

# BY-LAWS OF THE LAKE CANYON MUTUAL WATER COMPANY

*Amended by the Board on January 18, 2017*

## **ARTICLE I - MEMBERSHIP AND DUES**

Members of this corporation shall be the holders of legal title or holders of notarized contract of sale, to the parcels of land within the Subdivision of those certain tract of land situated in the County of Santa Clara, state of California, described as follows:

**FIRST:** All of the property described in Map No.1 of Lake Canyon as recorded in Volume "V" of Maps, at page 13, Records of Santa Clara County, California.

**SECOND:** All of the property described in Map No.2 of Lake Canyon as recorded in Volume "V" of Maps, at pages 50 and 51, Records of Santa Clara County, California.

**THIRD:** The two parcels of land recorded in Santa Clara County as Assessor Parcel Number 544-11-001 and 544-14-013.

Hereinafter referred to as "Subdivisions", and the holding of legal title or notarized contract of sale to any improved parcel shall be the sole qualification for a voting membership in the corporation, provided, however, that it shall be a condition precedent to the exercise of the rights of membership that such title appear of record in the County of Santa Clara, State of California or notarized contract of sale on file with Secretary/Treasurer, and provided further that membership in the corporation incident thereto, shall be appurtenant to the said land of the member and shall pass to the grantee of all and/or a part of the lands of any member proportionately.

The word "Subdivisions" as used herein refers to subdivisions of the whole or part of the herein above described lands of which Subdivision maps are recorded in the office of the County Recorder of said Santa Clara County, and only after such maps are recorded. No one holding title to any of said land shall be entitled to membership in this corporations unless and until the lands so owned are shown upon the Subdivision map recorded as aforesaid, with the exception of parcel # 544-11-001 and 544-14-013 as recorded in the office of the County Recorder of said Santa Clara County, State of California,

The word "Unimproved Lot" as used in these By-Laws is hereby defined: A lot as shown and designated upon any of the maps herein above referred to and be defined as "vacant urban" by Santa Clara County tax records. Owners of said lots shall have a non-voting membership. The service charge for unimproved lots is for minimal road maintenance and does not give rights to water hook ups or the assumption that water will be available for usage or development of unimproved parcels.

The word "Improved Parcel(s)" as used in these By-Laws is hereby defined: A lot as shown and designated upon any of the maps herein above referred to and structure permanently upon it and to be defined in by Santa Clara County tax records. Membership in the corporation shall lapse and cease upon the transfer of record of legal title of all lands of the member in said Subdivisions. Owners of said parcel(s) shall have a voting membership. Voting membership maybe transferred if Secretary-Treasurer has on file a contract of sale with the notarized signature of both grantor and grantee.

To convert from an unimproved, non-voting member to an improved, voting member, the member must make the request in writing to the Board. Before the Board can approve a request for hook up and conversion to an improved status, the Board must determine that the current infrastructure is sufficient to provide the additional water hook up and traffic loads without jeopardizing the community. The cost for any studies or reports must be paid for by the applicant and does not guarantee or give the rights to a hook up and is nonrefundable. The engineering firm commissioned to complete any studies or reports must be approved by the Board. The report and the decision to grant a hook up/voting membership must also take into consideration any dwellings that are currently unoccupied and any previously improved parcels that have the rights to a hook up. The cost of hook up/ voting membership shall be determined by the Board and shall include all assessments and fees that the Board deems necessary.

When an improved parcel is owned in joint tenancy, or tenancy in common, the membership as to such improved parcel shall be joint, and the rights of such membership (including the voting power arising therefrom), shall be exercised only by joint action of all owners.

#### Cross Connection Control Program

Each member shall be subject to the rules and regulations of the Cross-Connection Control Program. The purpose of the program is to protect the Water Company's water supply system from contamination due to potential and actual cross-connections. The establishment of this program is pursuant to California Code of Regulations, Title 17, Sections 7583 through 7605.

