 - (C) Completion of all elements of the residential structures which the Association is obliged to maintain.
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(2) The subdivider and any other owner of a subdivision interest may be exempted by the governing instruments from the payment of that portion of any assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of a common facility that is not complete at the time assessments commence. Any exemption from the payment of assessments attributed to common facilities shall be in effect only until the earliest of the following events.

(A) A notice of completion of the common facility has been recorded.

(B) The common facility has been placed into use.

(d) The governing body of the Association must comply with the provisions of Section 1366 of the Civil Code, prior to any increase in assessments.

(e) (1) The governing body of the Association may not levy special assessments without complying with the provisions of Section 1366 of the Civil Code.

(f) (1) Regular assessments against the subdivision interests in a phase of a multi-phase subdivision or against all subdivision interests in a single-phase subdivision shall commence on the date of the first conveyance of a subdivision interest in that phase under authority of a public report or on the first day of the month following the first conveyance of a subdivision interest in the phase.

(2) Except in those subdivision offerings where there is an approved subsidization plan which otherwise provides, voting rights attributable to subdivision interests shall not vest until assessments against those interests have been levied by the Association.

(g) (1) A lien for regular or special assessments against an owner may be made subordinate by the CC&R's to the lien of any first mortgage or first deed of trust (hereafter collectively first encumbrance) against subdivision interests of the owner.

(2) In the case of a subordination of a lien for assessments to a first encumbrance, the transfer of a subdivision interest as the result of the exercise of a power of sale or a judicial foreclosure involving a default under the first encumbrance shall extinguish the lien of assessments which were due and payable prior to the transfer of the subdivision interest.

(3) No transfer of the subdivision interest as the result of a foreclosure or exercise of a power of sale shall relieve the new owner, whether it be the former beneficiary of the first encumbrance or another person, from liability for any assessments thereafter becoming due or from the lien thereof.

(h) (1) For the purpose of subdivision (d) and subdivision (e), a quorum means more than 50% of the members of the Association.

(2) Any meeting or election of the Association for purposes of complying with subdivision (d) and subdivision (e) shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code.

(i) Notwithstanding any other provision contained in this section, the governing body may increase assessments necessary for emergency situations pursuant to Section 1366 of the Civil Code.

(j) The governing body shall not expend funds designated as reserve funds for any purpose other than those purposes set forth in Section 1365.5 of the Civil Code.

2792.17 Reasonable Arrangements—Members’ Meetings.

- (a) Regular meetings of members of the Association shall be held not less frequently than once each calendar year at a time and place prescribed by the Bylaws. The first meeting of the Association, whether a regular or special meeting, shall be held within 45 days after the closing of the sale of the subdivision interest which represents the 51st percentile interest authorized for sale under the first public report for the subdivision, provided that public report authorizes the sale of 50 subdivision interests or more in the subdivision. However, in no event shall the meeting be held later than six months after the closing of the sale of the first subdivision interest.
- (b) Meetings of Association members shall be conducted in accordance with the provisions of Section 1363 of the Civil Code.
- (c) A special meeting of the members of the Association shall be promptly scheduled by the governing body in response to:
 - (1) The vote of the governing body itself.
 - (2) Written request for a special meeting signed by members representing at least 5% of the total voting power of the Association.
- (d) Written notice of regular and special meetings shall be given to members by the governing body by any means which is appropriate given the physical setup of the subdivision. This notice shall be given not less than 10 nor more than 90 days before the date of any meeting at which members are required or permitted to take any action. The notice shall specify the place, day and hour of the meeting and the matters the governing body intends to present for action by the members. Except as otherwise provided by law, any proper matter may be presented at the meeting for action.
- (e) (1) Except as provided in Sections 2792.16(d) and (e)(1), a quorum for the transaction of business at a meeting of members of the Association through presence in person or by proxy shall be established at a percentage of not less than 25% and not more than 66-2/3% of the total voting power of the Association. Within these percentage limits, the quorum requirements for members’ meetings shall be suited to such factors as the proposed physical layout of the subdivision, the contemplated number of owners of subdivision interests and the nature and extent of the common areas, facilities and services.
 - (2) In the absence of a quorum at a members’ meeting, a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five days and not more than 30 days from the original meeting date. The quorum for an adjourned meeting may be set by the governing instruments at a percentage less than that prescribed for the regular meeting, but it shall not be less than 25 percent of the total voting power of the Association. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings.
- (f) Any action which may be taken by the vote of members at a regular or special meeting, except the election of governing body members where cumulative voting is a requirement, may be taken without a meeting if done in compliance with the provisions of Section 7513 of the Corporations Code.

