

AMENDED BYLAWS
OF
OLD TOWN SAN DIEGO CHAMBER OF COMMERCE

(As amended May 21, 1997)

ARTICLE I

Purposes

Section 1.1 Purposes. The purposes for which this the Old Town San Diego Chamber of Commerce (hereinafter "Chamber") is formed are those set forth in the Articles of Incorporation. All activities shall be nonpartisan, nonsectarian and nondiscriminatory against any person by reason of race, creed, sex or national origin and shall not further the election of any candidate for political office.

ARTICLE II

Offices

Section 2.1 Principal Offices. The principal office for the Chamber is hereby fixed and located in the County of San Diego at such place as may from time to time be designated by the Board of Directors.

ARTICLE III

Membership

Section 3.1 Members. All Members admitted pursuant to Section 3.2 (a) shall be entitled to vote. All members admitted to Section 3.2(b) shall not be entitled to vote. Other than as provided in this Section and in sections 6.3 (Qualifications of Officers) and 7.3 (Qualification of Directors) all Members shall have the same rights, privileges, preferences, restrictions, and conditions.

Section 3.2 Qualifications. Membership shall be limited to:

(a) Those persons (including corporations and other associations) possessing a valid business tax certificate issued within the Business Improvement District as established by Resolution No. 286021 of the Council of the City of San Diego, or paying rental tax for six or more units within said District, and who have paid the charges and assessments imposed pursuant to said Ordinance.

(b) All other persons (including corporations and other associations) who are accepted for membership pursuant to Section 3.3 and who have paid dues as provided for in Section 3.4.

Section 3.3. Admission. All interested persons shall be eligible for membership upon proper application. Applicants shall be admitted to membership only upon approval of the application by a majority of the Board of Directors. Applications for membership shall be in such form as shall be prescribed from time to time by the Board of Directors.

Section 3.4. Dues. All Members not possessing a valid business tax certificate as prescribed in Section 3.2(a) shall pay annual dues to the Chamber. The amount of dues will be determined from time to time by a majority vote of all Members present and voting. The Chamber may, at its discretion, set rules regulating how dues shall be collected.

Section 3.5. Termination. Any Member in arrears in the payment of assessments, charges or dues shall be so notified by the Secretary and, if the same are not paid within thirty (30) days thereafter, the name of such Member so in arrears may, upon resolution of the Board of Directors, be dropped from the roll of membership.

Section 3.6. Expulsion. If any Member shall at any time be deemed responsible for any act which is prejudicial to the Chamber or to the purposes for which it was formed, said Member shall be notified to appear at a meeting of the Board of Directors to hear the complaint and determine merits. Full opportunity shall be given to such Member to present his/her position. By a majority vote of the Board at such a meeting, such Member may be expelled from membership in this Chamber.

Section 3.7. Procedure for Expulsion. The procedure for expulsion shall comply with the provisions of Corporations Code section 7341.

ARTICLE IV

Meetings of Members

Section 4.1 Annual Meetings. The annual Meeting of Members shall be held in November of each year unless the Board of Directors fixes another date and so notifies the Members as provided in Section 4.4.

Section 4.2 Special Meetings. A special meeting of the Members may be called at any time by any of the following: The Board of Directors, the President, or five percent (5%) of the Members.

(a) Calling Meetings by Members. If a special meeting is called by Members other than the President, the request shall be submitted by such Members in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or by telegraphic or other facsimile transmission to the President, the Vice-President, or the Secretary of the Chamber. The officer receiving the request shall cause notice to be promptly given to the Members entitled to vote, in accordance with the provisions of Section 4.4 that a meeting will be held, and the date for such meeting, which date shall be not less than 35 not more than 90 days following the receipt of the request. If the notice is not given within the 20 days after receipt of the request, the persons requesting the meeting may give the notice. Nothing contained in this subsection shall be construed as limiting, fixing, or affecting the time when a meeting of Members may be held when the meeting is called by action of the Board of Directors.

Section 4.3 Notice of Members. All notices of meetings of Members shall be sent or otherwise given in accordance with subsection (a) of this section 4.3 not less than 10 nor more than 90 days before the date of the meeting. The notice shall specify the place, date, and hour of the meeting and the general nature of the business to be transacted, or those matters which the board of directors, at the time of giving the notice, intends to present for action by the Members.

