

BYLAWS

COLLEGE AREA
COMMUNITY GARDEN

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ARTICLE 1: OFFICES

1 - Section A. Principal Office. The principal office of the Association for the transaction of its business is located in San Diego County, California.

1 - Section B. Change of Address. The county of the Association's principal office can be changed only by amendment of these bylaws and not otherwise. The Board of Directors may, however, change the principal office from one location to another within San Diego County and such changes of address shall not be deemed an amendment of these bylaws.

ARTICLE 2: LOCATION, PURPOSE, OBJECTIVES AND SPECIFICATIONS

2 - Section A. Location. The College Area Community Garden ("CACG", the "Garden") is located in various contiguous backyard lots that are directly adjacent to the eastern most boundary of San Diego State University. The official Garden Map depicts the exact location.

2 - Section B. Purpose. CACG is an organic garden devoted to growing healthy food, to creating fellowship among and between neighbors and the San Diego State University ("SDSU") community, to teaching and research on the principles of sustainable urban agriculture, and to distributing gardening information to, and producing food for, the general community.

2 -Section C. Objectives. The objectives of the Association include the following:

- (1) Creating opportunities for members to grow food individually and communally;
- (2) Generating and disseminating information about gardening to members, neighbors, SDSU and to the greater San Diego community;
- (3) Teaching about best practices for ecologically-based agriculture and gardening;
- (4) Performing research to determine best practices for ecologically-based agriculture and gardening;
- (5) Assisting with the development of farm-to-fork programs that teach principles of nutrition and methods of cooking and food preparation that encourage consumption of Garden produce and of healthy food in general;
- (6) Distributing surplus fruits and vegetables to local organizations that help those in need such as the Food Bank; and
- (7) Engaging in such activities in furtherance of the above objectives, including but not limited to, publishing a newsletter, maintaining a website, hosting dinners and other events, convening forums on Garden-related issues, and raising funds to pay for these objectives.

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2 - Section D. Specifications

CACG Neighborhood. The CACG neighborhood is defined as any land within the geographic boundaries of the local planning group known as the College Area Community Council (CACC), which includes parts of the 92120, 92115 and or 92182 zip codes.

Garden Plots. The combination of private, shared, research and education garden plots, and their size and layout, shall be determined by the Board and may be altered from year to year. All Members, voting and non-voting, may participate in the planting and maintenance of shared garden plots, common space and overall Garden infrastructure. 50% of the total Garden plot space shall be set aside for Neighbors as defined above. 25% of the total Garden plot space shall be set aside for shared and individual plots for SDSU Affiliates as defined above, and 25% for SDSU research and education activities. "Double counting" is not allowed, i.e. an affiliate who is also a neighbor is entitled to only one private plot, not two.

Plot leasing. Any member may for a monthly fee lease a private Garden plot (the "Plot"), when available. The Plot will be reserved for the Gardener's private use for one year or one growing season, provided that such use complies with the Rules and Regulations. The number, size, location, cost, length of lease and assignment to Gardeners of private garden plots will be determined by the Board and may be altered from year to year. However, whenever a plot survives from year to year, the renter of that plot during the previous year will be given first choice to rent that plot again in the subsequent year, up to the end of the leasing period. Members are responsible to make their monthly payments for the entire period of the lease and may have their plot lease revoked if they fail to do so. Termination of membership also terminates the right to garden the Plot and the responsibility to make lease payments on the plot. If plots are eliminated or new plots added, current Gardeners shall be given precedence over new Gardeners in plot allocation.

Public Access. The College Area Community Garden shall be open to the general public on a limited basis during normal operating hours, provided that visitor activities do not interfere with the operation of the gardens and are not in violation of the Garden Rules. Since the main Garden entrance is to be kept locked at all times when no Gardeners are in attendance, members of the general public will need to make prior arrangements to be hosted on site by a Gardener in good standing. The Board shall seek and maintain insurance and other measures necessary for such public access.

Research and Education. Approximately 25% of the usable area of the Garden will be set aside for a SDSU Research and Education activities ("R&E"). The presence of a reasonable number of non-Garden-member teachers, consultants, SDSU students, faculty and staff is allowed. Lease payments on this space will be commensurate with the size of the space and with standard per-plot leasing fees. The Board is allowed to assess a reasonable usage fee for non-member participants in these activities.

The R&E section of CACG is bound by the Garden Rules, but may granted exemptions to these rules by majority vote of the Board, if such exemptions are necessary for effective research that furthers the Mission of the Garden. The Board shall give careful consideration to such requests.

Garden Rules and Regulations. The Community Garden Rules shall be established by the Board. Gardeners must abide by these rules. Failure to do so will be grounds for termination of Gardener status.

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ARTICLE 3: MEMBERS

3 - Section A. Qualifications of Members. The qualifications for entering membership in this association are as follows:

- (1) Any natural person who resides within the geographic boundaries of the College Area Community Council (CACC) (a "Neighbor"); or
- (2) Any natural person who is a current member of the SDSU staff, faculty or student body (an "Affiliate").

