

**BYLAWS**  
**OF**  
**OSPREY RESERVE OWNERS ASSOCIATION**

**ARTICLE I**  
**NAME AND LOCATION**

The name of the corporation is Osprey Reserve Owners Association (the "Association"), a Colorado nonprofit corporation. The principal office and address of the Association are located at 481 W. Main, Frisco, Colorado 80443, with a mailing address of P.O. Box 26, Frisco, Colorado 80443.

**ARTICLE II**  
**DEFINITIONS, PURPOSES AND ASSENT**

Section 2.01 Definitions. The definitions in the Declaration of Covenants, Conditions and Restrictions for Osprey Reserve, as amended, supplemented or restated from time to time and recorded in the office of the Clerk and recorder of Summit County, State of Colorado (collectively the "Declaration"), will apply to these Bylaws, and all defined terms used in these Bylaws will have the same meaning as the defined terms used in the Declaration, unless the defined terms in these Bylaws or the context of these Bylaws clearly indicate otherwise.

Section 2.02 Purposes. The specific purposes for which the Association is formed are (i) to provide for the operation, administration, use and maintenance of the Lots and the Common Elements within Osprey Reserve, as more fully described in the Declaration; (ii) to preserve, protect and enhance the values and amenities of such property; and (iii) to promote the health, safety and welfare of the Owners and users of the Project.

Section 2.03 Assent. All present or future Owners, their families, present or future tenants, and their guests and invitees, and any other person using the facilities of the Project in any manner are subject to the Association Documents, including the Declaration, the Map, the Articles of Incorporation, these Bylaws and any procedures, rules or policies adopted by the Executive Board. The acquisition or rental of any of the Lots in the Project or the occupancy of any of the Lots will constitute ratification and acceptance of these Bylaws and an agreement to comply with those rules.

**ARTICLE III**  
**MEMBERSHIP**

Section 3.01 Membership. Ownership of a Lot is required in order to qualify for membership in the Association. Except for those Owners who initially purchase a Lot from Declarant, every person becoming an Owner will immediately furnish to the Executive Board a photocopy or a certified copy of the recorded instrument vesting in that person such ownership,

which instrument shall remain in the files of the Association. A Member will not be deemed to be in good standing nor will he be entitled to vote at any annual or special meeting of Members unless this requirement is first met.

Section 3.02 Representation on Executive Board. If title to a Lot is held by an individual, a firm, corporation, partnership, association, limited liability company, other legal entity or any combination thereof, or if any individual or entity holds title to one or more Lots, then in either case, that individual or entity may appoint, by a writing furnished to the Association, a delegate to represent each such Lot as a candidate for, and if elected, as a member of, the Executive Board. Such delegate will not vote as a Member unless such person is appointed by a proxy executed in conformance with Section 4.10 of these Bylaws to cast the voting interest of the Lot which he represents.

Section 3.03 Responsibility of Members. Any person, including Declarant, on becoming an Owner, will automatically become a Member and be subject to these Bylaws. Such membership will terminate without any formal Association action whenever such person ceases to own a Lot, but such termination will not relieve or release any such former Owner from any liability or obligation incurred under the Declaration or in any way connected with the Association during the period of such ownership, or impair any rights or remedies which the Executive Board or others may have against such former Owner arising out of ownership of the Lot and membership in the Association and the covenants and obligations incident thereto. Every Owner will timely notify the Association of the name and address of any mortgagee, purchaser, transferee or lessee of his Unit. The Association will maintain such information at the office of the Association.

Section 3.04 Membership Certificates. No certificates of stock will be issued by the Association, but the Executive Board may, if it so elects, issue membership cards to Owners. Such membership card will be surrendered to the Secretary of the Association whenever ownership of the Lot designated on the card is terminated.

Section 3.05 Classes of Membership. Initially, the Association will have one class of voting membership, composed of all Owners, including Declarant.

Section 3.06 Voting Privileges. All Members will be entitled to vote on all matters, with one vote per Unit.

(a) When more than one person holds an interest in any Lot, all such persons will be Members. The vote for such Lot will be exercised by one person or alternative persons as the Owners among themselves determine. If more than one of the multiple Owners are present at a meeting in person or by proxy, the vote allocated to their Lot may be cast only in accordance with the agreement of a majority in interest of the Owners, and if a majority of the Owners cannot agree, then the Owners of such Lot will not be entitled to vote. There is a majority agreement if any one of the multiple Owners casts the vote allocated to his Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot.

(b) Any Owner of a Lot that is leased may assign his voting right to the tenant,

provided that the tenant is appointed to vote on behalf of the Owner by proxy and the proxy is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right.

#### **ARTICLE IV** **ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES**

Section 4.01 Place and Frequency of Meetings. Meetings of the Members will be held at least once each year at such place, within the State of Colorado, as the Board may determine.