## Responsibility

The Water Company's Water Treatment Operator ("Operator") shall work at the discretion of the Corporation and shall be responsible for implementing and enforcing the cross-connection control program. The Operator shall be state certified in both treatment and distribution, trained in cross-connection control, and familiar with the rules and regulations of the Cross-Connection Control Program.

## Cross-Connection Protection Requirements

An appropriate backflow prevention assembly shall be installed, as close as practical to each member's connections and/or water meter. Each member shall install at their expense each connection where required to prevent backflow from the member's premises.

The type of protection that shall be provided to prevent backflow into the Water Company's water supply system shall be commensurate with the degree of hazard, actual or potential, that exists on each member's premises.

Unprotected cross-connections with the Water Company's water supply are prohibited. The type of backflow prevention assembly that may be required (listed in decreasing level of protection) includes: Air-Gap Separation (AG), Reduced Pressure Principle Backflow Prevention Assembly (RP), and double check Valve Assembly (DC). A member may choose a higher level of protection than required by the Operator. The minimum type of backflow protection required to protect the water supply at the member's water connection to premises with varying degrees of hazard are listed in Table 1 of California Code of Regulations Section 7604, Title 17. Situations which are not covered in Table 1 shall be evaluated on a case-by-case basis and the appropriate backflow protection shall be determined by the Operator. Each member shall be responsible for complying with the requirements of the Operator and the Water Company. At its discretion, the Operator may coordinate installation of the backflow device on behalf of a member. Each member will remain responsible for the entire expense of the backflow device and its installation. The Water Company may restrict any member's entitlement to use of water from the Water Company's water system if the member is delinquent in fees.

## Permitted Backflow Prevention Assembly Devices

Only backflow prevention assemblies which have been approved by the Operator shall be acceptable for installation by a member. A list of approved backflow prevention assemblies shall be provided upon request to any affected member. A

list of approved backflow prevention assemblies shall be installed in a manner prescribed in California Code of Regulations Section 7603, Title 17.

#### Testing of Backflow Prevention Assembly Devices

Testing of backflow assemblies shall be conducted only by qualified testers and testing will be the responsibility of each member. Backflow prevention assemblies must be tested at least annually and immediately after installation, relocation, or repair. More frequent testing may be required if deemed necessary by the Operator or the Water Company. No assembly shall be placed back in service unless it is functioning as required. The assemblies shall be serviced, overhauled, or replaced whenever they are found to be defective and all costs of testing, repair, and maintenance shall be borne by the member.

Approval must be obtained from the Operator acting on behalf of the Water Company before removing, relocating, or replacing a backflow prevention assembly.

#### Cross-Connection Prevention

The Operator shall conduct necessary surveys of each member's premises to evaluate the degree of potential health hazards. The first survey will be completed within three months of the adoption of this section of the By-Laws and shall be repeated at least once every three years.

The Operator shall notify a member when an assembly needs to be tested. The notice will contain the date by which the test must be completed. The Operator may coordinate testing of the backflow device on behalf of the member.

The member shall be responsible for all expenses related to the testing, repair, replacement and maintenance of backflow devices.

When a member's premises has a multi-piping system that conveys various types of fluids, some of which may be hazardous, and where changes in the piping system are frequently made, the Operator shall designate a "User Supervisor". The User Supervisor shall be responsible for the avoidance of cross-connections during the installation, operation, and maintenance of the member's pipelines and equipment.

## Record Maintenance

The Operator shall maintain records on backflow prevention assembly device location, testing, and repair, and results of cross-connection control surveys conducted.

## Joint Ownership of Parcels

When an improved parcel is owned in joint tenancy, or tenancy in common, the membership as to such improved parcel shall be joint, and the rights of such membership (including the voting power arising therefrom), shall be exercised only by joint action of all owners.