The Garden will not discriminate based on race, creed, gender, sexual orientation, age or handicap, and will not discriminate based on type of affiliation or location of residence within the above definitions of "affiliate" and "neighbor".

No member shall be denied the right to renew membership as a result of his or her losing status as a Neighbor or Affiliate. However, should membership be lost, a former member who is no longer a Neighbor or an Affiliate shall not have the right to become a member again, except by decision of the Board during a regular or special meeting, or by the petition existing members. Decisions by the Board are final.

3 - Section B. Admission of Members. Applicants shall be admitted to membership upon their submission of an application form, the determination that they qualify as provided in Article 3, Section A, and the payment of an annual membership fee, the amount of which shall be determined by the Board. Membership shall commence upon application and shall terminate on the last day of December of each year. Members joining between November 1 and December 31 shall be considered members for the remainder of the year and the subsequent calendar year.

3 - Section C. Membership Dues and Assessments. Annual dues and plot rental fees, as agreed upon in Board meetings, shall be specified in the Gardener's Agreement and Garden Rules.

3 - Section D. Number of Members. There is no limit on the number of members the Association may admit.

3 - Section E. Voting Members. For the purpose of voting at Meetings of Members, there shall be accorded one vote for every dues-paying Member. A voting Garden member is called a "Gardener".

3 - Section F. Non-voting Members. A non-voting member is a "Co-Gardener". Any natural person qualifying as provided in Article 3, Section A may join CACG as a co-Gardener upon the sponsorship of any Gardener. Every Co-Gardener's membership is at the pleasure of his or her sponsoring Gardener, and may be initiated or terminated as specified in the Gardener's Agreement.

Each Gardener may select up to four Co-Gardeners by writing their names on, and having them sign, his or her Gardener's Agreement. Co-Gardeners may not lease plots, do not pay membership dues, and are not

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responsible for plot leasing fees or plot maintenance. Their membership can also be terminated at any time, with or without cause, by the sponsoring Gardener, or the Board upon its review. In every other respect they have equal rights and responsibilities to Gardeners, including the right to use facilities and tools, the responsibility to follow the Garden Rules and the ability to have their status terminated in the same fashion specified for Gardeners.

3 - Section G. Membership Records. The Association shall keep records of each member, including the name, address, the date of application for such membership, and such other information as the Board of Directors shall determine. Such records shall be kept by the secretary or such other officer as may be appointed by the Board of Directors, and shall be available for inspection by any director or member of the Association by contacting the secretary or other officer during regular business hours. The record of names and addresses and other information of the members of this Association shall constitute the membership list of this Association and shall not be used, in whole or part, by any person for any purpose not related to a member's interest as a member.

3 - Section H. Nonliability of Members. A member of this Association is not, as such, personally liable for the debts, liabilities, or obligations of the Association.

3 - Section I. Nontransferability of Memberships. No member may transfer a membership or any right arising therefrom. All rights of membership cease upon the member's death or failure to meet the Qualifications of Members as provided in Section A of this Article.

3 - Section J. Termination of Membership. The membership of a member shall terminate upon the occurrence of any of the following events:

- (1) Upon his or her resignation from membership, with notice of such termination delivered to the president or secretary of the Association personally, by mail or by E-mail, such membership to terminate upon the date of delivery of the notice, date of receipt of the E-mail or date of deposit in the mail;
- (2) Upon the member's death or termination of qualification as provided in Section B of this Article;
- (3) Upon a failure to pay annual dues and to respond to notices to pay dues within a reasonable time;
- (4) Upon a failure to renew his or her membership before the expiration of his or her lease. Membership may be reinstated by submitting a new application and membership will be reinstated upon acceptance of the new application.
- (5) Upon a determination by the Board of Directors that the member has engaged in conduct materially and seriously prejudicial to the interests or purposes of the Association. Prior to making any such determination, the Board shall adopt and shall follow procedures to ensure that proper notice is provided to the member, that the member has an opportunity to present the member's perspective regarding the alleged conduct, that the Board shall consider all relevant information,

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and that upon termination, the member's dues, if any, are returned to the member on a *pro rata* basis. A petition of five or more voting members shall be sufficient to require a determination by the Board or Executive Committee at a regular or special meeting thereof.

All rights of a member in the Association shall cease on termination of membership as herein provided. Except for circumstances described in subparagraph 4 of this Section, dues are not pro-rated and are not refundable.

ARTICLE 4: MEETINGS OF MEMBERS

4 - Section A. Place of Meetings. Meetings of members shall be held at such place or places within San Diego County as may be designated from time to time by the President or by resolution of the Board of Directors.

4 - Section B. Annual and Other Regular Meetings. The members shall meet annually during the evening on such date as may be determined by resolution of the Board of Directors, for the purpose of transacting such business as may come before the members, and for the purpose of electing directors and officers. Other regular meetings of the members shall be held on such days as may be designated by the President or by resolution of the Board of Directors or as otherwise provided in these Bylaws.