Section 4.02 Annual Meetings. The first meeting of the Members will be held within one year after the date of adoption of these Bylaws. Each subsequent annual meeting of the Members will be held on a date and at a time set by the Executive Board. The purpose of the annual meeting is for the election of the Executive Board and the transaction of such other business of the Association as may properly come before the meeting.

Section 4.03 Special Meetings. Special meetings of the Members may be called at any time by the President of the Association, or by a majority of the Executive Board, or upon written request of Members who are collectively entitled to vote at least 20% of all votes in the Association.

Section 4.04 Notice of Meetings. Written notice stating the place, day and hour of the meeting and the agenda for the meeting will be delivered not less than 10 nor more than 50 days before the date of the meeting, personally, by U.S. mail, e-mail as approved by the Members or otherwise as permitted by the Act, by or at the direction of the President, or the Secretary, or the persons calling the meeting, as provided in these Bylaws, to the registered mailing address for notice (as provided in the Declaration) of each Member entitled to vote at such meeting.

Section 4.05 Quorum. A quorum is deemed present throughout any meeting of the Association if Members entitled to cast (or proxies entitled to cast) 40% of the votes of the Association are present at the beginning of the meeting. If, however, such quorum is not present or represented at the meeting, the Members entitled to vote at the meeting will have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented by proxy.

Section 4.06 Actions Binding on Members. A majority of votes cast by Members constituting a quorum in person or by proxy will be sufficient to make decisions binding on all Owners, unless a different number or method of voting is expressly required by statute or by the Declaration, the Articles or these Bylaws.

Section 4.07 Majority of Owners. As used in these Bylaws, the term "majority" will mean those votes, Owners, or other groups as the context may indicate totaling more than 50% of the total number.

Section 4.08 Voting by Mail. The Executive Board may decide that voting of the Unit Owners on any matter required or permitted by the statutes of Colorado, the Declaration, the Articles

of Incorporation, or these Bylaws will be by mail. Pursuant to the Colorado Revised Nonprofit Corporation Act, any action that may be taken at any annual, regular or special meeting of the Unit Owners may be taken without a meeting if the Secretary delivers a written ballot to every Member entitled to vote on the matter. A written ballot will: (i) set forth each proposed action; and (ii) provide an opportunity to vote for or against each proposed action. Approval by written ballot will be valid only when the number of votes cast by ballot 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 the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot will: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than election of members of the Executive Board; (iii) specify the time by which a ballot must be received by the Association in order to be counted; and (iv) be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. A written ballot may not be revoked.

Section 4.09 Proxies. Any Member may cast such Member's vote in person or by proxy, but no proxy will be valid if it is not dated or if it purports to be revocable without notice. Further, no proxy will be valid after eleven months from the stated date of its execution unless otherwise provided in the proxy or unless voluntarily revoked upon notice, amended, or sooner terminated by operation of law. Finally, no proxy will be valid unless filed with the Secretary of the Association at or before the appointed time of the meeting at which the proxy will be voted.

Section 4.10 Designation of Voting Representative by Non-Individual Owners-Requirement for Proxy. If title to a Lot is held in whole or in part by a firm, corporation, partnership, association, limited liability company or other legal entity, the voting privilege appurtenant to that ownership may be exercised only by a proxy executed on behalf of such party or parties, filed with the Secretary of the Association, and appointing and authorizing one person or alternate persons to attend all annual and special meetings of the Members and to cast the vote allocated to that Lot at the meeting.

Section 4.11 Designation of Voting Representative by Multiple Owners-Use of Proxy. If title to a Lot is held by more than one Owner, each Owner may vote or register protest to the casting of votes by the other Owners of the Lot through a duly executed proxy, and if a majority of the Owners for a Lot cannot agree, then the Owners of such Lot will not be entitled to vote. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association.

Section 4.12 Waiver of Notice. Waiver of notice of a meeting of the Members will be deemed the equivalent of proper notice. Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, will be deemed waiver by such Member of notice of the time, date and place of the meeting unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting will also be deemed waiver of notice of all business transacted at the meeting unless objection to the calling or convening of the meeting of which proper notice was not given, is raised before the business is put to a vote.

Section 4.13 Action Without a Meeting. Any action which may be taken by the vote of the Members at a regular or special meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Members.

Section 4.14 Teleconference Meetings. Any regular or special meeting of the Members may be conducted by teleconference or other electronic means, followed by minutes of such meeting, which will be distributed to each Member.

Section 4.15 Order of Business. The order of business at all meetings of the members will be as follows:

- (a) Roll call and certifying proxies
- (b) Proof of notice of meeting or waiver thereof
- (c) Reading of Minutes of previous meeting
- (d) Reports of Officers
- (e) Reports of Committees
- (f) Election of Managers
- (g) Old business
- (h) New business
- (i) Adjournment.

