

BYLAWS
OF
ENCINITAS CERT

A California nonprofit public benefit corporation

PREAMBLE

The name of this corporation shall be Encinitas CERT, Inc. (the "corporation"). This corporation is a nonprofit public benefit corporation organized under the laws of the State of California. The purposes of the corporation are (i) to provide emergency preparedness, education, training, organization, equipment and supplies for CERT members in the city of Encinitas, (ii) to educate Encinitas citizens about disaster preparedness, and (iii) to support the Encinitas Fire Department and their emergency services.

ARTICLE I. MEMBERSHIP

Section 1. Members. Membership is limited to individuals in good standing who have completed the CERT Academy training provided by the Encinitas Fire Department as certified as CERT member. The corporation shall have no voting members within the meaning of the California Nonprofit Public Benefit Corporation Law. Any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the Board of directors. All rights that would otherwise vest in the voting members shall vest in the Board of directors.

Section 2. Associates. Nothing in this Article I shall be construed as limiting the right of the corporation to refer to persons associated with it as "members", even though such persons are not members, and no such reference shall constitute anyone a member within the meaning of either Section 5056 of the California Nonprofit Corporation Law (commencing at Section 5000 of the California Corporations Code) or the California Nonprofit Public Benefit Corporation Law (commencing at Section 5110 of the California Corporations Code). The corporation may confer by amendment of its Articles or of these Bylaws some or all or the rights of the rights of a member, as set forth in the California Nonprofit Public Benefit Corporation Law, upon any person or persons who do not have the right to vote for the election of directors, or on a disposition of substantially all of the assets of the corporation, or on a merger, dissolution or charge to the corporations Articles or Bylaws, but no such person shall be a "member" within the meaning of Section 5056.

Section 3. Classification. Nothing in this Article I shall be construed as limiting the right of the corporation or the Board to fix eligibility requirements, admission requirements, amounts of application fees or annual dues, or any other similar concepts in defining "associates."

ARTICLE II. DIRECTORS

Section 1. **Powers.** Subject to limitations of the Articles of Incorporation, the California Nonprofit Public Benefit Corporation Law and these Bylaws, the activities and affairs of the corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate the management of the activities of the corporation to any person or persons, a management company, or committees however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Board shall have the following powers in addition to the other powers enumerated in these Bylaws:

- (a) To select and remove all officers, agents, and employees of the corporation, prescribe powers and duties for them as may not be inconsistent with law, the Articles of Incorporation, or these Bylaws, fix their compensation, and require from them security for faithful service.
- (b) To conduct, manage, and control the affairs and activities of the corporation and to make such rules and regulations for that purpose not inconsistent with law, the Articles of Incorporation, or these Bylaws, as they may deem best.
- (c) To adopt, make, and use a corporate seal and to alter the form of such seal from time to time as they may deem best.
- (d) To borrow money and incur indebtedness for the purposes of the corporation, and to cause to be executed and delivered for that purpose, in the corporation name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, or other evidences of debt and the securities for these purposes.

Section 2. **Director Qualifications.** The Directors of Encinitas CERT shall have the following qualifications:

- (a) Each potential Director of Encinitas CERT shall be eighteen (18) years of age on or before being seated at the regular date specified for the Board, and
- (b) Each potential Director of Encinitas CERT shall be a citizen of the United States of America.

Section 3. **Number of Directors.** The authorized number of directors shall be not less than Three (3) or more than Nine (9), until changed by amendment of the Articles of Incorporation or these Bylaws, provided that the Board of Directors may, from time to time, change the number of directors within the limits specified herein.

Section 4. Selection and Term of Office. Members of the Board of Directors shall serve for a maximum term of two (2) years, with the possibility of serving another term. Board members shall have the following terms:

- (a) Two (2) members to serve for up to a maximum of two (2) years.
- (b) Three (3) members to serve for up to a maximum of one (1) year.
- (c) Thereafter, the Board of Directors shall elect Directors of the Corporation on a yearly rotation of three (3) in any one annual year and two (2) in the next annual year.