No membership fee shall be charged. All funds necessary for carrying out the purpose of the corporation shall be provided by one or more of the methods as follows:

1. A service charge to be set by the board of directors per improved parcel to be paid by holder of legal title of each improved parcel, or upon subsequent acquisition of said improved parcel by new owners. The charge of providing water to a new hookup (permits, labor, materials, etc.) will be paid by the owner(s) of legal title.
2. A service charge, consumption fee, and an allocation fee, per improved parcel to be determined yearly at the May Members meeting or the June Board of Directors meeting. During periods of a State of Water Emergency, as declared by the Board of Directors, an increase to the service charge or consumption fees may be levied by a 4/5 majority vote of the Board. Subsequently, a 10-day public notice will be given for any proposed rate increase before said increase will take effect. "Public notice" to the members shall be defined as mailing a copy of the proposed increase to the last known place of residence or business, with the 10-day requirement commencing on the date of mailing.
3. A service charge equal to  $\frac{1}{4}$  the yearly service charge shall be levied upon each unimproved lot. Where two or more unimproved lots adjoin and are contiguous to one another and owned by the same person(s), said lot shall be assessed as one unimproved lot. For the purpose of this service charge, any unimproved lot or lots that are contiguous to an improved parcel owned by the same person(s) shall be counted as part of said improved parcel.

4. A special assessment may be levied upon all parcels by a 4/5 majority resolution of the Board of Directors. The members shall be notified of special assessments by mailing a copy of the resolution to the last known place of residence or business. Each such resolution shall fix a date when the assessment shall be payable and a date when all unpaid portions thereof shall be delinquent. A fee per month delinquency charges will be added to all unpaid portions after sixty days past due. The fee shall be set by the Board of Directors and added to the Fees and Charges Document.

5. During times of declared water emergencies the Board of Directors has the responsibility to adjust rates and allocation so that each household will have adequate water for basic household functions. This may be accomplished by a majority approval of the Board members present.

No member shall be entitled or permitted to use any water from the corporation's water system until all delinquent assessments and service charges have been paid upon the land owned by him, unless arrangements acceptable to the board have been made. All delinquent assessments and services charges shall be charged as stated in the PAYMENT & DELINQUENCY POLICY shall be applied. No member shall be authorized or permitted to use water from said system in a wasteful manner. Any member so using water in a wasteful manner, (5) days after notice from the Board of Directors may have water terminated/restricted. In cases where there is a suspected broken line, water may be terminated without notice to prevent major loss of water. Water may be reconnected/unrestricted only after security is made satisfactory to the Board of Directors is given against any further waste of water and the cost of unrestricting; or reconnecting service to residence. Rules and regulations for the usage of water and roads systems shall be made by the Board of Directors.

### ***ARTICLE II--Property Rights and Interest.***

Each voting member of the corporation shall have such a property interest in the corporation as is represented by the ration of the number of votes to which each member is entitled, to the total possible number of votes that may be voted by all members of the corporation, provided, however, that such interest is, and shall be, appurtenant to the improved parcels within the said subdivisions owned by such member(s).

### ***ARTICLE III--Corporate Powers.***

The corporate powers of this corporation shall be vested in a board of five directors, who shall be members of this corporation, and three shall constitute a quorum for the transaction of business.

#### ***ARTICLE IV--Election of Directors.***

The directors shall be elected by ballot, at the annual meeting of the members of this corporation, to serve for one year or until their successors are elected. Their term of office shall begin immediately after election.

#### ***ARTICLE V--Vacancies.***

Vacancies in the Board of Directors shall be filled by the remaining Directors when assembled as a Board with a quorum present, and such appointed shall hold office until the first annual meeting of the members thereafter.

#### ***ARTICLE VI--Powers of Directors.***

The Directors shall have power:

**First:** To call special meetings of the members whenever they deem it necessary. And they shall call a meeting of the member at any time upon the written request of ten members.

**Second:** To appoint and remove at pleasure any officers, agents, employees of the corporation, prescribe their duties, fix their compensation.

**Third:** To conduct, manage and control the affairs and business of the corporation, and make rules and regulations not inconsistent with the laws of the State of California or the By-laws of the Corporation, for the guidance of the officers and management of the affairs of the corporation.

#### ***ARTICLE VII--Duties of the Directors.***

It shall be the duty of the Directors:

**First:** To cause to be kept a complete record of all their minutes and acts, and of the proceedings of the members, and present a full statement at the regular annual meeting of the members, showing in detail the assets and liabilities of the corporation, and generally the condition of its affairs.