The Board of Directors may, but is not required to, adopt an annual calendar of membership meetings prior to the annual meeting, and if such calendar is adopted and promulgated to the members, any further notice of regular meetings is dispensed with. The annual meeting of members, including the meeting of members for the purpose of electing directors and officers, shall be deemed a regular meeting and any reference in these bylaws to regular meetings of members refers as well to this annual meeting.

4 - Section C. Special Meetings of Members. Special meetings of the members may be called by the executive committee, by the Board of Directors, or by the President of the Association. In addition, special meetings of the members for any lawful purpose may be called by written petition of ten (10) or more voting members.

4 - Section D. Notice of Meetings. Notice of any special meetings, and of regular meetings if no calendar is adopted, shall be made as follows:

(1) *Time of Notice.* Notice of a membership meeting shall be given not less than seven (7) nor more than ninety (90) calendar days before the date of the meeting to each member.

(2) *Manner of Giving Notice.* Notice of a special members' meeting shall be given by telephone call or in writing, either personally, by mail, or by email, or by a combination of such means, addressed to every voting member at the number or address of such member appearing on the books of the Association. Notice shall be deemed to have been given at the time it was delivered personally, given by phone, deposited in the mail, or sent by email.

(3) *Contents of Notice.* Notice of a membership meeting shall state the place, date, and time of the meeting and, in the case of a special meeting, the general nature of the business to be

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transacted. No business may be transacted at a special meeting except that stated in the notice. The notice of any meeting of members at which directors and officers are to be elected shall include the names of all those who are nominees at the time notice is given to members.

(4) *Notice of Meetings Called by Members.* If a special meeting is called by members as authorized by these bylaws, the request for the meeting shall be submitted in writing, shall specify the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail to the president or secretary of the Association. The officer receiving the request shall promptly cause notice to be given to the members that a meeting will be held and shall state the date, time and location of the meeting. The date for such meeting shall be fixed by the board and shall not be less than thirty (30) nor more than ninety (90) days after the receipt of the request for the meeting by the officer. If the notice is not given by the Board within twenty (20) days after the receipt of the request, persons calling the meeting may give the notice themselves.

(5) *Special Notice Rules for Approving Certain Proposals.* If action is proposed to be taken with respect to any of the following proposals, such action shall be invalid unless the nature of the proposal is stated in the notice of meeting: (1) Removal of directors; (2) Filling of vacancies on the board by members; (3) Amending the bylaws; and (4) An election to voluntarily wind up and dissolve the Association.

(6) *Notice required to voting members only.* There shall be no requirement to notify non-voting Members of meetings. It is the responsibility of each Member, if he or she so chooses, to notify the non-voting members he or she sponsors.

4 - Section E. Quorum for Meetings. A quorum shall consist of 1/3 or more of the members of the Board of Directors. A quorum shall also be reached if 1/4 or more of the Board of Directors and 50% or more of the Voting Member gardeners in good standing are present. The members present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of members from the meeting, provided that any action taken after the loss of a quorum must be approved by at least a majority of the Voting Members required to constitute a quorum. In the absence of a quorum, no business shall be transacted at such meeting. If a meeting is adjourned for lack of a quorum, and a new record date is fixed for the adjourned meeting, notice shall be given to each member of the record date for the meeting.

4 - Section F. Majority Action as Membership Action. Every act or decision done or made by a majority of Voting Members present at a duly held meeting at which a quorum is present is the act of the members, unless the law or these bylaws require a greater number.

4 - Section G. Voting Rights. Each Voting Member is entitled to one vote on each matter submitted to a vote by the members. Voting at duly held meetings shall be by voice vote or a count of hands, except that an election of directors shall be by secret ballot when there is more than one candidate for a director or officer position.

4 - Section H. Proxy Voting. Membership voting by proxy is not allowed.

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4 - Section I. Conduct of Meetings. Meetings of members shall be presided over by the President of the Association or, in his or her absence, by the Vice President of the Association or, in the absence of these persons, by a chairperson chosen by a majority of the Board and Voting Members present. The secretary of the Association shall act as secretary of all meetings of members, provided that, in his or her absence, the presiding officer shall appoint another person to act as secretary of the meeting.

The Board of directors shall adopt rules to govern the meetings of members. These rules may be revised from time to time by the members, insofar as such revisions are not inconsistent with or in conflict with these bylaws, or with any provision of law.

4 - Section J. Election of the Board of Directors and Officers. The Board of Directors and the officers shall be elected by the Voting Members at the annual meetings. Cumulative voting for the election of directors and officers shall not be permitted. The candidates receiving the highest number of votes up to the number of directors to be elected shall be elected. Each Voting Member shall cast one vote for every vacancy, with voting being by secret ballot if any elections are contested. Each member shall have the right to nominate a candidate to the Board of Directors and to an office, including him or herself.

Besides election at the annual meeting, directors and officers may be elected alternatively by written ballot conducted in advance of the annual meeting with results announced at the annual meeting. Such ballots for the election of directors shall list the persons nominated and, in the case of officers, the office the person is nominated to fill, at the time the ballots are mailed or delivered. A written ballot may not be revoked after its receipt by the Association or its deposit in the mail, whichever occurs first.