(g) Any form of proxy or written ballot distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon, except it shall not be mandatory that a candidate for election to the governing body be named in the proxy or written ballot. The proxy or written ballot shall provide that, where the member specifies a choice, the vote shall be cast in accordance with that choice. The proxy shall also identify the person or persons authorized to exercise the proxy and the length of time it will be valid.

2792.18 Reasonable Arrangements—Members’ Voting Rights.

(a) With the exception of those Associations which have two classes of voting membership, a member of an Association, including an Association which provides for unequal assessments against the subdivision interests, shall be entitled to one vote for each subdivision interest owned. If a subdivision interest is owned by more than one person, each such person shall be a member of the Association, but there shall be no more than one vote for each subdivision interest.

(b) An Association may have two classes of voting membership according to the following provisions:

(1) Each owner of a subdivision interest other than a subdivider is a Class A member. Class A membership entitles the holder to one vote for each subdivision interest owned.

(2) The subdivider is a Class B member. Class B membership entitles the holder to not more than three votes for each subdivision interest owned.

(3) In a single-phase subdivision development, Class B membership shall be irreversibly converted to Class A membership on the first to occur of the following:

(A) The total outstanding votes held by Class A members equal the total outstanding votes held by the Class B member.

(B) A prescribed date which is not later than the second anniversary of the first conveyance of a subdivision interest in the development.

(4) In a multi-phase development for which the subdivider has submitted a plan for phased development through annexation which satisfies the requirements of Section 2792.27, the Class B membership shall be irreversibly converted to Class A membership on the first to occur of the following:

(A) A prescribed date certain which is not later than the second anniversary of the first conveyance of a subdivision interest in the most recent phase of the development.

(B) A prescribed date certain which is not later than the fourth anniversary of the first conveyance of a subdivision interest in the first phase of the development.

(c) With the exception of Section 2792.4, no regulation which requires the approval of a prescribed majority of the voting power of members of the Association other than the subdivider for action to be taken by the Association is intended to preclude the subdivider from casting votes attributable to subdivision interests which he or she owns. Governing instruments may specify either or both of the following for approval of action for which a regulation of the Department—other than Section 2792.4—

requires the approval of a prescribed majority of the voting power of members of the Association other than the subdivider:

(1) In those Associations in which Class A and Class B voting memberships have been prescribed in accordance with this regulation, the vote or written assent of a bare majority of the Class B voting power as well as the vote or written assent of a prescribed majority of the Class A voting power.

(2) In those Associations in which a single class of voting membership exists, either as originally established or after the conversion of Class B to Class A shares, the vote or written assent of a bare majority of the total voting power of the Association as well as the vote or written assent of a prescribed majority of the total voting power of members other than the subdivider.

2792.19 Reasonable Arrangements—Election of Governing Body.

(a) The first election of a governing body for the Association shall be conducted at the first meeting of the Association.

All positions on the governing body shall be filled at that election.

(b) (1) Voting for the governing body shall be by secret written ballot. Cumulative voting in the election of governing body members shall be prescribed for all elections in which more than two positions on the governing body are to be filled subject only to the procedural prerequisites to cumulative voting prescribed in Section 7615(b) of the Corporation Code.

Voting for the governing body shall be by secret written ballot.