**Second:** To supervise all officers, agents and employees and see that their duties are properly performed, and cause certificates of membership to be issued to the members of the corporation.

#### ***ARTICLE VIII--Officers***

The officers shall be President, Vice-President, Secretary, Treasurer which officers shall be elected by and hold office at the pleasure of the Board of Directors. The compensation and tenure of office of all officers of the corporation (other than directors) shall be fixed and determined by the Board of Directors.

All officers of the corporation (other than directors) may be appointed and elected by the Board of Directors by motion duly seconded and carried, or by resolution of

the Board of Directors.

## **ARTICLE IX--President.**

The Board of Directors shall, at their first regular meeting, elect one of the board members to act as President; and if at any time the President shall be unable to act, the Vice-President shall take his place and perform his duties; and if the Vice-President, for any cause, shall be unable to act, the board shall appoint another board member to carry out the duties of President for that meeting. The President shall serve not more than three consecutive years as President and may not serve as President again until one year has passed. The Presidents duties shall be as follows:

**First:** Shall preside over all meetings of the members and Directors, and shall have the casting vote.

**Second:** Shall sign as President all certificates of membership and all contracts and other instruments of writing which have first been approved by the Board of Directors.

**Third:** Shall have such powers as may be conferred upon him by the Board of Directors.

## **ARTICLE X—Secretary / Treasurer**

The Board of Directors shall elect a Secretary / Treasurer, or Secretary and Treasurer independent of the other.

**First:** It shall be the duty of the Secretary-Treasurer to keep a record of the proceedings of the Board of Directors, and of the members.

**Second:** He/She shall keep the corporate seal of the corporation, and the book of blank certificates issued, certificates of membership, fill up and countersign all and make the corresponding entries in the margin of such book on issuance, and he/she shall affix said corporate seal to all papers requiring a seal.

**Third:** The Secretary / Treasurer shall serve all notices required either by law or the By-laws of the Corporation, and in case of his/her absence, inability, refusal or neglect so to do, then such notices may be served by any person thereunto directed by the President or in his absents Vice-President of the corporation.

**Fourth:** He/She shall keep proper books showing legal titles to each of said Lots and parts thereof, as the same appears of record, and the dates of such transfer of record of the legal title to any of said Lots or parts thereof, and the date of issuance of certificates of membership to each new holder of record of the legal title to any of the said Lots or parts thereof, and shall



discharge such other duties as pertain to his office and as are prescribed by the Board of Directors.

**Fifth:** He/She shall receive and deposit in such bank or banks as the Board of Directors may direct, all funds of the corporation, subject to the check of such officers as the Board of Directors shall designate.

### ***ARTICLE XI--Books and Papers.***

The books and such papers as may be placed on file by vote of the members or Directors shall be subject to the inspection of the Board of Directors or of any member, by appointment.

### ***ARTICLE XII-Certificates of Membership.***

Membership certificates shall be of such form and device as the Board of Directors may direct, and each Certificate shall be signed by the President and by the Secretary-Treasurer, and express on its face its number, date of issuance, the number and description of improved parcel for which, and the person to whom, it is issued, and shall contain a statement that the property rights and interest in the corporation evidenced by said certificate shall be appurtenant to the Lot or part of a Lot, therein described, and that the membership, represented by the certificate, shall be transferred on with a Lot or Lots, described in the certificate, and shall pass as an appurtenance thereto. The certificate book shall be duplicated so that a duplicate of each certificate issued shall remain in the book and be retained by the Secretary-Treasurer.

### ***ARTICLE XIII--Transfer of Membership.***

Membership in the corporation may be transferred, at any time by the members, or by their legally constituted attorneys, by endorsement on the certificate of membership, but such transfer, may be made only to and with the successors to the legal title to the parcel, or when the Secretary / Treasurer has in his/her possession a contract of sale with the notarized signatures of all parties involved in said sale. No transfer, or division, of membership shall be valid until the surrender of the certificate, and the acknowledgment of such transfer on the books of the corporation.