The President may revise the agenda as necessary.

Section 4.16 Rules of Meetings. The Executive Board may prescribe reasonable rules for the conduct of all meetings of the Executive Board and Members and in the absence of such rules, Robert's Rules of Order will be used.

## **ARTICLE V** **EXECUTIVE BOARD: SELECTION; TERM OF OFFICE**

Section 5.01 Number, Qualification and Initial Board. The affairs of the Association will be managed by an Executive Board of not less than one (1) and no more than three (3) Directors. Except as provided below regarding Directors appointed by Declarant during the Period of Declarant Control, the Directors will be Members of the Association or the delegates of Members appointed by proxy under Article IV above. The number of the Executive Board will be established from time to time by amendment to these Bylaws.

The Executive Board will consist of three members. The initial Executive Board will consist of three members identified in the Articles of Incorporation.

Section 5.02 Directors During Declarant Control.

(a) During the Period of Declarant Control the Executive Board will be selected by the Declarant and will serve at the sole discretion of Declarant, subject, however, to the provisions of C.R.S §38-33.3-303 of the Act (providing for gradual transition of control of the Board as Lots

are sold in the Project). The Directors selected by Declarant need not be Members of the Association.

(b) A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Period of Declarant Control, but, in that event, the Declarant may require for the duration of the Period of Declarant Control, that specified actions of the Association or the Executive Board, as described in a recorded instrument by the Declarant, be approved by the Declarant before they become effective.

Section 5.03 Election of Directors as Lot Sales Close. From time to time as sales of Lots in the Project proceed, Declarant will yield control of one or more seats on the Executive Board as necessary to comply with C.R.S §38-33.3-303 of the Act. Each time that Declarant transfers control of a Director's position, a special meeting of the Association will be called for the purpose of electing a new Director to take the place of the Director designated by Declarant as resigning.

Section 5.04 Relinquishment of Declarant Control. Upon termination of the Period of Declarant Control in accordance with the Declaration, a special meeting of the Association will be called, at which Declarant will turn control of the Association over to the other Members as provided in the Act. The Members will elect a new Executive Board and at least a majority of the Directors must be Unit Owners (or designated representatives) other than Declarant. Subsequently, Directors, will be elected by the Members at each annual meeting of the Members.

Section 5.05 Voting Procedures Generally. In the election of the Executive Board, each Member will have the right to vote the number of votes to which he is entitled for as many persons as there are Board members to be elected, and for whose election he is entitled to vote under Section 3.06 above. Voting for Directors will be by voice vote or secret written ballot or as determined by the President. Cumulative voting will not be allowed.

Section 5.06 Term of Office of Directors After Period of Declarant Control. The term of office for the initial full slate of Directors elected by the Members will be fixed at the time of their election as they themselves will determine in order to establish a system of three-year terms in which at least one-third of the Board is elected each year, and the Board will identify in which year the directorships for each category of representation are subject to election. For example, if the number of Directors on the initial Board is set at three pursuant to Section 5.01 above, one Director will serve for a three-year term, one Director for a two-year term and one Director for a one-year term. At the expiration of the initial term of office of each respective Director, a successor will be elected to serve three years. Each Director will hold office until such Director's successor is elected by the Members and qualified to serve.

Section 5.07 Removal of Executive Board Members. Any Director other than one appointed by Declarant may be removed, with or without cause, at any regular or special meeting of the Members by sixty-seven percent (67%) vote of the Members voting in person or by proxy at a meeting at which a quorum is present. A successor to any Director removed may be elected at such meeting to fill the vacancy created by removal of the Director. A Director whose removal is proposed by the Members will be given notice of the proposed removal prior to the date of such

meeting and will be given an opportunity to be heard at such meeting.

Section 5.08 Vacancies.

(a) During the Period of Declarant Control. During the Period of Declarant Control, if a Director appointed by Declarant dies, becomes disabled or resigns, Declarant will appoint a new Director to serve the balance of the term of the resigning, disabled or deceased Director; and if a Director elected by the Members dies, becomes disabled or resigns, the remaining Directors will appoint a new Director from among the Members other than Declarant to serve the remainder of the term of the resigning, disabled or deceased Director representing Members other than Declarant.

(b) Following Period of Declarant's Control. After the expiration or termination of the Period of Declarant's Control, any vacancy occurring on the Board, other than removal by the Members, may be filled by the affirmative vote of a majority of the remaining Directors, though less than a quorum of the Board. The term of the Director so elected will be coincident with the terms of the replaced Director.