(a) Manner of Giving Notice. Notice of any meeting of Members shall be given either personally or by mail, telegraphic or other written communication, except notice of the annual meeting of Members which shall be by first-class mail, charges prepaid, addressed to each Member either at the address of that Member appearing on the books of the Chamber or the address given by the Member to the Chamber for the purpose of notice. If no address appears on the Chamber's books and no address has been so given, notice shall be deemed to have been given if either (i) notice is sent to that Member by first-class mail or telegraphic or other written communication to the Chamber's principal executive office, or (ii) notice is published at least once in a newspaper of general circulation in the county where that office is located. Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by telegram or other means of written communication.

(b) Affidavit of mailing notice. An affidavit of the mailing or other means of giving any notice of any Members' meeting maybe executed by the Secretary, Assistant Secretary, or any transfer agent of the Chamber giving the notice, and if so executed, shall be filed and maintained in the minute book of the Chamber.

Section 4.4 Waiver by Attendance. Attendance by a person at a meeting shall also constitute a waiver of notice of that meeting, except when the person objects at the beginning of the meeting to the transaction of any business due to the inadequacy or illegality of the notice. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting, if that objection is expressly made at the meeting.

Section 4.5 Action by Written Consent Without a Meeting.

(a) **General.** Any action that may be taken at any annual or special meeting of Members may be taken without a meeting and without prior notice upon compliance with the provisions of this section.

(b) **Solicitation of Written Ballots.** The Chamber shall distribute one written ballot to each Member entitled to vote; such ballots shall be mailed or delivered in the manner required by Section 4.3 of this Article IV for giving notice of special meetings. All solicitations of votes by ballot shall: (1) indicate the number of responses needed to meet the quorum requirement; (2) state the percentage of approvals necessary to pass the measure(s); and (3) specify the time and manner by which the ballot must be received in order to be counted. Each ballot so distributed shall; (1) set forth the proposed action; and (2) provide the Members an opportunity to specify approval or disapproval of each proposal, if more than one proposal is set forth.

(c) **Quorum.** Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) **Revocation.** No written ballot may be revoked after delivery to the corporation or deposited in the mails, whichever first occurs.

(e) **Filing.** All such written ballots shall be filed with the Secretary of the Corporation and maintained in the corporate records.

(e) **Effect of Noncompliance.** Failure to comply with this section shall not invalidate any corporate action taken, but maybe the basis for challenging any written ballot, and any Member may petition the Superior Court of California to compel compliance with the provisions of the Law.

Section 4.6 Agenda. The President will set an agenda for the orderly conduct of business prior to each monthly meeting. Said agenda may be published in the Chamber's newsletter.

Section 4.7 Proceedings. All meetings shall be conducted in accordance with Robert's Rules of Order.

Section 4.8 Speaking Limitations. Speakers will be limited to two (2) minutes per issue with a maximum of ten (10) minutes each for pros and cons. No time limit is set on questions and answers. A simple majority of the Members present may change these limits for any issue.

Section 4.9 Public Meetings. All meetings shall be public except those devoted to litigation or personnel. The public shall be informed in advance of all public meetings through the Chamber's newsletter and/or other appropriate means.

Section 4.10 Public Comment. A time will be set aside during each meeting for limited public comment.

ARTICLE V

Voting

Section 5.1. Voting. There shall be no cumulative voting. Each Member shall cast one vote on any question or proposition.

(a) **Eligibility to Vote.** Persons entitled to vote at any meeting of Members shall be Members as of the date determined in accordance with Section 5.3 subject to the provisions of the California Nonprofit Corporation Law.

(b) **Manner of Casting Votes.** Voting may be by voice or ballot, provided that any election of directors or officers must be by ballot if demanded by any Member before the voting begins.

(c) **Only Majority of Members Represented at Meeting Required. Unless Otherwise Specified.** If a quorum is present, the affirmative vote of the majority of the Members present at the meeting, entitled to vote and voting on any matter (other than the election of directors) shall be the act of the Members, unless the vote of a greater number is required by California Nonprofit Corporation Law or by the Articles of Incorporation.

Section 5.2. Quorum. Five percent of the Members personally present shall constitute a quorum for the transaction of business at any meeting of the Members. Provided however that, if less than one-third of the Members is present and voting, then the only matters that may be voted upon at any regular meeting are matters notice of the general nature of which was given pursuant to Section 4.4.

(a) **Loss of Quorum.** The Members present at a duly called or duly held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the required quorum, for that meeting.

Section 5.3. Record Date. For the purposes of determining which Members are entitled

to receive notice of any meeting, to vote, to give consent to corporate action without a meeting, or to take other action, the Board of Directors may fix, in advance, a "record date," which shall not be more than 60 nor fewer than ten days before the date of any such meeting, nor more than 60 days before any such action without a meeting. Only Members of record on the date so fixed are entitled to notice, to vote, to give consents, or take other action, as the case may be,

notwithstanding any transfer of any membership on the books of the Chamber after the record date, except as otherwise provided in the Articles of Incorporation, by agreement, or in the California Nonprofit Corporation Law.