(2) Unless the entire governing body is removed from office by the vote of members of the association, no individual governing body members shall be removed prior to the expiration of his term of office if the votes cast against removal would be sufficient to elect the governing body member if voted cumulatively at an election at which the same total number of votes were cast and the entire number of governing body members authorized at the time of the most recent election of the governing body member were then being elected.

(c) (1) A special procedure shall be established by the governing instruments to assure that from the first election of the governing body and thereafter for so long as a majority of the voting power of the Association resides in the subdivider, or so long as there are two outstanding classes of membership in the Association, not less than 20% of the incumbents on the governing body shall have been elected solely by the votes of owners other than the subdivider.

(2) A governing body member who has been elected to office solely by the votes of members of the Association other than the subdivider may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in members other than the subdivider.

2792.20 Reasonable Arrangements—Governing Body Meetings.

(a) Regular meetings of the governing body of the Association shall be held as prescribed in the Bylaws. Ordinarily such meetings shall be conducted at least monthly, though the Bylaws may prescribe meetings as infrequently as every six months if business to be transacted by the governing body does not justify more frequent meetings.

(b) (1) Regular meetings of the governing body shall be held at a time and at a meeting place fixed by the governing body from time to time. The meeting place shall ordinarily be within the subdivision itself unless in the judgment of the governing body a larger meeting room is required than exists within the subdivision in which case the meeting room selected shall be as close as possible to the subdivision.

(2) Notice of the time and place of a regular meeting shall be posted at a prominent place or places within the common area and shall be communicated to governing body members not less than four days prior to the meeting unless the time and place of meeting is fixed by the Bylaws provided however that notice of a meeting need not be given to any governing body member who has signed a waiver of notice or a written consent to holding of the meeting. If the common area consists only of an easement or is otherwise unsuitable for posting of such notice, the governing body shall communicate the notice of the time and place of such meeting by any means it deems appropriate.

(c) (1) A special meeting of the governing body may be called by written notice signed by the President of the Association or by any two members of the governing body other than the President.

(2) The Notice shall specify the time and place of the meeting and the nature of any special business to be considered.

(3) Notice shall be posted or communicated in a manner prescribed for notice of regular meetings and shall be sent to all governing body members not less than 72 hours prior to the scheduled time of the meeting provided, however, that notice of the meeting need not be given to any governing body member who signed a waiver of notice or a written consent to holding of the meeting.

(d) Regular and special meetings of the governing body shall be governed by the provisions of Section 1363.05 of the Civil Code.

(e) (1) The governing body may take actions without a meeting if all of its members consent in writing to the action to be taken.

(2) If the governing body resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the common area within three days after the written consents of all governing body members have been obtained. If the common area consists only of an easement or is otherwise unsuitable for posting the explanation of the action taken, the governing body shall communicate said explanation by any means it deems appropriate.

2792.21 Reasonable Arrangements—Governing Body Powers and Limitations.

(a) The powers and duties of the governing body of the Association shall normally include, but shall not be limited to, the following:

(1) Enforcement of applicable provisions of the CC&R's Articles, Bylaws and other instruments for the ownership, management and control of the subdivision.

(2) Payment of taxes and assessments which are, or could become, a lien on the common area or a portion thereof.

