

**AMENDED AND RESTATED BYLAWS  
OF  
THE RESERVE ON THE EAGLE RIVER  
CONDOMINIUM ASSOCIATION**

## TABLE OF CONTENTS

	Contents	Page No.
Article 1:	<b>INTRODUCTION AND PURPOSE</b>	1
	1.1 Introduction	1
	1.2 Purposes	1
	1.3 Persons Subject to Bylaws	1
Article 2:	<b>DEFINITIONS</b>	2
Article 3:	<b>BOARD OF DIRECTORS</b>	4
	3.1 Number	4
	3.2 Qualifications	5
	3.3 Terms of Office for Directors	5
	3.4 Resignation of Directors	6
	3.5 Removal of Directors	6
	3.6 Vacancies	7
	3.7 Compensation	8
Article 4:	<b>POWERS AND DUTIES OF THE BOARD OF DIRECTORS</b>	8
	4.1 General Power	8
	4.2 Other Powers and Duties	8
	4.3 Managing Agent	10
	4.4 No Waiver	10
Article 5:	<b>BOARD OF DIRECTOR'S OFFICERS AND THEIR DUTIES</b>	10
	5.1 Enumeration of Offices	10
	5.2 Election of Officers	10
	5.3 Duties	10
	5.4 Delegation	11
	5.5 Resignation	11
	5.6 Removal	11
Article 6:	<b>COMMITTEES OF THE BOARD OF DIRECTORS</b>	12
	6.1 Designated Committees	12
	6.2 Open Committee Meetings	12
	<b>6.3 Authority</b>	12
	<b>6.4 Design Review Committee</b>	12
	<b>6.5 Open Committee Meetings</b>	12
Article 7:	<b>MEETINGS OF THE BOARD OF DIRECTORS</b>	12
	7.1 Regular Meetings	12
	7.2 Special Meetings	13
	7.3 Notice of Board Meetings	13
	7.4 Location of Meetings and Open Meetings	13
	7.5 Waiver of Notice	15
	7.6 Quorum	15

	7.7 Proxies for Board Meetings	15
	7.8 Action Without Meeting	16
	7.9 Telephone or Electronic Communication in Lieu of Attendance	16
	7.10 Member Participation	16
	7.11 Deemed Assent	16
Article 8:	<b>MEMBERS AND VOTING</b>	17
	8.1 Obligations of Members	17
	8.2 Termination, Suspension and Resignation of Membership	17
	8.3 Transfer of Membership	18
	8.4 Annual Meeting of Members	18
	8.5 Special Meetings	18
	8.6 Place of Meeting	19
	8.7 Notice of Meeting	19
	8.8 Quorum and Action of the Members	20
	8.9 Voting Rights; Proxies	21
	8.10 Conduct of Meetings	23
	8.11 Action by Written Ballot	23
	8.12 Process for Election of Directors	24
Article 9:	<b>BUDGET MEETINGS</b>	26
	9.1 Budget Meetings	26
Article 10:	<b>BOOKS AND RECORDS</b>	27
	10.1 Association Records	27
Article 11:	<b>BYLAW AMENDMENTS</b>	27
	11.1 Bylaw Amendments	27
Article 12:	<b>INDEMNIFICATION</b>	28
	12.1 Obligation to Indemnify	28
	12.2 Payment in Advance of Final Disposition	28
	12.3 Determination and Authorization of Indemnification	29
	12.4 Directors and Officers Insurance	30
Article 13:	<b>MISCELLANEOUS</b>	30
	13.1 Fiscal Year	30
	13.2 Notices	30
	13.3 Conflicts	31
	13.4 Waiver	31

## RECITALS

The Reserve on the Eagle River Condominium Association, a Colorado nonprofit corporation ("Association"), certifies that:

- (1) The Association and its Members desire to amend and restate the Bylaws currently in effect as set forth below.
- (2) The provisions set forth in these Amended and Restated Bylaws supersede and replace the existing Bylaws and all amendments. All proper steps have been taken to adopt these Amended and Restated Bylaws.

### ARTICLE 1: INTRODUCTION AND PURPOSE

#### Section 1.1 Introduction.

These are the Bylaws of The Reserve on the Eagle River Condominium Association, which Association operates as a Common Interest Community under the Association Governing Documents, the Colorado Common Interest Ownership Act (Article 33.3 of Title 38 of the Colorado Revised Statutes), as the same may be amended from time to time ("Act"), and the Colorado Revised Nonprofit Corporation Act (Articles 121 through 137 of Title 7 of the Colorado Revised Statutes), as the same may be amended from time to time (the "Nonprofit Act").

#### Section 1.2 Purposes.

The purposes for which the Association was formed are to preserve and enhance the value of the properties of Members and to govern the Common Interest Community and the Common Properties of the "The Reserve on the Eagle River Condominium Association," a Planned Community situated in the County of Eagle, State of Colorado. Terms which are defined in the Declaration shall have the same meaning herein, unless defined otherwise in these Bylaws.

#### Section 1.3 Persons Subject to Bylaws.

All present or future Owners, tenants, future tenants, guests or any person that might use or occupy, in any manner, the facilities within the Common Interest Community, are subject to the terms and provisions of these Bylaws, and the other governing documents ("Documents") of the Common Interest Community. The mere acquisition, rental or use of a Unit will signify that the Documents of the Common Interest Community are acceptable, ratified and will be complied with.

## ARTICLE 2: DEFINITIONS

In supplement of the definitions provided for in the Act, the Nonprofit Act and the Declaration of Covenants and Restrictions, as Amended, of The Reserve on the Eagle River Condominium Association, the following terms shall have the meaning set forth below, unless the context requires otherwise:

### Section 2.1 Act.

“Act” shall mean the Colorado Common Interest Ownership Act, C.R.S. §38-33-3-101 *et seq.* as it may be amended.

### Section 2.2 Assessment.

“Assessments” or “Common Expense Assessments” shall include all common expense assessments and any other charges or expenses levied against a Unit or Units pursuant to or as allowed under the Act or the Declaration, including interest, late fees, attorney fees, fines and costs.

### Section 2.3 Association.

“Association” shall mean and refer to The Reserve on the Eagle River Condominium Association, and its successors and assigns.