4 - Section K. Action by Written Ballot Without a Meeting. Any action which may be taken at any regular or special meeting of members, including the election of the Board of Directors and officers, may be taken without a meeting if the Association distributes a written ballot to each Voting Member entitled to vote on the matter. The ballot shall set forth the proposed action; provide an opportunity to specify approval or disapproval of each proposal; provide a means to ensure that each vote cast shall be properly and accurately counted; and provide a reasonable time within which to return the ballot to the Association. Ballots shall be mailed or delivered to the Voting Members in the manner required for giving notice of meetings specified in Section D of this Article, and shall be returned to the Association at an address specified with the ballot instructions.

All written ballots shall also indicate the number of responses needed to meet the quorum requirement and, except for ballots soliciting votes for the election of directors and officers, shall state the percentage of approvals necessary to pass the measure submitted. The ballots must specify the time by which they must be received by the Association in order to be counted. Approval of an action by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds a simple majority or the percentage of votes specified for this type of proposal.

4 - Section L. Action by Unanimous Written Consent Without Meeting. Except as otherwise provided in these bylaws, any action required or permitted to be taken by the members may be taken without a meeting if all Voting Members shall individually or collectively consent in writing to the action. The written

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consent or consents shall be filed with the minutes of the proceedings of the members. The action by written consent shall have the same force and effect as the unanimous vote of the members.

4 - Section M. Member Action Superseding Action by the Board of Directors. Actions taken by the board of directors or by any committee of the board may be superseded by an action voted by two thirds (2/3) of the Voting Members at a regular or special meeting of the members where a quorum is present.

ARTICLE 5: DIRECTORS

5 - Section A. Number. The Association shall have no fewer than seven (7) directors and no more than fifteen (15) directors. Collectively, they shall be known as the Board of Directors. Each year at a board meeting prior to the annual meeting, the directors shall determine by resolution the number of directors who shall be elected, based on the board's assessment of work to be conducted the following year.

5 - Section B. Powers. Subject any limitations in the bylaws relating to actions required or permitted to be taken or approved by the members of this Association, the activities and affairs of this Association shall be conducted and all powers of this association shall be exercised by or under the direction of the Board of Directors.

5 - Section C. Duties. It shall be the duty of the Directors to:

- (1) Perform any and all duties imposed on them collectively or individually by law, or by these bylaws;
- (2) Appoint and remove, employ and discharge, and, except as otherwise provided in these bylaws, prescribe the duties and fix the compensation, if any, of all officers, agents, and employees of the Association;
- (3) Supervise all officers, agents, and employees of the Association to assure that their duties are performed properly;
- (4) Meet at such times and places as required by these bylaws;
- (5) Register their addresses with the secretary of the Association so that notices of meetings mailed or electronically communicated to them at such addresses shall be valid notices thereof.

5- Section D. Terms of Office. The term of office for each director and officer is one year, measured from the date of election at the annual meeting. A director's and officer's term shall conclude at the next annual meeting and upon the election and qualification of the director's successor. A person elected to fill a vacancy as provided by Section Q of this Article shall hold office until the next annual election of the board of directors, or until his or her death, resignation, or removal from office. There is no limit to the number of terms a director may serve.

5 - Section E. Compensation. Directors shall serve without compensation except that they shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their

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regular duties as specified in Section C of this Article. Directors may not be compensated for rendering services to the Association in any capacity other than director unless such other compensation is reasonable and is allowable under the provisions of Section F of this Article. Any payments to directors shall be approved in advance in accordance with this Association's conflict of interest policy, as set forth in Article 9 of these bylaws.

5 - Section F. Restriction Regarding Interested Directors. Notwithstanding any other provision of these bylaws, not more than forty-nine percent (49%) of the persons serving on the Board may be interested persons. For purposes of this Section, "interested persons" means either:

- (1) Any person currently being compensated by the Association for services rendered it within the previous twelve (12) months, whether as a full- or part-time employee, independent contractor, or otherwise, excluding any reasonable reimbursements of expenses paid to a director as director; or
- (2) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

5 - Section G. Place of Meetings. Meetings shall be held at a place within San Diego County designated from time to time by the President or the Board of Directors. Any meeting, regular or special, may be held by conference telephone, electronic video screen communication, or other communications equipment. Participation in a meeting through use of conference telephone, electronic video screen communication, or other communications equipment constitutes presence in person at that meeting if all of the following apply:

- (1) Each director participating in the meeting can communicate with all of the other directors concurrently;
- (2) Each director is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the Association; and
- (3) The Association verifies that all persons participating in the meeting are directors of the Association or are otherwise entitled to participate in the meeting, and that all actions of, or votes by, the board are taken and cast only by directors and not by persons who are not directors.

5 - Section H. Regular Meetings. The board of directors shall meet at least twice per year, and as often as necessary to conduct the business of the Association. Regular meetings of the directors shall be held on such days as may be designated by resolution of the board or as otherwise provided in these Bylaws. The board of directors may, but is not required to, adopt an annual calendar of regular Board meetings at the annual meeting, and if such calendar is adopted, any further notice of regular meetings is not required.