- (3) Contacting for casualty, liability and other insurance on behalf of the Association. _____
- (4) Contracting for goods and/or services for the common areas, facilities and interests or for the Association subject to the limitations set forth below. _____
- (5) Delegation of its powers to committees, officers or employees of the Association as expressly authorized by the governing instruments. _____
- (6) Preparation of budgets and financial statements for the Association as prescribed in the governing instruments. _____
- (7) Formulation of rules of operation of the common areas and facilities owned or controlled by the Association. _____
- (8) Initiation and execution of disciplinary proceedings against members of the Association for violations of provisions of the governing instruments in accordance with procedures set forth in the governing instruments. _____
- (9) Entering upon any privately-owned subdivision interest as necessary in connection with construction, maintenance or emergency repair for the benefit of the common area or the owners in common. _____
- (10) Election of officers of the governing body. _____
- (11) Filling of vacancies on the governing body except for a vacancy created by the removal of a governing body member. _____
- (b) The governing body of the Association shall ordinarily be prohibited from taking any of the following actions, except with the assent, by vote at a meeting of the Association or by written ballot without a meeting pursuant to Corporations Code Section 7513, of a simple majority of the members, other than the subdivider, constituting a quorum consisting of more than 50 percent of the voting power of the Association residing in members other than the subdivider:
- (1) Entering into a contract with a third person wherein the third person will furnish goods or services for the common area or the owners' Association for a term longer than one year with the following exceptions:
- (A) A management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.
- (B) 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.
- (C) Prepaid casualty and/or liability insurance policies of not to exceed three years duration provided that the policy permits short rate cancellation by the insured.
- (D) Lease agreements for laundry room fixtures and equipment of not to exceed five years duration provided that the lessor under the agreement is not an entity in which the subdivider has a direct or indirect ownership interest of 10 percent or more.

(E) Agreements for cable television services and equipment or satellite television services and equipment of not to exceed five years duration provided that the supplier is not an entity in which the subdivider has a direct or indirect ownership interest of 10 percent or more.

(F) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five years duration provided that the supplier or suppliers are not entities in which the subdivider has a direct or indirect ownership interest of 10 percent or more.

(G) A contract for a term not to exceed three years that is terminable by the Association after no longer than one year without cause, penalty or other obligation upon ninety (90) days written notice of termination to the other party.

(2) Incurring aggregate expenditures for capital improvements to the common area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year.

(3) Selling during any fiscal year property of the Association having an aggregate fair market value greater than 5% of the budgeted gross expenses of the Association for that fiscal year.

(4) Paying compensation to members of the governing body or to officers of the Association for services performed in the conduct of the Association’s business provided, however, that the governing body may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

(5) In the case of a limited equity housing cooperative, using the corporate equity for any purpose permitted under Section 33007.5(d)(1) of the Health and Safety Code without the vote or written consent of a bare majority of the stock or membership interests or resident owners.

2792.23 Reasonable Arrangements—Inspection of Association’s Books and Records.

(c) The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the members, of the governing body and of committees of the governing body of the Association shall be made available for inspection and copying by any member of the Association—or by his duly-appointed representative—at any reasonable time and for a purpose reasonably related to his interest as a member, at the office of the Association or at such other place within the subdivision as the governing body shall prescribe.

(d)(1) In the case of the minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the governing body, other than an executive session, shall be available to members within 30 days of the meeting and shall be distributed to only members upon request and payment of the fee prescribed in (e)(3) below.

(2) At the time the pro forma operating budget is distributed or at the time of any general mailing, members of the Association shall be notified in writing of their right to have copies of the minutes of meetings of the governing body and as to how and where those minutes may be obtained and the cost of obtaining such copies.

- (e) The governing body shall establish reasonable rules with respect to:
 - (1) Notice to be given to the custodian of the records by the member of the Association desiring to make the inspection.
 - (2) Hours and days of the week when such an inspection may be made.
 - (3) Payment of the cost of reproducing copies of documents requested by a member of the Association.

- (f) Every member of the governing body shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a member of the governing body includes the right to make extracts and copies of documents.

2792.24 Reasonable Arrangements—Governing Instruments Amendments.

- (a) In a single-class voting structure, amendments of the CC&R’s may be enacted by requiring the vote or written assent of members representing both:
 - (1) A majority of the total voting power of the association which is at least a bare majority and not more than 75%; and
 - (2) At least a bare majority of the votes of members other than the subdivider.

The percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. For example, if the CC&R’s expressly state that 75% of the voting power must agree to an increase in the maximum annual assessment, then 75% of the voting power is necessary to amend this provision regardless of the percentage prescribed in the general provision pertaining to amendments of the CC&R’s.