### Section 2.4 Architectural Control Committee.

“Architectural Control Committee” shall mean and refer to the Committee created by the Board for purposes of addressing all matters that arise under the Design Guidelines for The Reserve on the Eagle River to which the Board may delegate authority to approve or deny applications that are submitted under and fall within the Design Guidelines.

### Section 2.5 Board or Board of Directors.

“Board or “Board of Directors” shall mean the body designated in the Articles and Bylaws to act on behalf of the Association.

### Section 2.6 Common Area or Common Elements.

“Common Area” or “Common Elements” shall mean all real property owned by the

Association for the common use and enjoyment of the Owners, if any.

Section 2.7 Common Expenses.

“Common Expenses” shall mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocation to reserves.

Section 2.8 Community or The Reserve Community.

“Community” or “Reserve Community” shall mean the planned rural residential Community known as “The Reserve on the Eagle River” or the “The Reserve on the Eagle River Planned Community”, as further defined by the Declaration and the recorded Plat Map.

Section 2.9 Declaration.

“Declaration” shall mean and refer to the Declaration of Covenants and Restrictions for The Reserve on the Eagle River Condominium Association, as Amended and as applicable to the Property and recorded in the office of the Clerk and Recorder of Eagle County, Colorado, as it may be amended from time to time.

Section 2.10 Governing Documents.

“Governing Documents” shall mean all of the various documents that provide governance assistance and which includes the Declaration, Articles of Incorporation, Plat Map, these Bylaws, Rules, Regulations and Policies of the Association, as they may be amended and adopted from time to time, inclusive of the Design Guidelines and Responsible Governance Policies adopted per the Colorado Common Interest Ownership Act at C.R.S. §38-33.3-209.5.

Section 2.11 Unit.

“Unit” shall mean and refer to any of the Units which are subject to the Declaration and are shown upon the recorded subdivision Plat Map for the Property, together with all appurtenances thereto and improvements now or hereafter located thereon.

Section 2.12 Member.

“Member” shall mean any record Owner of a fee interest in a Unit. The terms Member and Owner may be used interchangeably.

Section 2.13 Meetings of the Members.

“Meetings of the Members” of the Association shall include an Annual Member Meeting held during each fiscal year and such other Budget Meetings, Special Meetings, or any Meetings of Members as may be called in accordance with these Bylaws and Colorado law.

Section 2.14 Meetings of the Board of Directors.

“Meetings of the Board of Directors” are comprised of regular and special meetings of the Board as addressed with more particularity in Article 7 herein.

Section 2.15 Owner.

“Owner” shall mean the record Owner of a fee interest in a Unit, whether one or more persons or entities, but not including those having an interest merely as security for the performance of an obligation. The term Member and Owner may be used interchangeably.

Section 2.16 Property or Properties.

“Property” or “Properties” shall mean the property described in and which is subject to the Declaration and the Plat Map, together with all easements, rights, and appurtenances thereto, together with the buildings and improvements erected or to be erected thereon.

### **ARTICLE 3: BOARD OF DIRECTORS**

Section 3.1 Number.

The affairs of the Association shall be governed by a Board of Directors to consist of not less than three, nor more than nine with staggered terms as addressed in Section 3.3 below. The first election of the Board of Directors that occurs after adoption of these Amended and Restated Bylaws shall be for six (6) seats upon the Board of Directors with staggered terms as provided for in Section 3.3. The number of Directors may be increased within the allocated range by a majority vote of the Board of Directors at a duly called meeting at which a quorum of the Board is present or by unanimous written consent as provided for in these Bylaws. The number of Directors may be decreased by the Board in the event there are insufficient Members willing to fill any vacant position(s) and in such event the decrease shall only be by the number of vacancies that are unable to be filled. Any new Director position created by an increase in the number of Directors hereunder will be filled via an election by the Members per the requirements of these Bylaws. In the case where, through removal or resignation, the total number of Directors is less than the number set by the Board, the Board will be considered properly constituted until such vacancies are filled.

Section 3.2 Qualifications.

- a) Only one Owner per Unit, eligible to vote, current in the payment of Assessments, and otherwise in good standing, may be elected, or appointed, to fill a vacancy on the Board.
- b) If any Unit is owned by a partnership, limited liability company, corporation or trust, the Authorized Representative of that entity shall be eligible to serve as a Director.
- c) Any Director who is more than 30 days delinquent in payment of any Assessment shall not be qualified to serve on the Board.
- d) Any Director who has unexcused absences from three consecutive Board meetings shall not be qualified to serve on the Board. An absence will be excused if the absent Board Member notifies the Board President of the planned absence and the reason for the absence at least three days before the meeting and a majority of the remaining Board Members approve the absence as being for a valid purpose. The Board will act reasonably and fairly in said regard and any removal of a Board Member for alleged violations of this requirement shall be addressed via the removal procedures set forth in these Bylaws. Notice may be provided electronically.
- e) Any Director, who is in violation of any provision of the Governing Documents of the Association, unabated for more than 30 days, shall not be qualified to serve on the Board.
- f) Any Director whom is engaged in contested legal proceedings against the Association with a Court or Tribunal shall not be qualified to serve on the Board during the pendency of said proceedings.
- g) The unauthorized disclosure by any Director of matters addressed at an Executive Session of the Board, or information that the Association has deemed is not to be disclosed to the Membership as permitted by the Colorado Common Interest Ownership Act, including those records and the information used to comprise such records designated currently under C.R.S. §38-33.3-317(3.5) shall render a Director unqualified and subject to removal per Section 3.5

Section 3.3 Terms of Office for Directors.

- a) **After Adoption of These Bylaws.**
  - i. Presently there are six (6) Members of the Board of Directors with three (3) seats expiring in 2018 and three (3) seats expiring in 2019. Commencing upon the first election of Directors after adoption of these Amended and Restated Bylaws, all terms of Directors shall be two (2) years with three two-year terms expiring each year unless the Board composition changes



pursuant to Section 3.1, but in any event all terms remain two (2) years in length subject to the minimum and maximum Board Member number in Section 3.1.

- ii. The term of at least one Director shall expire annually.

**b) Terms of Directors.**

- i. There shall be no term limits for Directors.
- ii. Directors shall hold Office until their successor has been elected.
- iii. Replacement Directors, due to resignation or removal of a Director, will serve the remaining years of the replaced Director's term.