5- Section I. Special Meetings. Special meetings of the board of directors may be called by the president, the vice president, the secretary, or by any two directors, and such meetings shall be held at a place within San Diego County designated by the person or persons calling the meeting. Except in an emergency, all Board members shall be notified at least (5) calendar days prior to such a special meeting.

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5 - Section J. Notice of Meetings. Regular meetings of the board may be held without notice to board members if an annual calendar of meetings is adopted. Regular non-calendared meetings and special meetings of the board shall be held upon four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally or by telephone or email to board members. If sent by mail or email, the notice shall be deemed to be delivered on its deposit in the mails or on its email delivery with reply receipt. Such notices shall be addressed to each director at his or her address as shown on the books of the Association. Notice of non-calendared meetings shall specify the place, day, and hour of the meeting. The purpose of any board meeting need not be specified in the notice. Regular (non-Board) members of CACG shall not be given notice of board meetings except upon a member's request in writing that such notice be provided.

5 - Section K. Waiver of Notice and Consent to Holding Meetings. The transactions of any meeting of the board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that either before or after the meeting each director not present signs a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be made a part of the minutes of the meeting.

5 - Section L. Quorum for Meetings. A quorum shall consist of a 2/3 majority of the directors. Except as otherwise provided in these bylaws or in the articles of incorporation of this Association, or by law, no business shall be considered by the Board at any meeting at which a quorum, as hereinafter defined, is not present, and the only motion which the chair shall entertain at such meeting is a motion to adjourn.

The directors present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of directors from the meeting, provided that any action thereafter taken is approved by at least a majority of the required quorum for such meeting or such greater percentage as may be required by law, or the bylaws of this Association.

5 - Section M. Majority Action as Board Action. Every act or decision done or made by a majority of the quorum of Directors present at a meeting duly held at which a quorum is present (or was present, as specified in section L of this Article) is the act of the Board of Directors, unless the bylaws of this Association require a greater percentage or different voting rules for approval of a matter by the Board.

5 - Section N. Conduct of Meetings. Meetings of the board of directors shall be presided over by the president of the Association or, in his or her absence, by the vice president of the Association or, in the absence of each of these persons, by a chairperson chosen by a majority of the directors present at the meeting. The secretary of the Association shall act as secretary of all meetings of the board or, in his or her absence, the presiding officer shall appoint another person to act as secretary of the meeting. The Board of Directors shall adopt rules to govern its meetings. These rules may be revised from time to time by the board, insofar as such revisions are not inconsistent with or in conflict with these bylaws or with any provision of law.

5 - Section O. Attendance at Board Meetings by Members. Members of the Association shall have the right to attend meetings of the board of directors, including committee meetings. They shall not have a

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right to speak or otherwise participate in the meeting unless invited by the Board to do so either specifically or through the adoption of procedures so providing. Members shall not be allowed to be present during board consideration of actions pertaining to personnel, real estate transactions, pending litigation, and certain financial transactions.

5 - Section P. Action Without Meeting. Any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if: (1) a written ballot proposing the action is submitted to all members of the board; and (2) no less than 2/3 of all directors holding office approve the proposed action. For the purposes of this Section only, "all members of the board" shall not include any "interested director" as defined in Article 10, Section B(1) of these bylaws. Ballots may be mailed and submitted by first class mail, electronic mail, or a combination thereof, so long as only one written ballot is submitted to each member of the board entitled to vote.

The solicitation for a vote for each ballot so distributed shall: (1) set forth the proposed action; (2) specify a reasonable time by which the ballot must be received in order to be counted; (3) state the number of affirmative responses needed to meet the 2/3 majority requirement; (4) allow an opportunity for the proposed action to be seconded; (5) give the members an opportunity to ask questions about, respond to such questions, argue the merits of the proposed action, and propose amendments to the proposed action; and (6) upon the final vote, report the outcome of the vote. A written ballot may not be revoked. All written ballots shall be filed with the secretary of the Association and reported in the next minutes of board proceedings.

5 - Section Q. Vacancies. Vacancies on the board of directors shall exist on the death, resignation, or removal of any director, or whenever the number of authorized directors is increased. The board of directors may declare vacant the office of a director who has been declared of unsound mind by a final order of court, convicted of a felony, or removed as specified in Section 6D.

Vacancies on the board not created by removal of a Director may be filled by majority vote of the board members still in office, or may be referred by the board to the members to be filled by majority vote of the Voting Members at a membership meeting where a quorum is present. Vacancies created by the removal of a director may be filled only by the approval of the Voting Members. The Voting Members of this Association may elect a director at any time to fill any vacancy not filled by the directors. A person elected to fill a vacancy as provided by this Section shall hold office until the next regular election of the board of directors and officers, or until his or her death, resignation, or removal from office.

5 - Section R. Nonliability of Directors. The Directors shall not be personally liable for the debts, liabilities, or other obligations of the Association.

5 - Section S. Insurance for Directors and Officers. The board of directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Association (including a director, officer, employee, or other agent of the Association) against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such.