Section 5.09 Compensation. No Director will receive compensation for service as an Executive Board member unless approved by a majority vote of the members. However, any Director may be reimbursed for actual, reasonable expenses incurred on behalf of the Association. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested Director.

**ARTICLE VI**  
**MEETINGS OF DIRECTORS**

Section 6.01 Regular Meetings. Regular meetings of the Executive Board will be held at such regular times as set by the Executive Board, at such place and hour as may be fixed from time to time by resolution of the Board, but such meetings will be held no less frequently than annually. Should a regularly scheduled meeting fall upon a legal holiday, then that meeting will be held at the same time on the next day which is not a legal holiday.

Section 6.02 Special Meetings. Special meetings of the Executive Board will be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

Section 6.03 Quorum. A quorum is deemed present throughout any meeting of the Executive Board if persons entitled to cast 67% of the votes on the Board are present at the beginning of the meeting.

Section 6.04 Agendas and Attendance. All regular and special meetings of the

Association's Executive Board, or any committee thereof, will be open to attendance by all Members of the Association or their representatives; however, Members will not be allowed to participate in the meetings unless authorized by the chairman of the meeting. Agendas for meetings of the Executive Board will be made reasonably available for examination by all Members of the Association or their representatives.

Section 6.05 Executive Sessions. The members of the Executive Board or any committee thereof may hold an executive or closed door session and may restrict attendance to Executive Board members and such other persons requested by the Executive Board during a regular or specially announced meeting or a part thereof. The matters to be discussed at such an executive session will include only matters enumerated in subparagraphs (a) to (e) of this section.

- (a) Matters pertaining to employees of the Association or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the Association;
- (b) Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
- (c) Investigative proceedings concerning possible or actual criminal misconduct;
- (d) Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure; and
- (e) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

No rule or regulation of the Executive Board or committee thereof will be adopted during an executive session. The minutes of all meetings at which an executive session was held will indicate that an executive session was held, and the general subject matter of the executive session.

Section 6.06 Actions Binding on Directors. Every action taken or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present will be regarded as the act of the Board.

Section 6.07 Waiver of Notice. Attendance of a Director at any meeting will constitute a waiver of notice of such meeting, except when a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Before, at, or after any meeting of the Board of Directors, any member of the Board may waive in writing notice of such meeting, and such waiver will be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the waiver of notice of such meeting.



Section 6.08 Action Taken Without a Meeting. The Directors will have the right to take any action which they could take at a meeting in the absence of a meeting by obtaining the written approval of all the Directors. Any action so approved will have the same effect as though taken at a meeting of the Directors.

Section 6.09 Teleconference Meetings. Any regular or special meeting of the Board may be conducted by teleconference or other electronic means, followed by minutes of such meeting, which will be distributed to each Board Member.

Section 6.10 Conflicting Interest Transactions. Conflicting interest transactions means a contract, transaction, or other financial relationship between the Association and an Executive Board member of the Association, or between the Association and a party related to an Executive Board member, or between the Association and an entity in which an Executive Board member is a director or officer or has a financial interest. The provisions of the Colorado Revised Nonprofit Act will apply to all situations where a conflicting interest transaction is present. See, C.R.S. §7-128-501.

## ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 7.01 General. The Executive Board will have the powers and duties necessary for the administration of the affairs of the Association. Except as provided by these Bylaws, the Declaration or the Act, the Executive Board may do all such acts and things which are not specifically required to be done by the Members and may otherwise act in all instances on behalf of the Association.

Section 7.02 Specific Powers and Duties. Without limiting the generality of powers and duties set forth in Section 7.01 above, the Executive Board will have the following powers and duties, in each case subject only to applicable requirements of the Act:

(a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration.

(b) To establish, make, amend from time to time and enforce compliance with such reasonable rules and regulations as may be necessary for the operation, use and occupancy of the Project, subject to the provisions of the Declaration. A copy of such rules and regulations will be delivered, mailed by U.S. mail or by e-mail to each Member promptly after adoption.

(c) To keep in good order, condition and repair all the Common Elements and all items of personal property, if any, used in the enjoyment of the Common Elements. No approval of the Members is required for expenditures for these purposes, except as otherwise required by the Declaration or these Bylaws.

(d) To fix, determine, levy, and collect the prorated Annual Assessments to be paid by each of the Members towards the gross expenses of the Project, and to adjust, decrease or increase the amount of the Assessments, and to credit any excess of Assessments over expenses and

cash reserves to the Members against the next succeeding Assessment period.

(e) To designate and remove personnel necessary for the operation, maintenance, repair and replacement of the Common Elements.

(f) To levy and collect Special Assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses or costs, or additional capital expenses, or because of emergencies. All Special Assessments will be in statement form and will set forth in detail the various expenses for which the Special Assessments are being made.