**Section 3.4 Resignation of Directors.**

Any Director may resign at any time by giving written notice to the President, to the Secretary or to the Board of Directors stating the effective date of the resignation. Acceptance of a resignation shall not be necessary to make the resignation effective. In the event of an opening upon the Board of Directors due to resignation, death, disability or other reason, however occurring, the vacancy may be filled as prescribed in Section 3.6 herein.

**Section 3.5 Removal of Directors.**

**a) By the Membership.**

- i. One or more Directors may be removed, with or without cause, at a Meeting of the Members upon which the removal of a Director is specifically called out upon the agenda. Removal may only occur upon the affirmative vote of a majority of the Members present, in person or by proxy, at the Meeting, at which a quorum is present in accordance with Section 8.8. Notice of any Meeting of the Members at which removal of a Director(s) shall be voted upon shall state that such issue will be addressed at the meeting and shall be provided to every Member of the Association, including the Directors sought to be removed, as provided in these Bylaws. Directors sought to be removed shall have the right to be present at this meeting and shall be given the opportunity to speak to the Members prior to a vote to remove being taken.
- ii. In the event of removal of a Director under this Section, the vacancy shall be filled per Section 3.6(i) below.

**b) Removal by Board.**

- i. Any Director who has been rendered ineligible to serve on the Board under the provisions of Section 3.2 may be removed by a majority vote of the Directors present at a regular or special meeting of the Board at which a quorum is present and the notice for which expressly sets forth that removal of an ineligible Director is on the agenda. All Members of the Association shall be provided notice of any Board meeting, in the same manner as Notice is to occur for a Member meeting, at which a Director is subject to removal. The Director in question shall be provided written notice not less than 30 days in advance of the meeting with an opportunity to cure the basis for the ineligibility to serve prior to the meeting.
- ii. In the event of the removal of a Director under this Section (b), a vacancy shall be declared by the Board of Directors and filled via the prescribed process under Section 3.6(ii) below.

Section 3.6 Vacancies.

- i. Vacancy Due to Member Vote – Upon the occurrence of a vacancy or vacancies on the Board created by removal of a Board Member by the Membership, the Board shall address the vacancy as follows:
  1. Advise Members of the vacancy or vacancies in the same manner by which Notice of Member Meetings are provided in these Bylaws and invite the submission of applications by any Members interested in serving on the Board under such time frame as the Board may deem appropriate but in no event less than ten (10) days from the date the request is provided by the Board. Only eligible Members may apply for the Board position. The Director just removed is not eligible.
  2. Hold an election pursuant to Section 8.12.
- ii. Vacancy Due to Ineligibility – Upon the occurrence of a vacancy or vacancies on the Board due to ineligibility under Section 3.2, the Board shall address the vacancy as follows:
  1. Advise Members of the vacancy or vacancies in the same manner by which Notice of Member Meetings are provided in these Bylaws and invite the submission of applications by any Members interested in serving on the Board under such time frame as the Board may deem appropriate but in no event less than ten (10) days from the date the request is provided by the Board. Only eligible Members may apply for the Board position. The Director just removed is not eligible.

2. After receipt of applications, hold a Board Meeting at which the vacancy or vacancies may be filled by a majority vote of the remaining Directors, even if a quorum does not exist as a result of the vacancy.

Section 3.7 Compensation.

No Director shall receive compensation for any service the Director may render as a Director to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of Association duties provided that any such reimbursement shall have been previously approved by the Board and is allowed under Colorado law.

**ARTICLE 4: POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 4.1 General Power.

All corporate powers shall be exercised by, or under the authority of, and the business and affairs of the Association shall be managed by its Board of Directors, except as otherwise provided in the Act, the Declaration, the Nonprofit Act, the Articles or these Bylaws. The Board of Directors is designated to act on behalf of the Association and shall be responsible for the control and management of the Association and the disposition of its funds and property; however, the Board of Directors may not act on behalf of the Association to amend the Declaration, to terminate the Association (except as provided in the Declaration), to elect Directors or to determine the qualifications, powers and duties, or terms of Office of Directors, but, the Board of Directors may fill vacancies on the Board of Directors for the unexpired portion of any term.

Section 4.2 Other Powers and Duties.

The Board may act in all instances on behalf of the Association in accordance with the Governing Documents and the Act. The Board shall have, subject to the limitations contained in these Bylaws, the Declaration and the Act, all of the powers and duties necessary for the administration of the affairs of the Association and of the Community, and for the operation and maintenance of the Community including the following powers and duties:

- a) Exercise all powers conferred by the Act and the Governing Documents;
- b) Adopt and amend these Bylaws as permitted herein and under the Declaration;
- c) Adopt and amend Rules and Regulations including the Responsible Governance Policies and any other procedures and policies as required by the Act, as well as procedures and policies for the submission and consideration of architectural review requests including the Design Guidelines and any penalties for infractions thereof;
- d) Adopt and amend budgets which may include any increase or decrease in the amount of the annual assessment recommended by the Board, the projected expenses for the following year, and any amount which, in the Board's reasonable business judgment, is required to

establish and maintain an adequate reserve fund and/or funds for anticipated future expenses as provided for in the Association's policies for the establishment and investment of reserves subject to the Declaration and the Act;

- e) To keep and maintain full and accurate books and records showing all of the receipts, expenses, or disbursements of the Association; record of design deposits received and returned; and record of fees paid versus expenditures on specific design projects;
- f) To impose and collect Assessments, fines and penalties as provided by the Governing Documents; employ a Managing Agent, independent contractors or employees as it deems necessary, and prescribe their duties;
- g) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Governing Documents or decisions by the Board of Directors, and, in the Association's name on behalf of the Association or two or more Owners, on matters affecting the Community;
- h) Provide Association disclosures required by, and pursuant to, the Act;
- i) Make contracts, administer financial accounts and incur liabilities in the name of the Association;
- j) Acquire, hold, encumber and convey, in the Association's name and in the ordinary course of business, any right, title or interest to real estate, pursuant to the consent requirements set forth in the Governing Documents, if any;
- k) Provide for the indemnification of the Association's Directors and any person serving without compensation at the request of the Association, and maintain association professional liability insurance;
- l) Supervise all persons acting on behalf of, and/or at the discretion of, the Association;
- m) Procure and maintain liability and hazard insurance as set forth in the Governing Documents;
- n) Cause all persons having fiscal responsibilities for the assets of the Association to be insured and/or bonded, as it may deem appropriate;
- o) Exercise for the Association all powers, duties, rights and obligations in or delegated to the Association and not reserved to the Membership by other provision of the Governing Documents or the Act;
- p) Enjoin, abate or remedy by appropriate legal proceeding, either in law or equity, any breach or failure to comply with the Governing Documents, any failure to properly request and obtain the approval of the Association before proceeding with any construction or

modification of improvements or landscaping on a Property, or any failure to comply with any decision of the Association approving or denying any architectural review and/or landscaping requests.