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ARTICLE 6: OFFICERS

6 - Section A. Number of Officers. The officers of the Association shall comprise a president; a vice president; a secretary; a treasurer; and one representative each of the SDSU Students, Faculty and an administrative staff member from the Associated Students ("AS"). Any number of offices may be held by the same person except that neither the secretary nor the treasurer may serve as the president.

6 - Section B. Qualification, Election, and Term of Office. Any member may serve as an officer of this Association. Officers along with other directors, if any, may be elected by the Voting Members at the annual meeting in even numbered years, or at any time thereafter upon the vacancy of an office. Each officer shall hold office until he or she resigns, is removed, or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever occurs first.

6 - Section C. Subordinate Officers. The board of directors may appoint such other officers or agents as it may deem desirable, and such officers shall serve such terms, have such authority, and perform such duties as may be prescribed from time to time by the board of directors.

6 - Section D. Removal and Resignation.

Any officer may be removed, either with or without cause, at a meeting of the members where a quorum is present. Removal shall occur upon majority vote of all the members of the board of directors and a two thirds (2/3) vote of the Voting Members present. Any Board member missing three consecutive meetings of the Board, or five or more of any nine consecutive board meetings, may be removed from the Board by a simple majority of a quorum of the attending officers at a Board meeting. Any officer may resign at any time by giving written notice to the board of directors or to the president or secretary of the Association. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

By a majority vote of all the directors in office, the board may schedule a vote of the Voting Members to remove a director without cause.

6 - Section E. Vacancies. Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the board of directors, or the directors may refer an election to the next regular meeting of the members. In the event of a vacancy in any office other than that of president, such vacancy may be filled temporarily by appointment by the president until such time as the board or the members shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the board may or may not be filled as the board shall determine.

6 - Section F. Duties of President. The president shall be the chief executive officer of the Association and shall, subject to the control of the board of directors, supervise and control the affairs of the Association and the activities of the officers. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, or by these bylaws, or which may be prescribed from time to time by the board of directors.

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He or she shall preside at all meetings of the board of directors and at all meetings of the members. Except as otherwise expressly provided by law, or by these bylaws, he or she shall, in the name of the Association, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the board of directors.

6 - Section G. Duties of Vice President. In the absence of the president, or in the event of his or her inability or refusal to act, the vice president shall perform all the duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions on, the president. The vice president shall have other powers and perform such other duties as may be prescribed by law, or by these bylaws, or as may be prescribed by the board of directors.

6 - Section H. Duties of Secretary. The secretary shall:

- (1) Certify and keep the original or a copy of these bylaws as amended to date;
- (2) Keep a book of minutes of all meetings of the directors, and, if applicable, meetings of committees of directors and of members, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present at the meeting, and the proceedings thereof;
- (3) See that all notices are duly given in accordance with the provisions of these bylaws or as required by law;
- (4) Be custodian of the records and certify to all duly executed documents, the execution of which on behalf of the Association is authorized by law or these bylaws;
- (5) Keep the records of members, as provided in Article 3, Section F, unless another officer is appointed by the board of directors to keep the records of members;
- (6) Keep a book of policies or procedures, as adopted by resolution of the board of directors or a vote of the Voting Members, which govern the operation of the Association, and ensure the Association's compliance with such policies and procedures.
- (7) Exhibit at all reasonable times to any director or member of the Association, or to his or her agent or attorney, on request therefor, the bylaws, the membership book, and the minutes of the proceedings of the directors of the Association; and
- (8) In general, perform all duties incident to the office of secretary and such other duties as may be required by law, or by these bylaws, or which may be assigned to him or her from time to time by the board of directors.

6 - Section I. Duties of Treasurer. Subject to the provisions of these bylaws relating to the "Execution of Instruments, Deposits, and Funds," the treasurer shall:

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- (1) Have charge and custody of, and be responsible for, all funds and securities of the Association, and deposit all such funds in the name of the Association in such banks, trust companies, IRS registered Fiscal Sponsors, or other depositories as shall be selected by the board of directors;
- (2) Receive, and give receipt for, monies due and payable to the Association from any source whatsoever;
- (3) Disburse, or cause to be disbursed through coordinating with an IRS registered Fiscal Sponsor, the funds of the Association as may be directed by the board of directors, taking proper vouchers for such disbursements;
- (4) Keep and maintain, or cause to be kept and maintained through coordinating with an IRS registered Fiscal Sponsor, adequate and correct accounts of the Association's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses;
- (5) Exhibit at all reasonable times the books of account and financial records to any director of the Association, or to his or her agent or attorney, on request therefor;
- (6) Render to the president and directors, whenever requested, an account of any or all of his or her transactions as treasurer and of the financial condition of the Association;
- (7) Prepare, or cause to be prepared, and certify, or cause to be certified through coordinating with an IRS registered Fiscal Sponsor or others, the financial statements to be included in any required reports; and
- (8) In general, perform all duties incident to the office of treasurer and such other duties as may be required by law, or by these bylaws, or which may be assigned to him or her from time to time by the board of directors.

6 - Section J. Duties of SDSU Student Representative. The SDSU Student Representative shall maintain liaison with the general SDSU Student Body, represent the interests of SDSU's student body to the Garden, and keep the SDSU Student body informed of the Garden's activities.