- (b) Amendments of the Articles or Bylaws shall require the vote or written assent of members as follows:
 - (1) An owners Association other than for a limited equity housing cooperative.
 - (A) Articles
 - (i) At least a bare majority of the governing body; and
 - (ii) At least a bare majority of the voting power of the Association; and
 - (iii) At least a bare majority of the votes of members other than the subdivider.
 - (B) Bylaws
 - (i) At least a bare majority of a quorum, but not more than a bare majority of the voting power of the Association; and
 - (ii) At least a bare majority of the votes of members other than the subdivider.
 - (2) An owners association for a limited equity housing cooperative.
 - (A) Articles
 - (i) At least a bare majority of the governing body; and
 - (ii) At least 66-2/3 percent of the resident-owner members or shareholders.
 - (B) Bylaws
 - (i) At least 66-2/3 percent of the resident-owner members or shareholders

- (c) Notwithstanding the provisions of (b) above, the percentage of a quorum or of the voting power of the Association or of members other than the subdivider necessary to amend a specific clause or provision in the Articles or Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

- (d) If a two-class voting structure is provided and is still in effect in the Association, none of the governing instruments may be amended without the vote or written assent of a prescribed percentage of the voting power of each class of membership or a prescribed percentage of a quorum of members of each class.

- (e) If a two-class voting structure was originally provided in the governing instruments, but is no longer in effect because of the conversion of one class to the other, the provisions for amending the governing instruments set forth in subdivisions (a) and (b) above shall be applicable.

2792.26 Reasonable Arrangements—Disciplining of Members by the Association.

- (a) The Association cannot be empowered to cause a forfeiture or abridgement of an owner’s right to the full use and enjoyment of his individually-owned subdivision interest on account of the failure by the owner to comply with provisions of the governing instruments or of duly-enacted rules of operation for common areas and facilities except by judgement of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of the owner to pay assessments duly levied by the Association.

- (b) The governing instruments shall include provisions which authorize the governing body to impose monetary penalties, temporary suspensions of an owner’s rights as a member of the Association or other appropriate discipline for failure to comply with the governing instruments provided that the procedures for notice and hearing, satisfying the minimum requirements of Subdivisions (h) of Section 1363 of the Civil Code, are followed with respect to the accused member before a decision to impose discipline is reached.

- (c) A monetary penalty imposed by the Association as a disciplinary measure for failure of a member to comply with the governing instruments or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to common areas and facilities for which the member was allegedly responsible or in bringing the member and his subdivision interest into compliance with the governing instruments may not be characterized nor treated in the governing instruments as an assessment which may become a lien against the member’s subdivision interest enforceable by a sale of the interest in accordance with the provisions of Section 2924, 2924(b) and 2924(c) of the Civil Code.

- (d) The provisions of subdivision (c) do not apply to charges imposed against an owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys’ fees) in its efforts to collect delinquent assessments.

2792.27 Reasonable Arrangements—Annexation of Property to the Subdivision.

- (a) Provisions in the CC&R’s to effect the annexation of real property to the existing subdivision shall require the vote or written assent of not less than 66-2/3% of the total votes residing in Association members other than the subdivider unless the proposed annexation is in substantial conformance with a detailed plan of phased development submitted to the Commissioner with the application for a public report for the first phase of the subdivision.

- (b) The plan for phased development through annexation referred to in subdivision (a) must include, but need not be limited to, the following:
 - (1) Proof satisfactory to the Commissioner that no proposed annexation will result in an overburdening of common facilities.
 - (2) Proof satisfactory to the Commissioner that no proposed annexation will cause a substantial increase in assessments against existing owners which was not disclosed in subdivision public reports under which pre-existing owners purchased their interests.
 - (3) Identification of the land proposed to be annexed and the total number of residential units then contemplated by the subdivider for the overall subdivision development.
 - (4) A written commitment by the subdivider to pay to the Association, concurrently with the closing of the escrow for the first sale of a subdivision interest in an annexed phase, appropriate amounts for reserves for replacement or deferred maintenance of common area improvements in the annexed phase necessitated by or arising out of the use and occupancy of residential units under a rental program conducted by the subdivider which has been in effect for a period of at least one year as of the date of closing of the escrow for the first sale of a residential unit in the annexed phase.