(g) To levy and collect Default Assessments for violation of the Project Documents or because the Association has incurred an expense on behalf of a Member under the Project Documents.

(h) To collect delinquent Assessments by suit or otherwise and to enjoin or seek damages from an Owner as provided in the Declaration and these Bylaws; and to exercise other remedies for delinquent Assessments as set forth in the Declaration.

(i) To fix, determine, levy and collect the working capital funds to be paid by each of the Members towards the working capital account of the Association, and to adjust, decrease or increase the amount of working capital funds collected from each Member as provided in the Declaration.

(j) To borrow funds in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the Declaration and these Bylaws, and subject to limitations of the Act, and to authorize the appropriate officers to execute all such instruments evidencing such indebtedness as the Board may deem necessary and such indebtedness will be the several obligation of all Owners in the same proportions as they share Common Expenses; provided, however, that the Board will not borrow more than \$100,000 or cause the Association to be indebted for more than \$100,000 at any one time without the prior approval of a majority of votes of Members present and voting in person or by proxy on the issue; and provided further, that the Board will not cause the encumbrance of the Common Elements without the prior approval of 67% of the votes of Members present and voting in person or by proxy on the issue in accordance with the requirements of the Act.

(k) To dedicate, sell or transfer all or any part of the Common Elements to any public, governmental or quasi-governmental agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the Members, and subject to such additional limitations as may be set forth in the Declaration or the Act, including without limitation the requirement of obtaining the prior approval of 67% of the votes of the Members present and voting in person or by proxy on the issue in accordance with the requirements of the Act.

(l) To enter into contracts within the scope of their duties and powers.

(m) To establish a bank account for the operating account of the Association and for the reserve funds and as required or deemed advisable by the Executive Board.

(n) To cause to be kept and maintained full and accurate books and records showing all of the receipts, expenses or disbursements and to permit examination thereof by Members or their Mortgagees during convenient weekday business hours.

(o) To cause any and all access roads, parking areas, and roadways in and to the Project and across the Property to be maintained, repaired and replaced as necessary to the extent those facilities are within the jurisdiction or control of the Association, subject to the provisions of the Declaration.

(p) To maintain and remove snow from any and all driveways, roadways and parking areas at the Project and to maintain and replace as necessary the landscaping, lawn, trees, shrubs, and other vegetation, and the sprinkler or other irrigation systems located on the Project for the benefit of the Members.

(q) To cause to be maintained the insurance coverage (including without limitation fidelity insurance, or in its place, a bond covering the Manager, the Board, the officers and any other persons charged with handling Association funds) as may be necessary to comply with the requirements of the Declaration, these Bylaws and the Act.

(r) In general, to carry on the administration of the Association and to do all those things necessary and responsible in order to carry out the communal aspects of Lot ownership, all in accordance with the Declaration and the requirements of the Act.

(s) To delegate to the Manager or any other person or entity such of the Association's duties or responsibilities as may be more conveniently or efficiently performed by someone other than by the Association, and to agree to assess to the Members a reasonable fee for such services, except that the duties set forth in subparagraphs (d), (f), (g), (i), (j), (k) or (s) of this Section 7.02 are duties reserved to the Board by law will not be so delegated.

(t) To prepare a budget before the close of each fiscal year of the Association and submit the budget to the Association as required by the Act.

Section 7.03 Manager. The Executive Board may employ for the Project a professional management agent or agents as Manager for compensation established by the Board to perform such duties and services as authorized by the Board of Directors. The Board of Directors may delegate to the Manager, subject to the Board's supervision, all of the powers granted to the Executive Board by these Bylaws, other than the powers set forth in subparagraphs (d), (f), (g), (i) (j), (k) or (s) of Section 7.02 of this Article and duties reserved to the Board by law. Declarant, or an affiliate or employee of Declarant, may be employed as Manager, subject to the limitations of the Act. If the Board delegates powers of the Board or officers of the Association relating to collection, deposit, transfer or disbursement of the Association funds to the Manager, then subparagraphs (a), (b), (c), (d) and (e) below will apply.

(a) Fidelity Insurance. The Manager will maintain fidelity insurance coverage or a bond providing the same type of insurance as described in Section 6.7 of the Declaration in an amount not less than the greater of (i) \$50,000, (ii) (a) the amount equal to the maximum funds that will be in the custody of the Association or the Manager, or (b) the amount of three month's current Assessments plus reserves, as calculated from the current budget of the Association, on all Units in the Project, or (iii) such higher amount as the Board may require;

(b) Maintain Association Accounts. The Manager will maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the Manager and will maintain all reserve accounts of each association so managed separate from operational accounts of the Association, each with appropriate access controls, and the bank where the accounts are located must send copies of monthly bank statements directly to the Association, and the Manager will not have authority to draw checks on, or transfer funds from, the Association's reserve account; and

(c) Annual Accounting. An annual accounting for the Association funds and a financial statement will be prepared and presented to the Association by any one of the following: the Manager, a public accountant, or a certified public accountant.