Section 4.3 Managing Agent.

The Board may employ a Managing Agent, licensed by the State, for the Community at a compensation level established by the Board, to perform duties and services authorized by the Board. The Board shall have the authority to delegate any of the powers and duties set forth in the Articles to a Managing Agent. Regardless of any delegation to a Managing Agent, the Members of the Board shall not be relieved of responsibilities under the Governing Documents or Colorado law.

Section 4.4 No Waiver.

The omission or failure of the Association or Owner to enforce the covenants, conditions, easements, uses, limitations, obligations, or other provisions of the Governing Documents shall not constitute or be deemed a waiver modification, or release thereof, and the Board or the Managing Agent shall have the right to enforce the same at any time.

**ARTICLE 5: BOARD OF DIRECTOR'S OFFICERS AND THEIR DUTIES**

Section 5.1 Enumeration of Offices.

The Officers of this Association shall be a President, a Vice-President, a Secretary, and a Treasurer, who are all required to be Directors, and such other Officers as the Board may, from time to time, create by resolution. Any two Offices, except the Offices of President and Secretary, may be held by the same person.

Section 5.2 Election of Officers.

Officers shall be elected by the Board for one year terms following the annual election for Board Member seats that are open that year.

Section 5.3 Duties.

The duties of the Officers are as follows:

- a) President. The President shall have all of the general powers and duties which are incident to the Office of President of a Colorado nonprofit corporation. Specifically, the President shall have the power to preside at all meetings of the Board of Directors and of the Members; appoint Committees; see that orders and resolutions of the Board are carried out; sign contracts, leases and other written instruments; direct, supervise, coordinate and have general control over the day-to-day affairs of the Association.

- b) Vice President. The Vice President shall take the place of the President and perform the President's duties whenever the President is absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other Director to act in the place of the President on an interim basis. The Vice President shall also perform other duties imposed by the Board of Directors or by the President.
- c) Secretary. The Secretary shall record the votes and maintain the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; cause Association records to be kept and maintained; and perform such other duties incident to the Office of Secretary or as required by the Board.
- d) Treasurer. The Treasurer shall be responsible for the receipt, deposit and disbursement of Association funds and securities and for maintenance of full and accurate financial records; shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership, and deliver a copy of each to the Members. The Treasurer shall perform all duties incident to the Office of Treasurer and such other duties as may be assigned by the Board of Directors.

Section 5.4 Delegation.

The duties of any Officer may be delegated to the Managing Agent or another Board Member; *provided, however*, the Officer shall not be relieved of any responsibility under this Section or under Colorado law.

Section 5.5 Resignation.

Any Officer may resign at any time by giving written notice to the President, to the Secretary or to the Board of Directors stating the effective date of the resignation. Acceptance of a resignation shall not be necessary to make the resignation effective. In the event of an opening of an Officer position due to resignation, death, disability or other reason, however occurring, the vacancy will be filled by a majority vote of the Board of Directors.

Section 5.6 Removal.

Any Officer may be removed by a majority vote of the Directors present at a regular or special meeting of the Board at which a quorum is present and the notice for which expressly sets forth that removal of an Officer is on the agenda. In the event of an opening of an Officer position due to removal, the vacancy will be filled by a majority vote of the Board of Directors.

**ARTICLE 6: COMMITTEES OF THE BOARD OF DIRECTORS**

Section 6.1 Designated Committees.

The Association may create Committees and appoint such Committee Members as deemed appropriate to assist the Association with governance duties and purposes subject to any restrictions or requirements set forth in the Governing Documents.

Section 6.2 Appointment and Removal

Committee Chairpersons shall be appointed by the Board and shall be an Owner. Committee Members, other than the Chairperson, do not have to be Owners and may be appointed by the Committee Chairperson. Any Committee Member, including the Chairperson, may be removed at any time at a regular or special meeting of the Board held pursuant to Article 7 at which a Quorum is present and subject to the voting requirements of Section 7.6. The notice for said meeting shall expressly set forth that removal of a Committee Member is on the agenda.

Section 6.3 Authority.

Committees shall have authority to act to the extent designated in the Governing Documents or delegated by the Board. The Board has the authority to review, modify and override any Committee decision and the Board can limit a Committee's authority to recommendations subject to Board approval. The Board may also terminate any Committee at a regular or special meeting of the Board held pursuant to Article 7 at which a Quorum is present and subject to the voting requirements of Section 7.6. The notice for said meeting shall expressly set forth that termination of a Committee is on the agenda.

6.4 Design Review Committee.

The Association has adopted Design Review Guidelines and said guidelines shall govern all actions of the Board and/or any Design Review Committee appointed by the Board per these Amended and Restated Bylaws in relation to matters enumerated under the Design Review Guidelines. In the event of a conflict between the Design Review Guidelines, the Declaration and these Bylaws, the terms of the Declaration and Bylaws shall govern but in all instances said Governing Documents shall be read harmoniously to affect the intent therein.

6.5 Open Committee Meetings.

All Committee meetings shall be open to attendance by Members, as provided by applicable law. Notice requirements will be the same as required for regular Board meetings.

**ARTICLE 7: MEETINGS OF THE BOARD OF DIRECTORS**

Section 7.1 Regular Meetings.

Regular meetings of the Board of Directors shall be held at such time, place and hour as may be fixed by the Board. The Board may set a schedule of regular meetings by resolution, and no further notice is necessary for such scheduled regular meetings.

Section 7.2 Special Meetings.

Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three days' notice to each Director.

Section 7.3 Notice of Board Meetings.