2792.28 Reasonable Arrangements—Architectural and Design Control.

- (a) The committee for the control of structural and landscaping architecture and design (Architectural Control Committee) within the subdivision shall consist of not less than three nor more than five members.

- (b) The subdivider may appoint all of the original members of the Architectural Control Committee and all replacements until the first anniversary of the issuance of the original public report for the first (or only) phase of the subdivision. The subdivider may reserve to himself the power to appoint a majority of the members of the committee until 90% of all the subdivision interests in the overall development have been sold or until the fifth anniversary of the original issuance of the Final Public Report for the first (or only) phase of the subdivision, whichever first occurs.

- (c) After one year from the date of issuance of the original public report for the first (or only) phase of the subdivision, the governing body of the Association shall have the power to appoint one member to the Architectural Control Committee until 90% of all of the subdivision interests in the overall development have been sold or until the fifth anniversary date of the original issuance of the Final Public Report for the first (or only) phase of the subdivision, whichever first occurs. Thereafter the governing body of the Association shall have the power to appoint all of the members of the Architectural Control Committee.

2791.8 Dispute Resolution

Note: Although alternative dispute resolution provisions are optional, they must comply with Regulation 2791.8 if included in the CC&Rs.

(a) A contractual provision setting forth terms, conditions and procedures for resolution of a dispute or claim between a homeowner and a subdivider, or a provision in the covenants, conditions and restrictions setting forth terms, conditions and procedures for resolution of a dispute of claim between a homeowners association and a subdivider shall, at a minimum, provide that the dispute or claim resolution process, proceeding, hearing or trial to be conducted in accordance with the following rules:

- (1) For the subdivider to advance the fees necessary to initiate the dispute or claim resolution process, with the costs and fees, including ongoing costs and fees, if any, to be paid as agreed by the parties and if they can't agree then the costs and fees are to be paid as determined by the person or persons presiding at the dispute or claim resolution proceeding or hearing.
- (2) For a neutral or impartial person(s) to administer and preside over the claim or dispute resolution process.
- (3) For the appointment, or selection, as designation, or assignment of the person(s) to administer and preside over the claim or dispute resolution process within a specific period of time, which in no event shall be more than sixty (60) days from initiation of the claim or dispute resolution process or hearing. The person(s) appointed, selected, designated or assigned to preside may be challenged for bias.
- (4) For the venue of the claim or dispute resolution process to be in the county where the subdivision is located unless the parties agree to some other location.
- (5) For the prompt and timely commencement of the claim or dispute resolution process. When the contract provisions provide for a specific type of claim or dispute resolution process, the process shall be deemed to be promptly and timely commenced if it is to be commenced in accordance with the rules applicable to that process, or if the rules don't specify a date by which the proceeding or hearing must commence, then to a date agreed upon by the parties, and if they cannot agree, a date determined by the person(s) presiding over the dispute resolution process.
- (6) For the claim or dispute resolution process to be conducted in accordance with rules and procedures that are reasonable and fair to the parties.
- (7) For the prompt and timely conclusion of the claim or dispute resolution process, including the issuance of any decision or ruling following the proceeding or hearing.
- (8) For the person(s) presiding at the claim or dispute resolution process to be authorized to provide all recognized remedies available in law or equity for any cause of action that is the basis of the proceeding or hearing. The parties may authorize the limitation or prohibition of punitive damages.

(b) A copy of the rules applicable to the claim or dispute resolution process shall be submitted as part of the application for a public report.

(c) If the claim or dispute resolution process provides or allows for a judicial remedy in accordance with the laws of this state, it shall be presumed that the proceeding or hearing satisfies the provisions of paragraph (a).