(d) Management Agreement. If a professional manager is employed, the management agreement must be for a specified term (not to exceed three (3) years) and must contain specific termination provisions. Such termination provisions may not require the payment of any penalty for termination or require advance notice of termination in excess of sixty (60) days. Declarant may enter into a management agreement before the expiration of the Period of Declarant Control, but the management agreement must provide that the Association has the right to terminate the management agreement without cause and such right may be exercised by the Association at upon sixty (60) days notice after the expiration of the Period of Declarant Control.

(e) Right of Entry. The Manager and any person authorized by the Board will have the right to enter each Unit in case of any emergency originating in or threatening such Unit whether or not the Owner or occupant is present at the time. Such authorized persons will also have the right to enter each Unit to perform maintenance and repair work as prescribed by these Bylaws and the Declaration.

Section 7.04 Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) A segregation of accounting duties should be maintained, and disbursements by check in any amount greater than \$10,000 will require two signatures. The two signatures will be the signature of the Manager and a Board Member, or the signature of two Board Members. The Board may modify this requirement from time to time by the resolution of the Board. Cash disbursements will be limited to amounts of \$200 or less.

(b) Cash accounts of the Association will not be commingled with any other accounts.

(c) No remuneration will be accepted by the Executive Board Members or the Manager from vendors, independent contractors or other providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise (except that such persons may be employees of Declarant during the Period of Declarant Control). Anything of value received will be for the benefit of the Association.

(d) Any financial or other interest that the Manager or a Member of the Board may have in any firm (other than Declarant) providing goods or services to the Association will be disclosed promptly to the Board.

(e) Commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15<sup>th</sup> day following the due date unless otherwise specified by Board resolution).

(f) An annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant.

Section 7.05 Hearing Procedure. The Board will not impose a fine, suspend voting, or suspend any rights of a Member or other occupant of the Project for violations of rules and regulations or of the provisions of the Project Documents unless and until the procedure below is followed:

(a) Demand. Written demand to cease and desist from the alleged violation will be served upon the alleged violator specifying:

(i) the alleged violation;

(ii) the action required to abate the violation; and

(iii) a time period of not less than 10 days during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any additional similar violation may result in the imposition of a sanction after notice and hearing, if the violation is not continuing.

(b) Notice. At any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same rule is subsequently violated, the Board or its delegate will serve the violator with written notice of a hearing to be held by the Board. The notice will contain the following:

(i) the nature of the alleged violation;

(ii) the time and place of the hearing, which time will be not less than ten (10) days from the giving of the notice;

(iii) an invitation to attend the hearing and produce any statement, evidence and witness on the Member's behalf; and

(iv) the proposed sanction to be imposed.

(c) Hearing. The hearing will be held pursuant to the notice, affording the Member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction under these Bylaws, proof of notice and the invitation to be heard will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director or agent who delivered such notice. The notice requirement will be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction, if any, imposed. Written and oral evidence may be presented. The presenting party will provide copies of any written evidence to the other party or parties. The decision of the Board will be final.

(d) Appeal. The Board may in its discretion appoint a Hearing Committee to hear the matter. In such event the above procedure will apply except that either party may appeal the decision of the Hearing Committee to the Board by written notice to the Hearing Committee, the other party and the Board. The Board will consider the minutes of the hearing and report the decision to the Hearing Committee within a reasonable period of time not exceeding sixty (60) days after receipt of the notice. The decision of the Board will be final.

(e) Exceptions. Notwithstanding anything herein to the contrary, judicial proceedings must be instituted before any nonconforming or violating items of construction can be altered or demolished. The foregoing procedures will not be necessary in order to impose any sanction or penalty for nonpayment of a delinquent Assessment.

(f) Additional Enforcement Rights. Notwithstanding anything to the contrary in

this Article, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, towing vehicles that violate parking rules) or, following compliance with the dispute resolution procedures set forth in the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover any monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. Any entry onto a Lot for purposes of exercising this power of self-help shall not be deemed as trespass.

## **ARTICLE VIII** **OFFICERS AND THEIR DUTIES**

Section 8.01. Enumeration of Officers. The officers of the Association will be a President, a Vice-President, a Secretary and Treasurer, all of whom must be Directors, and such other officers as the Board may from time to time create by resolution. Following the expiration of the Period of Declarant Control, all officers of the Association must be Owners of Lots in the Project.

Section 8.02 Election of Officers. The election of officers will take place at the first meeting of the Board following each annual meeting of the Members.