6 - Section K. Duties of SDSU Associated Students ("AS") Representative. The SDSU Associated Students ("AS") Representative shall be a member of the paid and full-time AS administrative staff; shall maintain liaison between the Associated Students and SDSU Facilities, and shall coordinate all financial and other arrangements pertaining to the usage of SDSU facilities, utilities and any other considerations that pertain to CACG operations.

6 - Section K. Duties of SDSU Faculty Representative. The Faculty Representative is responsible for representing SDSU's research and education interests with the Garden; helping SDSU bring relevant gardening education programs to the Garden; maintenance of plots allocated for SDSU research and education programs, and for general coordination of research and education efforts between the Garden and SDSU.

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ARTICLE 7: COMMITTEES

7 - Section A. Executive Committee of the Board. If the board of directors consists of more than four (4) members, the board of directors may, but is not required to, establish an executive committee consisting of officers of the Association. A majority of the members of the executive committee, including in any event a minimum of three (3) Board members, shall be necessary to constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the executive committee members present at a meeting duly held at which a quorum is present shall be regarded as the act of the board of directors, unless a greater number be required by law or by the articles of incorporation or these bylaws. The board of directors may, by a majority vote of directors, delegate to the executive committee any of the powers and authority of the board in the management of the business and affairs of the Association, except with respect to:

- (1) The approval of any action which, under law or the provisions of these bylaws, requires the approval of the members.
- (2) The filling of vacancies on the board or on any committee that has the authority of the board.
- (3) The amendment or repeal of bylaws or the adoption of new bylaws.
- (4) The amendment or repeal of any resolution of the board or of the members.
- (5) The establishment of committees of the board and the appointment of committee members.
- (6) The approval of any transaction to which this Association is a party and in which one or more of the directors has a material financial interest, except as expressly provided in Section 5233(d)(3) of the California Nonprofit Public Benefit Association Law.

By a majority vote of the directors then in office, the board may at any time revoke, modify, or expand any or all of the authority delegated to the executive committee. The executive committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the board from time to time as the board may require.

7 - Section B. Other Committees. The Association shall have such other committees as may from time to time be designated by a vote of the Voting Members at a meeting of the members or by a resolution of the board of directors. Such other committees may consist of persons who are or are not also members of the board. These additional committees shall act in an advisory capacity only to the board and the members, and shall be clearly titled as "advisory" committees.

7 - Section C. Meetings and Actions of Committees. Meetings and actions of committees shall be governed by, noticed, held, and taken in accordance with the provisions of these bylaws concerning meetings of the board of directors, with such changes in the context of such bylaw provisions as are necessary to substitute the committee and its members for the board of directors, except that the time for regular meetings of committees may be fixed by resolution of the board of directors or by the committee. The time for special meetings of committees may also be fixed by the board of directors. The board of

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directors may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these bylaws.

ARTICLE 8: EXECUTION OF INSTRUMENTS, DEPOSITS, AND FUNDS

8 - Section A. Execution of Instruments. The board of directors, except as otherwise provided in these bylaws, may by resolution authorize any officer or agent of the Association to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

8 - Section B. Checks and Notes. Except as otherwise required by law or this Section, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the Association shall be signed by the treasurer, or in the treasurer's absence, by another officer, and countersigned by the president, or in his or her absence, by the vice president, of the Association. The board of directors may by resolution establish a policy authorizing checks of Two Hundred Dollars (\$200) or less, or for certain purposes, to be signed solely by the treasurer, or, in the treasurer's absence, another officer designated by the resolution.

8 - Section C. Deposits. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the board of directors may select.

8 - Section D. Gifts. The board of directors may accept on behalf of the Association any contribution, gift, bequest, or devise for the charitable or public purposes of this Association.

ARTICLE 9: RECORDS, REPORTS, AND INSPECTION RIGHTS

9 - Section A. Maintenance of Records. The Association shall cause to keep the following:

- (1) Minutes of all meetings of members, directors, and committees of the board, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;
- (2) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains, and losses;
- (3) A record of its members, indicating their names and addresses and, if applicable, the class of membership held by each member and the termination date of any membership;
- (4) A copy of the Association's bylaws as amended to date.

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9 - Section B. Directors' Inspection Rights. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the Association.

9 - Section C. Members' Inspection Rights. Each and every member shall have the right, for a purpose reasonably related to such person's interest as a member, to inspect at any reasonable time the books, records, or minutes of proceedings of the members or of the board or committees of the board, upon written notice to the Association by the member, for a purpose reasonably related to such person's interests as a member. The board of directors has the right to challenge such as request if a majority of the board members vote to do so.

9 - Section D. Rights of Candidates for Office. In addition to the foregoing, candidates for office also have the right to obtain from the secretary of the Association, upon written notice and payment of a reasonable charge, a list of the names, addresses, and voting rights of those members entitled to vote for the election of directors and officers as of the most recent record date for which the list has been compiled or as of the date specified by the member, to be made available on or before the later of ten (10) business days after the notice is received or after the date specified therein as of which the list is to be compiled.