Except as provided in Section 7.1, written notice of each meeting of the Board shall be given to each Director not less than three (3) days before the date of the meeting by any of the following methods: (1) by mailing a copy of the notice and agenda, postage prepaid, at least three days before the meeting; (2) personal delivery; (3) facsimile; and (4) e-mail delivery to the relevant electronic address, supplied by a Board Member to the Association for the purpose of notice. Each Director shall provide the Association with, at a minimum, a mailing address and an e-mail address for notice purposes. If a notice for a special meeting, demanded pursuant to Section 7.2, is not given by the Board within 3 days after the date the written demand or demands are delivered to the Board, the Directors signing the demand or demands may set the time and place of the meeting and give notice, pursuant to the above terms of Section 7.3 of these Bylaws. The notice and agenda shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 7.4 Location of Meetings and Open Meetings.

- a) All meetings, regular and special, of the Board of Directors and any Committee thereof, shall be open to attendance by the Members and their representatives, as provided by the Act, Nonprofit Act and the Governing Documents, including the Policy Regarding Conduct of Meetings.
- b) Owners who desire to receive Notice of Board Meetings and to comment in the event of a Board action without a Meeting must advise the Association in writing of an electronic mail address for such purposes. Notice of Board Meetings to said Owners who so request Notice shall be provided as set forth in this section within the same time frames as Notices to Board members. The email address provided by the Owner shall be the only method by which the Association shall provide notice directly to an Owner of Board meetings and opportunity to comment in the event of Board action without a Meeting. Notices of Board meetings and or action without a meeting shall not otherwise be provided to Owners.
- c) Notices of Board Meetings and agendas shall be posted on the Association website at the same time as notice is provided to the Board of the meeting.
- d) Meetings of the Board of Directors may be conducted in person, via conference call, via electronic means, or via any other method permitted by the Governing Documents or the Act and which allows participation by the Directors and



Members. If in person, the meeting shall be held in a facility in the Edwards, Colorado area suitable for the meeting and anticipated attendance.

- e) Action in Lieu of a Meeting may occur per Section 7.8 with Owner participation occurring per Section 7.10.
- f) Notwithstanding the foregoing, the Board, or any Committee thereof, may hold an executive or closed door session and may restrict attendance to Directors, and such other persons requested to attend by the Board of Directors, during the executive session. Prior to the time the Directors or Members of any Committee thereof convene in executive session, the Chair of the Body shall announce the general matter of discussion using one or more of the descriptions of the matters that may be discussed in executive session as provided for in the Act, as set forth herein and in the Policy Regarding Conduct of Meetings. No rule or regulation of the Board of Directors, or any Committee thereof, shall be adopted during an executive session. A rule or regulation may be validly adopted only during a regular or special meeting of the Board or Members and in compliance with the Responsible Governance Policy regarding adoption and amendment of rules and regulations as required by the Act, including after the Board returns to a regular session following an executive session. The minutes of all meetings at which an executive session was held shall indicate that an executive session was held and the general subject matter of the executive session. The matters that can be discussed at such an executive session are restricted to the following:
  - i. Matters pertaining to employees of the Association or the contract of any Managing Agent or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the Association;
  - ii. 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;
  - iii. Investigative proceedings concerning possible or actual criminal misconduct;
  - iv. Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
  - v. Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy; and

- vi. Review of, or discussion relating to, any written or oral communication from legal counsel.

Section 7.5 Waiver of Notice.

Any Director may waive notice of any meeting in writing. Attendance by a Director at any meeting of the Board shall constitute a waiver of notice unless, at the beginning of the meeting or promptly upon the Director's later arrival, the Director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and does not thereafter vote for or assent to action taken at the meeting; or, if special notice was required of a particular purpose pursuant to CCIOA, the Nonprofit Act, or these Bylaws, the Director objects to transacting business with respect to the purpose for which such special notice was required and does not thereafter vote for or assent to action taken at the meeting with respect to such purpose.

Section 7.6 Quorum.

At all meetings of the Board, a majority of the Directors currently holding Office shall constitute a quorum for the transaction of business and the votes of a majority of the Directors present at a meeting at which a quorum is present, or participating and voting by electronic or telephonic communication, shall constitute a decision of the Board. If at any meeting there shall be less than a quorum present or participating, a majority of those participating may adjourn the meeting.

Section 7.7 Proxies for Board Meetings.

For the purpose of determining a quorum and casting votes for or against a particular issue, set on the agenda of a Board meeting, a Director may execute, in writing, a Proxy to be voted by another Director as instructed in the proxy. In such event, the Proxy shall specify a yes, no, or abstention vote on each specific issue on the agenda for the meeting that the Director who is providing the Proxy desires to register a vote. The Proxy shall be required to be submitted and meet the requirements set forth in Section 8.9(d). The Proxy shall be considered valid for voting and determination of a Quorum as follows:

- a) The Proxy is submitted properly;
- b) For those matters which the Proxy specifies a yes, no, or abstention vote as to a specific issue on the agenda. If there are any items on the agenda that the Proxy fails to specify a yes, no or abstention vote for, the Proxy shall not be counted for the purpose of constituting a Quorum for nor as a vote on said agenda item.

Section 7.8 Action Without a Meeting.

Any action required to be taken or which may be taken at a meeting of the Board may be taken without a meeting if all of the Directors provide unanimous written consent approving the

specific action. E-mail correspondence can act as a writing hereunder. Such action shall not be effective unless and until written consent is received from all Directors. Any Director who has signed and submitted a writing pursuant to this Section may not revoke such writing. All correspondence leading up to and including the actual written consent shall be maintained as an Association record as required under the Act at C.R.S. §38-33.3-317.

Section 7.9 Telephone or Electronic Communication in Lieu of Attendance.

A Director may attend a meeting of the Board by using an electronic or telephonic communication method whereby the Director may be heard by the other Directors and may hear the deliberations of the other Directors on any matter properly brought before the Board. The Director's vote shall be counted and the presence noted as if that Director were present in person.

Section 7.10 Member Participation.

a) Members or Owners must be permitted to speak before the Board votes on any proposed motion that is made at a Board Meeting as further addressed in the Responsible Governance Policy regarding conduct of meetings. In order to allow Owner comment in the event of a Board action without a Meeting per Section 7.8, the Board will seek Owner comment electronically from Owners who have duly registered for such purpose as provided for in Section 7.4 no less than three (3) days before an action without a Meeting vote occurs

b) Owners who desire to receive Notice of Board Meetings and to comment in the event of a Board action without a Meeting must advise the Association in writing of an electronic mail address for such purposes per Section 7.4.

Section 7.11 Deemed Assent.