Section 5. Vacancies. Subject to the provisions of Section 5226 of the California Nonprofit Public Benefit Corporation Law, any director may resign, effective upon giving written notice to the President, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be selected before such time, to take office when the resignation becomes effective. Additional instructions are set forth below:

- (a) Vacancies on the Board shall be filled in the same manner as the director(s) whose office is vacant was selected. Each director so selected shall hold office until the expiration of the term of the replaced director, and until a successor has been selected and qualified.
- (b) A vacancy or vacancies in the Board shall be deemed to exist in case of the death, resignation, or removal of any director, or if the authorized number of directors is increased.
- (c) The Board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or found by a final order of judgment of any court to have breached any duty arising under Section 5230 *et seq.* of the California Nonprofit Public Benefit Corporation Law.
- (d) In accordance with the provisions of Section 5222 of the California Nonprofit Public Benefit Corporation Law, any director of this corporation may be removed from the Board, upon the concurrence of a majority of the directors then in office.
- (e) No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of the director's term of office.

Section 6. Place of Meeting. Meetings of the Board shall be held at any place within or without the State of California which has been designated from time to time by the Board.

Section 7. Annual Meetings. The Board shall hold an annual meeting for the purpose of organization, selection of officers, and the performance of other tasks. Annual meetings of the

Board shall be held at such time and on such date as may be fixed by the Board and stated in a notice provided to all then-acting directors with seven days advance notice to all directors.

Section 8. Regular Meetings. Regular meetings of the Board shall be held without call or notice on such dates and at such times as may be fixed by the Board.

Section 9. Special Meetings. Special meetings of the Board for any purpose or purposes may be called at any time by the President or any three directors. Additional instructions are set forth below:

- (a) Special Meetings of the Board shall be held upon four days' notice by first-class mail or 48 hours' notice given personally or by telephone, facsimile, email, or other similar means of communication. Any such notice shall be addressed or delivered to each director at such director's address as it is shown upon the records of the corporation or as may have been given to the corporation by the director for purposes of notice or, if such address is not shown on such records or is not readily ascertainable, at the place in which the meetings of the directors are regularly held.
- (b) Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mails, postage prepaid. Another written notice shall be deemed to have been given at the time it is personally delivered to the recipient, is delivered to a common carrier for transmission to the recipient, or is actually transmitted by electronic means, to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone.

Section 10. Quorum. A majority of the directors then in office, but not being less than Three (3) constitutes a quorum of the Board for the transaction of business, except to adjourn as provided in Section 12 of this Article II. 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, unless a greater number is required by law or by the Articles of Incorporation, and except as provided in the next sentence. 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 such meeting.

Section 11. Participating in Meetings by Conference Telephone. Members of the Board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members at such meeting can communicate concurrently with one another and can participate fully in the matters under discussion.

Section 12. Waiver of Notice. Notice of a meeting need not be given to any director who signs a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

Section 13. Adjournment. A majority of the directors present, whether or not a quorum is present, may adjourn any director's meeting to another time and place. Notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

Section 14. Action Without Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such consent or consents shall have the same effect as a unanimous vote of the Board and shall be filed with the minutes of the proceedings of the Board.

Section 15. Rights of Inspection. Every director shall have absolute right at any reasonable time (within five days) to inspect and copy all books, records, and documents, of every kind, and to inspect the physical properties of the corporation.

Section 16. Committees. The Board may appoint one or more committees, each consisting of two or more directors. Any such committee must be created, and the members thereof appointed, by resolution adopted by a majority of the authorize number of directors then in office, provided that a quorum is present. The Board may appoint, in the same manner, alternate members of any committee who may replace any absent member at any meeting of the committee. The Board shall have the power to prescribe the manner in which proceedings of any such committee shall be conducted. In the absence of any such prescription, such committee shall be governed by the provisions of this Article II applicable to meetings and actions of the Board. Minutes shall be kept of each meeting of each committee. The Board may delegate to such committees any of the authority of the Board, except with respect to:

- (a) The filling of vacancies on any committee;
- (b) The amendment or repeal of Bylaws or the adoption of new Bylaws;
- (c) The amendment or repeal of any resolution of the Board that by its express terms is not subject to be so amendable or repealable;
- (d) The appointment of other committees of the Board or the members thereof;
- (e) The approval of any self-dealing transaction, as such transactions are defined in Section 5233(a) of the California Nonprofit Public Benefit Corporation Law

Section 17. Fees and Compensation. No director may receive compensation for his or her services to the corporation; provided, however, a director shall be reimbursed for his or her expenses, in an amount as may be fixed or determined by the Board.