Section 8.03 Term. The officers of the Association will be elected annually by the Board, and each will hold office for one year or until his successor is duly elected and qualified, unless he sooner resigns, or is removed, or is otherwise disqualified to serve.

Section 8.04 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom will hold office for such period, have such authority, and perform such duties as the Board may determine from time to time.

Section 8.05 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation will take effect on the date of receipt of such notice or at any later time specified in the notice, and unless otherwise specified in the notice, the acceptance of such resignation will not be necessary to make it effective.

Section 8.06 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy will serve for the remainder of the term of the officer replaced.

Section 8.07 Multiple Offices. Any two or more offices may be held by the same person except the offices of President and Secretary.

Section 8.08 Duties. The duties of the officers are as follows:

(a) President. The President will preside at all meetings of the Association and of the Board; see that orders and resolutions of the Board are carried out; sign all leases, mortgages,

deeds and other written instruments; co-sign all promissory notes; cause to be prepared and execute, certify and record amendments to the Declaration on behalf of the Association; and exercise and discharge such other duties as may be required of the President by the Board.

(b) Vice-President. The Vice-President will act in the place and stead of the President, in the event of his absence, inability or refusal to act, and will exercise and discharge such other duties as may be required by the Board.

(c) Secretary. The Secretary will record the votes and keep the minutes of the meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and place it on all papers requiring the seal; serve notice of meetings of the Board and of the Members; keep appropriate current records listing the Members together with their addresses; and perform such other duties as required by the Board.

(d) Treasurer. The Treasurer will receive and deposit in the appropriate bank accounts all monies of the Association and will disburse such funds as directed by resolution of the Board; sign all checks of the Association unless the Board specifically directs otherwise, and co-sign all promissory notes of the Association; keep proper books of account; at the direction of the Board, cause an annual audit of the Association books to be made by a public accountant at least once in every three fiscal years; and prepare an annual budget and a statement of income and expenditures to be presented to the Members at their regular annual meeting, and deliver or make copies available to each of the Members.

## ARTICLE IX INDEMNIFICATION

Section 9.01 Definitions. For purposes of this Article IX, the following terms will have the meanings set forth below:

(a) Proceeding. Any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal;

(b) Indemnified Party. Any person who is or was a party or is threatened to be made a party to any Proceeding by reason of the fact that he is or was a Board Member, committee member or officer of the Association or, while a Board Member or officer of the Association, is or was serving at the request of the Association as a Board Member, committee member, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

Section 9.02 Indemnification. The Association will indemnify, if indemnification is authorized by C.R.S. §7-129-102, any Indemnified Party in any Proceeding. The Association will advance the expenses of the Indemnified Party as provided in C.R.S. §7-129-104.

Section 9.03 Insurance. By action of the Board, notwithstanding any interest of the Board Members in such action, the Association may purchase and maintain insurance, in such amounts as



the Board may deem appropriate, on behalf of any Indemnified Party against any liability asserted against him incurred by him in his capacity of or arising out of their status as an Indemnified Party, whether or not the Association would have the power to indemnify him against such liability under applicable provisions of law.

Section 9.04 Right to Impose Conditions to Indemnification. The Association will have the right to impose, as conditions to any indemnification provided or permitted in this Article IX, such reasonable requirements and conditions as to the Board may appear appropriate in each specific case and circumstances including, without limitation, any one or more of the following; (a) that any counsel representing the person to be indemnified in connection with the defense or settlement of any Proceeding will be counsel mutually agreeable to the person to be indemnified and to the Association; (b) that the Association will have the right, at its option, to assume and control the defense or settlement of any claim or proceeding made, initiated or threatened against the person to be indemnified; and (c) that the Association will be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified person's rights of recovery, and that the person to be indemnified will execute all writings and do everything necessary to assure such rights of subrogation to the Association.

## ARTICLE X **ASSOCIATION RECORDS, INFORMATION AND REPORTS**

Section 10.1 Corporate Report Filing. The Executive Board will at all times keep the Association in good standing by filing the annual report each year with the Colorado Secretary of State. The Secretary or authorized officer of the Association will complete the annual report received from the Colorado Secretary of State with the name of the registered agent and registered office with both the physical and mailing address of the Association for notification by the Secretary of State and for service of process.