A Director who is present at a meeting of the Board of Directors when corporate action is taken is deemed to have assented to all action taken at the meeting unless the Director objects at the beginning of the meeting, or promptly upon the Director's arrival, to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting; or the Director contemporaneously requests that the Director's dissent or abstention as to any specific action taken be entered in the minutes of the meeting; or the Director causes written notice of the Director's dissent or abstention as to any specific action to be received by the presiding Officer of the meeting before the adjournment thereof or by the Association promptly after the adjournment of the meeting. Such right of dissention or abstention is not available to a Director who votes in favor of the action taken.

**ARTICLE 8: MEMBERS AND VOTING**

Section 8.1 Obligations of Members.

(a) Assessments and Charges. Each Member shall pay such Member's share of all "Assessments" (as such term is defined in the Declaration) imposed by the Association pursuant to the Declaration.

(b) Maintenance and Repair. Every Member shall perform or cause to be performed, at such Member's own expense, all maintenance and repair work required of such Member pursuant to the Declaration.

(c) Compliance With Declaration, Articles, Bylaws and Rules. Each Member shall comply strictly with all provisions of the Governing Documents. The failure of a Member to comply strictly with any of the provisions of the Governing Documents shall permit the Association to suspend a Member's voting rights and to take any remedies outlined in the Declaration.

(d) Registration of Address. The address of a Member or Members shall be furnished to the Association within five (5) days after transfer of title to a Unit, or after a change of address, and such registration shall be in written form and signed by all of the Members to which it relates or by such persons as are authorized by law to represent the interest of such Members. If a Member fails to register such Member's mailing and/or electronic address with the Association, the address in the records of the Eagle County Assessor's Office for the Unit shall be deemed to be the address of such Member's Unit. If a Unit is owned by two or more Persons, such co-owners shall designate one address as the registered address and for provision of all notices. If a Member fails to register his address as required in this Section and, as a result, does not receive a notice provided by the Association pursuant to the Governing Documents, said Member shall not be entitled to assert lack of receipt of notice for any purpose. If a Member registers an electronic address and a mailing address with the Association, the electronic address shall be used exclusively for all notices hereunder. Registration of an electronic address is required for Notice of Board Meetings and comment upon any Board action without a Meeting as addressed in Section 7.4.

Section 8.2 Termination, Suspension and Resignation of Membership.

(a) Termination. Membership shall terminate automatically without any Association action whenever an Owner ceases to own a Unit. Termination of Membership shall not relieve or release any former Member from any liability or obligation incurred by virtue of or in any way connected with ownership of a Unit or Membership in the Association, or impair any rights or remedies which the Association or others may have against such former Member arising out of or in any way connected with such ownership or Membership.

(b) Suspension. A Member who or which fails to pay any amount of any Assessment or Default Assessment payable under the provisions of the Declaration when

due, shall be automatically suspended from Membership until the unpaid amount is fully paid, at which time such Member shall be automatically reinstated. During any period of suspension, a Member shall not be entitled to exercise the rights and privileges of Membership, including, without limitation, the right to vote. Suspension of Membership shall not relieve or release any suspended Member from any liability or obligation incurred by virtue of or in any way connected with ownership of a Unit or Membership in the Association, or impair any rights or remedies which the Association or others may have against such suspended Member arising out of or in any way connected with such ownership or Membership.

(c) Resignation. A Member shall not be entitled to resign as a Member for any reason so long as such Member is the Owner of a Unit.

#### Section 8.3 Transfer of Membership.

Membership in the Association is not transferable except upon the sale of a Unit. The Association shall not be entitled to purchase the Membership of any Member, but, if the Association obtains title to a Unit as a result of the enforcement of the Association's lien for Assessments as provided in the Declaration, the Association shall become a Member of the Association with respect to such Unit.

#### Section 8.4 Annual Meeting of Members.

An Annual Meeting of the Members shall be held in the month of December at a time and on a date designated by the Board of Directors and within the Edwards, Colorado area, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the election of Directors shall not be held on the day designated for the Annual Meeting of the Members, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a meeting of the Members as soon thereafter as conveniently may be held. Failure to hold an Annual Meeting as required by the Bylaws shall not affect a forfeiture or dissolution of the Association or invalidate any action taken by the Board of Directors or Officers of the Association as long as all Members of the Board are duly elected per these Bylaws.

#### Section 8.5 Special Meetings.

A special meeting of the Members for any purpose or purposes may be called by the President, by a majority of the Board of Directors or by Members having at least twenty percent (20%) of the votes entitled to be cast at such meetings.

#### Section 8.6 Place of Meeting.

Each meeting of the Members shall be held at such place, within the Edwards, Colorado area, as may be designated in the notice of meeting. Any or all Members may participate in any meeting through the use of any means of communication by which all persons participating in the

meeting may hear and speak to each other during the meeting, including electronic and telephonic conferencing.

#### Section 8.7 Notice of Meeting.

Written notice of any meeting of the Members shall be delivered personally, by first class mail or electronically if an electronic address has been provided by the Member, to each Member or such Member's Authorized Representative entitled to vote at such meeting not less than ten (10) nor more than fifty (50) days before the date of the meeting. Pursuant to Section 8.1(d) if an Owner registers an electronic address with the Association said method of notice shall be the sole source of provision of notice by the Association to the Owner and shall be deemed to meet the notice requirements under the Governing Documents and the Act. This is for the purpose of streamlining notice requirements for the Association and the Members and to reduce mailing costs and expenses. If mailed, such notice shall be deemed to be delivered three (3) days after depositing in the United States Mail, addressed to the Member at such Member's address registered per these Bylaws, with postage thereon prepaid. If delivered electronically it shall be deemed delivered within 24 hours of transmittal. The notice of any meeting must state the time, date and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or the Bylaws, any changes to any budget adopted by the Association (the "Budget") and any proposal to remove an Officer or Director of the Association. A Member may request addition of a matter upon a Member Meeting Agenda if a written request is provided to the President or Secretary within five (5) days after the Association gives notice of the meeting. If the request is not timely made for addition of an item upon the agenda of the Member Meeting in question, the issue shall be designated for the next Member Meeting Agenda. If the matter is one that requires immediate attention, a Special Meeting of the Members can be called therefor if the requirements for such a Special Meeting per these Bylaws are met. In case of a special meeting, the notice must also state the purpose for which the meeting is called. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members, the Board of Directors may set a record date for such determination of Members, in accordance with the laws of Colorado. If requested by the person or persons lawfully calling such meetings, the Secretary shall give notice thereof at the expense of the Association. Any Member may waive notice of any meeting before, at or after such meeting. The attendance in person or by proxy of a Member at a meeting shall constitute a waiver of notice of such meeting, unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice. A Member's attendance at a meeting also waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter when it is presented.