9 - Section E. Right to Copy and Make Extracts. Any inspection under the provisions of this Article may be made in person or by agent or attorney, and the right to inspection includes the right to copy and make extracts.

9 - Section F. Annual Report. The Board shall respond in a timely fashion to any requests for financial or other pertinent information from its IRS registered Fiscal Sponsor, the College Neighborhood Foundation (CNF), pursuant to CNF's mandated annual report. Said response may include:

- (1) The assets and liabilities, including the trust funds, of the Association as of the end of the fiscal year;
- (2) The principal changes in assets and liabilities, including trust funds, during the fiscal year;
- (3) The revenue or receipts of the Association, both unrestricted and restricted to particular purposes, for the fiscal year;
- (4) The expenses or disbursements of the Association, for both general and restricted purposes, during the fiscal year;
- (5) Any information required by Section G of this Article.

ARTICLE 10: CONFLICT OF INTEREST AND COMPENSATION APPROVAL POLICIES

10 - Section A. Purpose of Conflict of Interest Policy. The purpose of this conflict of interest policy is to protect this Association's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Association. This policy is intended to

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supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

10 - Section B. Definition of Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family: (1) an ownership or investment interest in any entity with which the Association has a transaction or arrangement; (2) a compensation arrangement with the Association or with any entity or individual with which the Association has a transaction or arrangement, including direct and indirect remuneration as well as gifts or favors that are not insubstantial; or (3) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Association is negotiating a transaction or arrangement.

10 - Section C. Conflict of Interest Avoidance Procedures. A financial interest is not necessarily a conflict of interest. A person who has a financial interest has a conflict of interest only if the board, applying the following procedures, decides that a conflict of interest exists:

(1) *Duty to Disclose.* In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors.

(2) *Determining Whether a Conflict of Interest Exists.* After disclosure of the financial interest and all material facts, and after any discussion with the interested person, the interested person shall leave the board meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board members shall decide if a conflict of interest exists.

(3) *Procedures for Addressing the Conflict of Interest.* An interested person may make a presentation at the board meeting, but after the presentation, he or she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest. The chair of the board shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement. After exercising due diligence, the board shall determine whether the Association can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the board shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Association's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

(4) *Violations of the Conflicts of Interest Policy.* If the board has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to

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disclose. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the board determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

10 - Section D. Records of Board and Committee Proceedings. The minutes of meetings of the Board shall contain:

(a) The names of any and all persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed; and

(b) The names of any and all persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

10 - Section E. Compensation Approval Policy. A member or Director who receives compensation, directly or indirectly, from the Association for services is precluded from voting on matters pertaining to that member or Director's compensation. No Director who receives compensation, directly or indirectly, from the Association, either individually or collectively, is prohibited from providing information to the Board regarding compensation.

In the event that the Association shall pay compensation to employees, contractors, agents, and any other person, in addition to complying with the conflict of interest requirements and policies contained in this Article, the Board shall adopt and comply with reasonable procedures pertaining to the terms of compensation, avoidance of a conflict of interest with respect to the compensation arrangement, the basis of determining reasonable terms of compensation, and creation of a record of the approval process.

10 - Section F. Annual Statements. Upon election to the Board, each Director shall annually be provided with access to a copy of the conflicts of interest policy and shall sign a statement which affirms such person has received a copy of the conflicts of interest policy, has read and understands the policy, has agreed to comply with the policy, and understands the Association is charitable and thus must engage primarily in activities which accomplish its tax-exempt purposes.

ARTICLE 11: AMENDMENT OF BYLAWS AND ARTICLES OF INCORPORATION

11 - Section A. Amendment of Bylaws and Articles of Incorporation. These bylaws, or any one of them, may be amended or repealed and new bylaws adopted, and the articles of incorporation may be amended or repealed, only by recommendation of a majority of the entire Board of Directors.

ARTICLE 12: FISCAL YEAR, PROHIBITION AGAINST SHARING PROFITS AND ASSETS

12 - Section A. Fiscal Year of the Association. The fiscal year of the Association shall begin on January 1 and end on December 31 in each year.

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12 - Section 2. Prohibition against Sharing Profits and Assets. No member, director, officer, employee, or other person connected with this Association, or any private individual, shall receive at any time any of the net earnings or pecuniary profit from the operations of the Association, provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for the Association in effecting any of its public or charitable purposes, provided that such compensation is otherwise permitted by these bylaws and is fixed by resolution of the board of directors; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the Association.

All members, if any, of the Association shall be deemed to have expressly consented and agreed that on such dissolution or winding up of the affairs of the Association, whether voluntarily or involuntarily, the assets of the Association, after all debts have been satisfied, shall be distributed as required by the articles of incorporation of this Association and not otherwise.

CERTIFICATE

This is to certify that the foregoing is a true and correct copy of the bylaws of the Association named in the title thereto and that such bylaws were duly adopted by the board of directors of said Association on the date set forth below.

Dated: _____

_____, Secretary,

Board of Directors, College Area Community Garden

March, 2013