Section 18. Honorary Directors. Notwithstanding anything else contained in these Bylaws, the Board may, from time to time and in its absolute discretion, nominate and elect one or more persons to the office of "honorary director." An honorary director shall have no rights or obligations with respect to the corporation, nor shall such person be deemed to be a "member" of the corporation. Such person shall have the privilege of attending meetings of the Board or any committee, but may not vote, and shall otherwise be accorded the status of *ex officio* directors.

ARTICLE III. OFFICERS

Section 1. Officers. The officers of the corporation shall be a President (Chief Executive Officer), a Vice President, and a Secretary. The corporation may also have, at the discretion of the Board, more than one Vice President, and such other officers as may be elected or appointed in accordance with the provisions of Section 3 of this Article III. Any number of offices may be held by the same person, except that the Secretary may not serve concurrently as the President.

Section 2. Elections. The officers of the corporation, except such officers as may be elected or appointed in accordance with the provisions of Section 3 of this Article III, shall be chosen annually by, and shall serve at the pleasure of, the Board, and shall hold their respective offices until their resignation, removal, or other disqualification from service, or until their respective successors shall be elected.

Section 3. Subordinate Officers. The Board may elect, and may permit the President to appoint such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board may from time to time determine.

Section 4. Removal and Resignation. Any officer may be removed, either with or without cause, by the Board at any time or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board. Any such removal shall be without prejudice to the rights, if any, of the officer under any contract of employment held by the officer. Any officer may resign at any time by giving written notice to the President, but without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party. Any such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

Section 6. President. The President is the general manager and chief executive officer of the corporation and has, subject to the control of the Board, general supervision, direction, and control of the activities and officers of the corporation. The President shall preside at all meetings of the Board. The President shall possess the general powers and duties of management usually vested in the office of president and general manager of a corporation, and such other powers and duties as may be prescribed by the Board.

Section 7. Vice President. In the absence or disability of the President, the Vice Presidents, in order of their rank, shall perform all of the duties of the President and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice Presidents shall have such other powers and perform such other duties as may, from time to time, be respectively prescribed for them by the Board.

Section 8. Secretary. The Secretary shall keep, or cause to be kept, a book of minutes of all meetings of the Board and committees, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present, and the proceedings thereof. The Secretary shall keep, or cause to be kept within the State of California the original or certified copies of the corporation's Articles of Incorporation and Bylaws, as amended to date. The Secretary shall give, or cause to be given, notice of all meetings of the Board and any committees thereof as required by these Bylaws or by law to be given, shall keep the seal of the corporation in safe custody, and shall have such other powers and perform such other duties as may be from time to time be prescribed by the Board.

Section 9. Chief Financial Officer (Treasurer). The Chief Financial Officer is the treasurer of the corporation and shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the corporation. The books of account shall at all times be open to inspection by any director. The Chief Financial Officer shall deposit all moneys and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board. The Chief Financial Officer shall disburse the funds of the corporation as may be ordered by the Board, shall render to the President and the directors, whenever they request it, an account of all transactions and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board.

ARTICLE IV. OTHER PROVISIONS

Section 1. Construction and Definitions. Unless the context otherwise requires, the general provisions, rules of construction, and definitions contained in the California Nonprofit Corporation Law and the California Nonprofit Public benefit Corporation Law shall govern the construction of these Bylaws.

Section 2. Amendments. These Bylaws may be adopted, amended or repealed by majority vote of the Board; provided, however, that if any Bylaw provision shall conflict with the corporation's Articles of Incorporation, then such conflicting Bylaw provision shall be null and void.

Section 3. Limitation on Activities. No substantial part of the activities of the corporation shall consist of lobbying, propaganda, or otherwise attempting to influence legislation, except as may be provided or permitted in Section 501(h) of the Internal Revenue Code of 1986, and this

corporation shall not intervene or participate in any political campaign (including the publishing, issuing, or distribution of statements) for or against, or on behalf of, any candidate for political office, whether partisan or nonpartisan, or any issue appearing on any ballot.

Section 4. Dissolution. The corporation shall be dissolved upon a majority vote of the Board. The assets of the corporation shall be distributed upon dissolution as provided in the Articles of Incorporation.

Section 5. Conflicts of Interest. No officer, director, or employee of the corporation shall be financially interested in any agreement made by or on behalf of the corporation unless such interest complies with Section 5230, *et seq.* of the California Nonprofit Public Benefit Corporation Law.

Section 6. Budget and Audit. The Board shall adopt an annual budget for the corporation at the beginning of each fiscal year of the corporation. The Board may determine to cause the books and accounts of the corporation to be audited annually in its sole and absolute discretion, or upon any event or series of events causing the Board to desire a full and complete audit. The fiscal year of the corporation shall be the calendar year.