#### Section 8.8 Quorum and Action of the Members.

- a) Quorum – Except as otherwise required by the Act, the Declaration, the Nonprofit Act or the Articles, the participation of Members, in person, via proxy or by other allowed permitted methods, entitled to cast twenty-five percent (25%) or more of the total Members shall constitute a quorum.
- b) Action Other Than Election of Directors - With respect to all matters other than the election of Directors, an action is approved if a quorum exists and a majority of the quorum vote in favor of the action, unless otherwise required by the Act, the Declaration, the Nonprofit Act, the Articles or these Bylaws.
- c) Election of Director –
- i. In an election of multiple Directors, each Member shall be entitled to vote the number of votes designated to such Member under the Declaration and Section 8.9 below for each vacancy upon the Board of Directors. For example: if there are two vacancies and a Member has one vote, the Member may vote that one vote toward each vacancy i.e. one vote each to two candidates. The vote may not be cumulated toward just one of the candidates. The candidates having the highest number of votes cast in favor of their election shall be elected to the Board of Directors.
  - ii. When only one Director is being voted upon, each Member shall be entitled to vote the number of votes designated to the Member toward one candidate. The candidate receiving the majority of the votes shall be elected to the Board of Directors.
- d) No Quorum - If less than a quorum of the Members is represented at a meeting, a majority of the Members so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days at any one adjournment without further notice other than an announcement at the meeting. At such adjourned meeting, if a quorum shall be represented, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 8.9 Voting Rights; Proxies.

(a) Number of Votes and No Cumulative Voting.

- i. Cumulative voting shall not be allowed.
- ii. Every person who is a record Owner of a fee interest in any Unit subject to the Declaration shall be a Member of the Association. When more than one (1) person holds an interest in a Unit, all persons holding a fee interest shall be Members but shall be required to designate a Designated Voting Owner per

Section 8.9(b). When a Unit is owned by an entity, the entity shall appoint an Authorized Representative per Section 8.9(c) to act as the "Member." The foregoing shall not include persons or entities holding an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from Ownership of any Unit which is subject to the Declaration. Ownership of a Unit shall be the sole qualification for Membership. Unless the context clearly indicates otherwise, the term "Member" as used in these Bylaws means a Member, their Designated Voting Owner or its Authorized Representative.

iii. Units owned by multiple Members or entities are required to designate a voting Member per Section 8.9(b) and (c).

(b) Designated Voting Owner for Units Owned by Multiple Owners. No vote allocated to a Unit owned by the Association may be cast. If there is only one (1) Owner of a Unit, such Owner shall be entitled to cast the votes allocated to such Unit at any meeting of Members. If there are multiple Owners of a Unit, the Owners of the Unit shall appoint one of the Owners as the "Designated Voting Owner" and may vote only through its Designated Voting Owner. Any Owner required to appoint a Designated Voting Owner will do so immediately upon becoming an Owner. Any Owners who are required to appoint a Designated Voting Owner will notify the Association of its designation or any subsequent replacement for its Designated Voting Owner within ten (10) days after appointment. The notice will (i) be signed by all Owners, (ii) be dated, and (iii) contain a statement that the Owner named in the notice will remain the Designated Voting Owner of that Unit until a subsequent notice is given to the Association appointing a replacement. The notice will have the effect of a proxy given by all Owners of the Unit for all purposes under the Governing Documents, the Act, and the Nonprofit Act, except that the duration of the notice will be perpetual or as stated therein. The appointment of the Designated Voting Owner is binding upon all Owners of said Unit and the vote of the Authorized Representative is conclusive as to the Association, unless and until the Association receives a notice appointing a replacement Designated Voting Owner. Upon receiving any notice appointing a Designated Voting Owner, the Association may request additional evidence of authority that it reasonably deems necessary to verify the due appointment.

(c) Authorized Representative for Units Owned by an Entity. Any record Owner of a fee interest in a Unit that is not a natural person (*i.e.*, an estate or a trust, corporation, partnership, limited liability company or other entity) shall appoint a natural person as such Member's attorney-in-fact and authorized representative (an "Authorized Representative") and shall vote only through its Authorized Representative. Any Owner required to appoint an Authorized Representative will do so immediately upon becoming an Owner. Any Owner who is required to appoint an Authorized Representative will notify the Association of its Authorized Representative or any subsequent replacement for its Authorized



Representative within 10 days after appointment. The notice will (i) be signed by all Persons constituting the Owner, (ii) be dated, and (iii) contain a statement that the natural person named as the Authorized Representative in the notice will remain the Authorized Representative of that Owner until a subsequent notice is given to the Association appointing a replacement Authorized Representative. The notice will have the effect of a proxy given by all Persons constituting that Owner to the Authorized Representative named in the notice for all purposes under the Governing Documents, the Act, and the Nonprofit Act, except that the duration of the notice will be perpetual or as stated therein. The appointment of an Authorized Representative is binding upon the entity Owner and the vote of the Authorized Representative is conclusive as to the Association, unless and until the Association receives a notice appointing a replacement Authorized Representative. Upon receiving any notice appointing an Authorized Representative, the Association may request additional evidence of authority that it reasonably deems necessary to verify the due appointment of the named Authorized Representative. If an entity Owner owns more than one Unit, the Owner may appoint (1) one natural person to serve as Authorized Representative for all of its Units; or (2) a different natural person to serve as Authorized Representative for each of its Units or any number of its Units.

(d) Proxies. Votes may be cast in person or by proxy. The vote allocated to a Unit may be cast pursuant to a proxy duly executed in writing by an Owner or such Owner's attorney-in-fact. Such proxy shall be delivered to the Association before or at the time of the meeting in any manner permitted by Section 7-127-203 of the Nonprofit Act. Proxies for Units owned by multiple Owners or an entity must be executed and submitted by the Designated Voting Owner, in the case of multiple Owners, or Authorized Representative, if owned by an entity. 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. A proxy is void if it is not dated or purports to be revocable without notice. Each Member Meeting, Annual or Special, shall require submittal of a new proxy specific for that Meeting except in the event a Meeting is adjourned in which event the proxy will be valid for the adjourned Meeting.