Section 5.4. Proxies. Votes may not be cast by proxy except as authorized by this section.

(a) Right of Members. Each Member entitled to vote shall have the right to do so either in person or by one or more regular employees of that Member authorized by a written proxy, signed by the Member and filed with the Secretary of the Chamber. A proxy shall be deemed signed if the Member's name is placed on the proxy (whether by manual signature typewriting, telegraphic transmission, or otherwise) by the Member or the Member's attorney-in-fact.

(b) Form of Proxies. If the Chamber has 100 or more members, any form of proxy distributed to 10 or more members shall afford an opportunity on the proxy to specify a choice between approval and disapproval of each matter or group of related matters and shall provide, subject to reasonable specified conditions, that when the person solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance with that specification. In any election of directors, any form of proxy that a Member marks "withhold," or marks otherwise in a manner indicating that the authority to vote for the election of directors is withheld, shall not be voted either for or against the election of a director.

(c) Requirement That General Nature of Subject of Proxy Be Stated. Any revocable proxy covering matters for which a vote of the Members is required, including amendments to the articles of incorporation; amendments to the articles or bylaws changing proxy rights; removal of directors without cause; filling vacancies on the board of directors; the sale, lease, exchange, conveyance, transfer, or other disposition of all or substantially all of the corporate assets unless the transaction is in the usual and regular course of the Chamber's activities; the principal terms of a merger or the amendment of a merger agreement; the election to dissolve the Chamber; contracts or transactions between the Chamber and one or more directors or between the Chamber and entity in which the director has a material financial interest; or a plan of distribution of assets other than money to Members when the Chamber is in the process of winding up, when the distribution is not in accordance with liquidation rights of any class or classes, shall not be valid unless the proxy sets forth the general nature of the matter to be voted on.

(d) Revocability. A validly executed proxy that does not state that it is irrevocable shall continue in full force and effect until (a) revoked by the Member executing it before the vote is cast under that proxy, (i) by a writing delivered to the Chamber stating that the proxy is revoked, (ii) by

as subsequent proxy executed by that member and presented to the meeting, or (iii) as to any meeting, by the member's personal attendance and voting at the meeting. or (b) written notice of the death or incapacity of the maker of the proxy is received by the Chamber before the vote under the proxy is counted; provided, however, that no proxy shall be valid after the expiration of 11 months from the date of the proxy unless otherwise provided in the proxy, except that the maximum term of a proxy shall be three years from the date of execution. The Revocability of a proxy that states on its face that is irrevocable shall be governed by Section 7613 of the California Corporations Code.

ARTICLE VI

Officers

Section 6.1. Officers. The officers of this Chamber shall be a President, Vice President, & Secretary and Treasurer.

Section 6.2. Election and Term of Office. The Board of Directors shall elect all officers of the Chamber for terms of one year.

Section 6.3. Qualifications. All officers must be Members of the Chamber admitted pursuant to Section 3.2 (a) and Members of the Board of Directors during his/her term of office.

Section 6.4. Vacancies. A vacancy in any office may be filled by a majority of the Board of Directors. Each officer so elected shall hold office until the next annual election of officers.

Section 6.5. President. Subject to the control of the Board of Directors, the President shall have general supervision, direction and control of the business and affairs of the Chamber. The President shall preside at all meetings of the Members and Directors; shall set agendas; and shall have the powers and duties as may be prescribed from time to time by the Board. The President shall, each year, submit to the membership a report on past year accomplishments and next year objectives.

(a) **Voting as Director.** The President shall only vote as a Director in the event of a tie.

Section 6.6. Vice President. In the absence or disability of the President, the Vice President shall perform all duties of the President, and in so acting shall have all the powers of the President. The Vice President shall have such other powers and perform such other duties may be prescribed from time to time by the membership.

Section 6.7. Secretary. The Secretary shall keep a full and complete record of the proceedings of the Board of Directors, and of the Members, shall keep the seal of the Chamber and affix the same to such papers and instruments as may be required in the regular course of business, shall make service of such notices as maybe necessary or proper, shall supervise the keeping in the principal office of the Chamber of the minute books of the corporation, which shall include a copy

of these Bylaws. The Secretary shall keep a record of attendance, and maintain the Chamber's membership rosters.