Section 10.2 Association Minutes and Record Keeping Requirements. The Association or its agents will keep as permanent records:

(a) minutes of all meetings of its members and Executive Board, a record of all actions taken by the members or the Executive Board without a meeting, a record of all actions taken by a committee of the Executive Board in place of the Executive Board on behalf of the Association, and a record of all waivers of notices of meetings of members and of the Executive Board or any committee of the Executive Board;

(b) appropriate accounting records;

(c) a record of its Members in alphabetical order, by class, showing the number of votes each Member is entitled to vote;

(d) Association records in written form or in another form capable of conversion into written form within a reasonable time; and

- (e) a copy of each of the following records at its principal office:
- (i) Articles of Incorporation;
  - (ii) Bylaws;
  - (iii) Resolutions adopted by its Executive Board relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of Members;
  - (iv) Minutes of all Members' meetings, and records of all action taken by Members without a meeting, for the past three (3) years;
  - (v) All written communications within the past three (3) years to Members generally as Members;
  - (vi) List of all names and business or home addresses of its current Executive Board members and officers;
  - (vii) Copy of the most recent corporate report delivered to the Colorado Secretary of State under C.R.S. §7-136-107; and
  - (viii) All financial statements prepared for periods ending during the last three (3) years that a Member could have requested under C.R.S. §7-136-106.

Section 10.3 Inspection of Association Records by Members. A Member is entitled to inspect and copy, during regular business hours at the Association's principal office, any of the records of the Association described in Section 10.3 above. The Member must give the Association written notice at least five (5) business days before the date on which the Member wishes to inspect and copy such records and in accordance with Colorado law at C.R.S. §§7-136-102 and 7-136-103.

Section 10.4 Statement of Assessments. The Executive Board or Manager, if any, will furnish to any Member, the Member's designee or Mortgagee, upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Member's unit. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Executive Board, and every Member. If no statement is furnished to the Member or Mortgagee, or owner's designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the unit for unpaid assessments which were due as of the date of the request. The Association shall keep financial records sufficiently detailed to enable the Association to comply with C.R.S. §38-33.3-316(8) concerning statements of unpaid assessments. All financial and other records shall be made reasonably available for examination by any Member or Member's designees.

10.5 Notices. Except as otherwise provided in the Declaration or these Bylaws, all notices, demands, bills, statements, or other communications under the Declaration or these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

- (a) If to a Member, at the address which the Member has designated in writing

and filed with the Secretary, or, if no such address has been designated, at the address of the Unit of such Member;

(b) If to the Association, the Board, or the Manager, at the principal office of the Association or the Manager or at such other address as shall be designated by notice in writing to the Members pursuant to this section; or

(c) If to any committee, at the principal address of the Association or at such other address as shall be designated by notice in writing to the Members pursuant to this section.

## ARTICLE XI NONPROFIT CORPORATION

This Association is not organized for profit. No Member of the Association, member of the Executive Board, or person from whom the Association may receive any property or funds will receive or will be lawfully entitled to receive any pecuniary profit from the operations of the Association, and in no event will any part of the funds or assets of the Association be paid as a dividend or be distributed to, or inure to the benefit of any member of the Executive Board. Notwithstanding the foregoing, (a) reasonable compensation may be paid to any Member or Director acting as an agent or employee of the Association for services rendered in effecting one or more of the purposes of the Association; (b) any Member or Director may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association, and (c) any Director may be reimbursed for actual and reasonable expenses incurred in the performance of his duties.

## ARTICLE XII AMENDMENTS

Section 12.01 Amendment by the Members. These Bylaws may be amended by the affirmative vote by a vote of at least seventy-five percent (75%) of the Members of the Association present or represented by proxy at any regular or special meeting, provided a quorum is present at such meeting. However, notwithstanding the foregoing, no provisions of these Bylaws may be amended by a number of Members which is less than the number of Members required within that particular provision to take certain action. Amendments may be proposed by the Executive Board or by petition signed by the holders of at least a majority of the votes. A statement of any proposed amendment will accompany the notice of any regular or special meeting at which such proposed amendment will be voted upon.

Section 12.02 Amendment by the Board. The Board may amend these Bylaws by a vote of not less than 75% of Directors at any regular or special meeting. A statement of any proposed amendment will accompany the notice of any regular or special Board meeting at which such proposed amendment will be voted upon.

Section 12.03 Scope of Amendments. These Bylaws may not be amended in a manner inconsistent with the Articles of Incorporation of the Association, the Declaration, or Colorado law.

The Board may not amend the quorum requirement in §6.03.

**ARTICLE XIII**  
**MISCELLANEOUS**

Section 13.01 Fiscal Year. The fiscal year of the Association will begin on the first day of January and end on the 31<sup>st</sup> day of December each year, except that the first fiscal year will begin on the date of incorporation.

Section 13.02 Conflicts of Documents. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles will control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration will control.

Section 13.03 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

**CERTIFICATE**

The undersigned Secretary of the Association hereby certifies that the above and foregoing Bylaws were duly adopted by the Executive Board of this Association as the Bylaws of this Association on the 25 day of March, 2004, and that they constitute the Bylaws of this Association.

  
\_\_\_\_\_  
Secretary

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