No surrendered certificate shall be canceled by the Secretary before a new one is issued in lieu thereof, and the Secretary shall preserve the certificate so canceled as a voucher. If, however, a certificate shall be lost or destroyed, the Board of Directors may order a new certificate issued upon such guaranty by the parties claiming the same as the Directors may deem satisfactory.

## **1. ARTICLE XIV--Meetings.**

The annual meeting of the members shall be held in Lake Canyon, County of Santa Clara, State of California, in the month of September of each year. Members are notified as to date, time and place of annual meeting. Proxies and notification letters are postmarked no later than fourteen (14) days before the meeting.

Special meetings of the members shall be called by giving by posting on Community Bulletin Boards, posted on the Lake Canyon webpage at least seven (7) days before said meeting.

Emergency meetings shall be conducted in accordance with AB240 and applicable regulations.

No meeting of members shall be competent to transact business unless the record holders, of the legal title to a majority of the improved parcels or notarized contract of sale or proxies there of in said Subdivisions are represented, except to adjourn from day to day or until such time as may deem proper.

At such annual meeting of the members, Directors for the ensuing year shall be elected by ballot, to serve for one year and until their successors are elected. If, however, for want of a quorum or other cause, a members' meeting shall not be held on the days above named, or should the members fail to complete their election, or such other business as may be presented for their consideration, those present may adjourn.

Meeting may not adjourn for want of a quorum until at least 15 minutes after published starting time of said meeting. If for want of a quorum, an annual meeting fails to occur, the Board shall continue to serve until the next annual meeting.

All meetings of the Board of Directors of this corporation shall be called by the President, or, if they are absent or unable or refuse to act, by any Vice-President, or by any two directors. Except in the case of regular meetings of the members, written notice of the time and place of the meetings of the Board of Directors shall be delivered personally to the directors at least one day before the meeting, or sent to each director by mail or other form of written or electronic communication, at least seven (7) days before the meeting.

If in any case the address of a Director be not shown on the records or be not readily ascertainable, notice shall be given him by addressing such notice to him Lake Canyon, County of Santa Clara, State of California. Such service of notice shall be entered on the minutes of the Corporation, and the said minutes, upon being read and approved at the subsequent meeting of the Board, shall be conclusive upon the question of service. Notice of the time and place of holding an adjourned meeting of a meeting need not be given to absent Directors if the time and place be fixed at the meeting adjourned.

Notices specified in this article for members need be given only to members appearing as such on the books of the Corporation. All meetings shall be in

accordance with Robert's Rules of Order, however Robert's Rules shall not supersede these By-laws or Articles of Incorporation.

### ***ARTICLE XV--Voting.***

At all corporate meetings, each member, either in person or by proxy, shall be entitled to vote on the basis of one vote for each improved parcel in said Subdivision, to which he/she holds of record the legal title or notarized contract of sale. All proxies shall be in writing and filed with the Secretary-Treasurer, who then counts the proxies present and issues ballot with proper number of votes. Proxies may only be voted by immediate family or another member of Lake Canyon Mutual Water Company, or by person holding power of attorney for said member. Nothing in these By-laws shall give any member the right of cumulative voting.

### ***ARTICLE XVI--Amendments.***

The By-Laws may be repealed or amended or new By-Laws may be adopted at any meeting of the members by vote representing two-thirds of the votes to which all members together are entitled, or when the Board of Directors is empowered at any members meeting representing two-thirds of the voting memberships or their proxies, or by the written consent of two-thirds of the voting memberships, or by the unanimous vote of the Board of Directors, after a minimum ten-day notice is given to members.

**ARTICLE XVII--Seal.**

We the undersigned board members of Lake Canyon Mutual Water Company have ratified, on January 18, 2017.

\_\_\_\_\_, President

\_\_\_\_\_, Vice-President

\_\_\_\_\_, Board Member

\_\_\_\_\_, Board Member

\_\_\_\_\_, Board Member

(signatures on file)

Attest:

**Wilfred 'Bud' Everts**

Secretary