Section 6.8. Treasurer. The Treasurer shall be responsible for general supervision of the financial affairs of the Chamber, and shall make regular financial reports to the Board of Directors and to the membership; and shall perform such other duties as may be prescribed by the membership.

Section 6.9. Compensation. No compensation or salary shall be paid to any officer of the Chamber.

ARTICLE VII

Board or Directors

Section 7.1. General Powers. Subject to the provisions of the California Nonprofit Corporation Law and any limitations in the Articles of Incorporation and these Bylaws relating to action required to be approved by the Members, the business and affairs of the Chamber shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board Directors.

Section 7.2. Specific Powers. Without prejudice to these general powers, and subject to the same limitations, the Directors shall have the Power to;

(a) Select and remove agents and employees of the corporation; prescribe any powers and duties for them that are consistent with law, with the Articles of Incorporation, and with these Bylaws; and fix their compensation.

(b) Borrow money and incur indebtedness on behalf of the corporation and cause to be executed and delivered for the corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecation, and other evidences of debt and securities.

(c) Powers relative to B.I.D. In addition to the foregoing powers, the Board is further empowered to contract with, render professional services to, utilize and cooperate with the City of San Diego ("City") in developing, implementing and administering projects and programs consistent with and in furtherance of the purposes set forth in the Ordinance establishing the Old Town San Diego Business Improvement District, including without limitation, the preparation and submission of all plans, goals, reports, schedules, assessments, estimates, budgets, and financial statements which may be required by the City.

Section 7.3. Number and Qualifications of Directors. Until changed by a duly adopted amendment to these Bylaws, the authorized number of Directors shall be twelve (12), and shall

consist of the individuals elected by the membership. All Directors must be Members of the Chamber admitted pursuant to Section 3.2.

Section 7.4. Quorum. A majority of the authorized number of Directors in office at any time shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, subject to the provisions of the California Nonprofit Corporation Law, especially those provisions relating to (i) approval of contracts or transactions in which a director has a direct or indirect material financial interest, (ii) appointment of committees, and (iii) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

Section 7.5. Election and Term of Office. The Members shall elect six (6) Directors annually who shall serve for terms of two (2) years or until their successors are elected at the annual meeting in November.

Section 7.6. Vacancies. Vacancies in the Board of Directors may be filled by a majority of the remaining Directors, though less than a quorum, or by a sole remaining Director, except that a vacancy created by the removal of a Director by the vote or written consent of the Members or by a court order may be filled only by the vote of a majority of the Members at a duly held meeting, or by the written consent of a majority of the Members. Each Director so elected shall hold office until a successor has been elected.

(a) **Removal for Cause.** The Board 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, been found by a final order of judgement of any court to have breached any duty arising under Section 7238 of the California Nonprofit Mutual Benefit Corporation Law, or failed to attend four (4) regular or special meetings of the Board in one Calendar year.

(b) **Removal for.** The Board, by a majority vote of the Directors who meet all of the required qualifications to be a director, may declare vacant the office of any Director who fails or ceases to meet any required qualification that was in effect at the beginning of that Director's current term of office.

Section 7.7. Meetings. Meetings of the Board of Directors shall be held at such times and places within the City of San Diego as is designated from time to time by resolution of the Board or by written consent of all Members of the Board. In the absence of such designation, meetings shall be held at the principal office of the Chamber. Special meetings of the Board may be held either at a place so designated office.

Section 7.8. Special Meetings. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or any five (5) Directors.

(a) Notice of Special Meetings. Notice of the time and place of special meetings shall be given to each director by one of the following methods; (i) by personal delivery or written notice; (ii) by first-class mail, postage prepaid; (iii) by telephone communication, either directly to the director or to a person at the director's office who would reasonably be expected to communicate such notice promptly to the director; or (iv) by telegram, charges prepaid. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Chamber.

(b) Time Requirements. Notices sent by first-class mail shall be deposited into a United States mail box at least four days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least 48 hours before the time set for the meeting.

(c) Notice Requirements. The notice shall state the time and place for the meeting. However, it need not specify the purpose of meeting, or the place of the meeting, if it is to be held at the principal executive office of the Chamber.

Section 7.9. Waiver of Notice. The transactions of any meeting of the board of directors however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes. The waivers, consents, and approvals shall be filed with the Chamber's records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 7.10. Action without Meeting. Any action required or permitted to be taken by the board of directors may be taken without a meeting, if all Members of the board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the board of directors. Such written consent or consents shall be filed with the minutes of the proceeding of the board.

Section 7.11. Compensation. The Directors shall receive no compensation for their services as such.