ARTICLE V. INDEMNIFICATION

Section 1. Definitions. For the purposes of this Article V, "agent" means any person who is or was a director, officer, employee, or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, limited liability company, or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic corporation that was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Section 3 or 5 of this Article V.

Section 2. Indemnification by the Corporation. A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section 5233, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal

proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 3. Indemnification in Actions by Third Parties. The corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than (i) an action by or in the right of the corporation to procure a judgment in its favor, (ii) an action brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or (iii) an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust), by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 3:

- (a) In respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses that such court shall determine;
- (b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or
- (c) Of expenses incurred in defending a threatened or pending action that is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.

Section 4. Indemnification Against Expenses. To the extent that an agent of the corporation has been successful on the merits in the defense of any proceeding referred to in Section 2 or 3 of this Article V or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 5. Required Determinations. Except as provided in Section 4 of this Article V, any indemnification under this Article V shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 2 or 3 of this

Article V by:

- (a) A majority vote of a quorum consisting of directors who are not parties to such proceeding; or
- (b) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by the corporation.

Section 6. Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount, unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article V.

Section 7. Other Indemnification. No provision made by the corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the Articles of Incorporation, Bylaws, a resolution of directors, an agreement, or otherwise, shall be valid unless consistent with this Article V. Nothing contained in this Article V shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

Section 8. Forms of Indemnification Not Permitted. No indemnification or advance shall be made under this Article V, except as provided in Section 4 or 5, in any circumstances where it appears:

- (a) That it would be inconsistent with a provision of the Articles of Incorporation, these Bylaws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification;
- (b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement; or
- (c) That it would be inconsistent with the California Nonprofit Public Benefit Corporation Law, including without limitation Sections 5230 through 5239, inclusive, thereof.

Section 9. Insurance. The corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this Article V; provided, however, that the corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the corporation for a violation of Section 5233 of the California Nonprofit Public Benefit Corporation Law.

ARTICLE VI. REMOVAL OF CERT MEMBER

Section 1. Removal. A CERT Academy graduate member of Encinitas CERT can be removed from the member rolls for the following reasons:

- (a) Violation of the CERT code of conduct.
- (b) The misappropriation and/or misuse of Encinitas CERT funds, goods, equipment, in-kind donations, or of any asset of Encinitas CERT Inc. or their affiliates.
- (c) The misuse, unauthorized use or misrepresentation of Encinitas CERT's name, namesake or image(s), including photographs and drawings.
- (d) Any of the reasons listed as cause for removal of a CERT Board member from the CERT Board of directors in Article II of the Encinitas CERT Inc. bylaws.
- (e) Breach of any California or federal law pertaining to the individual protection and civil rights of any other CERT member, Encinitas Fire Department or their agents, assignees, donors or recipients in the course of everyday routine or any emergency.
- (f) Violation of the chain of command in an emergency or disaster situation as dictated by the Encinitas Fire Department.
- (g) Intentional disruption of Encinitas CERT meetings, Board meetings, CERT gatherings, training presentations or any other activity related to Encinitas CERT activities and programs.

Section 2. Procedure: Should a complaint be filed verbally or in writing to the Encinitas CERT Board:

- (a) Said Board may elect to advise the member verbally or in writing to stop the action or behavior deemed to be in violation and harmful to CERT.
- (b) If the Board deems the degree of damage or violation to be serious enough to warrant such a step, the Board shall submit a request to the City of Encinitas Fire Department for removal of the CERT member(s) who committed the violation from CERT membership and CERT activities. The Board may request removal of CERT membership and privileges on a permanent or temporary basis.
- (c) Should the CERT member in question be advised by the Encinitas Fire Department that their CERT membership and privileges have been revoked, the Encinitas CERT Board shall remove that member from all CERT lists and privileges.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting Secretary of Encinitas CERT, a California nonprofit public benefit corporation;
2. The foregoing Bylaws, consisting of 11 pages, including this page, are a true and correct copy of the duly adopted Bylaws of Encinitas CERT.

IN WITNESS WHEREOF, I have set my name and affixed the seal of the corporation on this 19th day of ~~May~~ June, 2008.

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June, 2008.
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Nancy Telford, Secretary
Nancy Telford, Secretary

Ein # 32-0224058

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