Section 7.12. Vote of Directors. Each Director, except the President, may cast one vote on any question or proposition to be voted on at a meeting. Votes may not be cast by proxy. The President shall only cast a vote in the event of a tie.

Section 7.13. Rules and Regulations. The Board of Directors shall have power to make such reasonable rules and regulations not inconsistent with these Bylaws or Council Policies 600-24 and 900-07 of the City of San Diego as it deems necessary for the conduct of its business.

ARTICLE VIII

Election of Directors

Section 8.1. Nomination. Any person who is qualified to be elected to the board of directors of the Chamber may be nominated by the following procedures;

(a) If there is a meeting of Members to elect directors, any Member present at the meeting in person or by proxy in accordance with the provisions of section 5.4 may place names in nomination.

(b) The Board of Directors shall appoint a committee to select qualified candidates for election to the board at least 120 days before the date of any election of directors. This nominating committee shall make its report at least 90 days before the date of the election, or at such other time as the Board of Directors may set and the Secretary shall forward to each Member, with the notice of meeting required by these bylaws, a list of all candidates nominated by committee under this section.

(c) If the Chamber has 500 or more, but fewer than 5000, Members. Members representing 2 percent of the voting power may nominate candidates for directors by a petition, signed by those Members within 11 months preceding the next time directors are to be elected, and delivered to an officer of the Chamber. On timely receipt of a petition signed by the required number of Members, the Secretary shall cause the name of the candidates named on it to be placed on the ballot along with the names of those candidates named by the nominating committee.

Section 8.2. Corporate Publication Soliciting Votes. If the Chamber has 500 or more members and it publishes any material soliciting a vote for any nominee for director in any publication owned or controlled by the Chamber, it shall make available to all other nominees, other than those nominated from the floor at the election, in the same issue of the publication, an equal amount of space, with equal prominence, to be used by the nominee for a purpose reasonably related to the election.

Section 8.3 Election Material.

(a) **Mailing Election Material.** On written request by any nominee for election to the Board and accompanying payment of the reasonable costs of mailing (including postage), the Chamber shall, within ten business days after the request (provided payment has been made), mail to all Members, or such portion of them as the nominee may reasonable specify, any material that the nominees may furnish and that is reasonably related to the election, unless the Chamber within five business days after the request allows the nominee, at the Chamber's option, the right to do either of the following: (1) Inspect and copy the record of all the Members' names, addresses, and voting rights, at reasonable times, on five business days' prior written demand on the Chamber, which demand shall state the purpose for which the inspection rights are requested; or (2) obtain from the

Secretary of the Chamber, on written demand and tender of a reasonable charge, a list of the names, address, and voting rights of those Members entitled to vote for the election of Directors, as of the most recent record date for which it has been compiled or as of a date specified by the Member subsequent to the date of demand. The membership list shall be made available on or before the later of ten business days after the demand is received or after the date specified in it as the date by which the list is to be compiled.

(b) Refusal to Publish or Mail Material. The corporation may not decline to publish or mail material that it is otherwise required hereby to publish or mail on behalf of any nominee, on the basis of the content of the material, except that the Chamber or any of its agents, officers, directors, or employees may seek and comply with an order of the Superior Court allowing them to delete material that the court finds will expose the moving party to liability.

(c) Use of Corporate Funds to Support Nominee. No Chamber funds may be expended to support a nominee for Director.

Section 8.3. Election Procedure. Except as is otherwise provided for herein all election procedures shall be promulgated by the Board pursuant to Section 7.13.

ARTICLE IX

Miscellaneous

Section 9.1. No Personal Interest. No Member shall have any personal, proprietary, or beneficial interest in the property of the Chamber, either during its corporate existence or after the termination thereof by dissolution or otherwise; all its property and assets remaining after paying or adequately providing for the debts and obligations of the corporation shall be conveyed, transferred, and assigned to the City of San Diego with request that the excess funds be devoted to the benefit of the community of Old Town.

Section 9.2. Amendment. New bylaws may be adopted or these bylaws may be amended or repealed only by approval of the Members in accordance with Article V. Copies of any proposed Amendments shall be distributed to the Members in accordance with section 4.3..

CERTIFICATION OF ADOPTION OF AMENDED BYLAWS

The undersigned hereby certifies:

That I am duly elected, qualified and acting Secretary of the Old Town San Diego Chamber of Commerce.

That the foregoing Amended Bylaws were submitted to and ratified by the Members at their meeting on May 21, 1997.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ 1997.

JILL K. MESAROS
Secretary