(e) Voting Agreements. Voting Agreements shall not be permitted.

(f) Acceptance of Votes. If the name signed on a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation presented to the Association corresponds to the name of a Member, the Association is entitled to accept the vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation and to give it effect as the act of the Member. If the name signed on a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation presented to the Association does not correspond to the name of a Member, the Association is nevertheless entitled to accept the vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation and to give it effect as the act of the Member if: (i) the Unit is

owned by an entity and the name signed purports to be that of the Authorized Representative as per the submittal in writing of a designation of Authorized Member to the Association by the Owner entity or other valid means of determining such voting authority; (ii) the Unit is owned by multiple Members without a Designated Voting Member having been appointed as required by the Bylaws but the name signed purports to be that of a title Owner and there are no objections from or alternative votes provided by any other of the multiple Owners of the Unit in question..

(g) Rejection of Votes. The Association may reject a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation presented to the Association if the Secretary or other Officer of the Association, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the Member.

#### Section 8.10 Conduct of Meetings.

The order of business at all meetings of the Members shall pursuant to the Association's conduct of meetings policy.

#### Section 8.11 Action by Written Ballot – Exclusive of Election of Directors.

Any action required or permitted to be taken at a meeting of the Members, with the exception of election of Directors which is addressed in Section 8.12 below, may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote thereon. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall 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 shall indicate the number of responses needed to meet the quorum requirements, shall state the percentage of approvals necessary to approve each matter, shall specify the time by which a ballot must be received by the Association in order to be counted and must be accompanied by written information sufficient to permit each person casting a written ballot to reach an informed decision on the matter. A written ballot may not be revoked. Any action by written ballot shall have the same effect as action at a meeting of the Members and may be described as such in any document. Any such ballot may be received by the Association electronically, via facsimile or other form of wire or wireless communication providing the Association with a complete copy of the document, including a copy of the signature on the document. Action by written ballot cannot replace the Annual Meeting which must be held annually.

#### Section 8.12 Process for Election of Directors.

(a) General. Director elections for positions that are expiring that year shall occur annually either at the Annual Meeting, another meeting of the Members set for such purpose or via submittal of written ballots without a meeting as prescribed herein.

(b) Nominations. Nominations for open Director seats shall be sought by the Association from the Members no less than 60 days prior to the meeting at which the election is to occur or before written ballots are provided for voting if no meeting is to be held. Members who desire to run for election and want their name included on the ballot are required to advise the Association pursuant to the process designated by the Association no later than 30 days before the date set for the election. Nominations or write-in candidates by one Member in regard to another Member are not permitted as that can lead to inclusion upon the ballot of Members who have not personally agreed to serve on the Board and do not desire to serve. A Member who desires to nominate themselves after the time period prescribed above for nominations can submit to the Association their name which may be added as a "write-in" at the Meeting at which the election will take place, but in such event, the Association shall not be required to revise the ballot to add said Owner's name or provide a resume about the Owner. If the vote is to be via written ballot without a meeting a Member may still submit their name to the Association confirming a desire to run and a write-in can occur on ballots for that Member but the name will not be on the ballot.

(c) Voting Processes. The Colorado Common Interest Ownership Act ("CCIOA") at C.R.S. §38-33.3-310(1) requires that votes for contested positions on a Board of Directors must take place by secret ballot and be counted by a neutral third party or a Member who is not a candidate for the election. The results of a vote taken by secret ballot shall be reported without reference to the names, addresses, or other identifying information of unit owners participating in such vote. Contested positions are those positions for which more than one Member is running. In the event there is only one Member running for an open position on the Board at the time of the vote, the need for a vote is obviated and the sole Member nominated for the seat shall be appointed by acclamation. To comply with such statutory requirement this Sub-section (c) sets forth the voting process for election of Directors:

1. Ballot Voting at a Meeting – A ballot form shall be provided to each Member for purposes of voting at a meeting where a contested election for a Board seat is to occur which Ballot Form may be voted as follows:

(a) In Person - The ballot can be submitted at the commencement of the meeting by Member who must be present in person and not via alternative attendance means.

(b) Proxy - Appointment of a proxy to vote the ballot per proxy appointment

requirements. The proxy must attend the meeting in person on behalf of the Member and submit the Ballot Form at the commencement of the meeting. To be effective the proxy must be:

- i. Transmitted to the Association via mail, facsimile or electronically and be constituted of a written statement of the appointment of the proxy executed by the Member, Designated Voting Owner or Authorized Representative inclusive of the proxy's name;
- ii. Transmission must permit the Association to be capable of determining that in fact the Member, Designated Voting Owner or Authorized Representative transmitted and/or authorized the transmission of the appointment;
- iii. Meets the requirements set forth in the Association's Policy and Procedure for Conduct of Meetings; and
- iv. Is received by the Association no later than 11:59 p.m. Colorado time the day before Meeting. The proxy must be present at the Meeting to vote.

2. Remote Submittal of Ballot Form – A Member, Designated Voting Member or Authorized Representative may vote in the election by submitting the ballot form to the Association. To be counted in the election the ballot form must be properly voted for the correct number of Board positions, duly executed by the Member, Designated Voting Member or Authorized Representative, as the case may be, and timely transmitted to the Association as follows:

- i. Electronically, hand delivery, mail or facsimile as directed by the Association on the ballot form or upon the instructions accompanying the ballot form. Transmission must permit the Association to be capable of determining that in fact the Member, Designated Voting Owner or Authorized Representative signed and transmitted the ballot form;
- ii. Meets the requirements set forth in the Association's Policy and Procedure for Conduct of Meetings; and
- iii. Is received by the Association no later than 11:59 p.m. Colorado time the day before Meeting.

(d) Ballot Voting Without a Meeting – It is intended for elections of Board Members to occur at the Annual Meeting of the Members. There may be circumstances whereby the election could not occur in conjunction with the Annual Meeting of the Members, such as when a Board Member is removed by the Membership and the vacancy must be filled by

a Member vote. In such event the Association, through the Board of Directors, may vote to have the election occur by written ballot without a meeting. A ballot form shall be provided to each Member for purposes of voting in a contested election for a Board seat without a meeting and voted as follows:

1. A Member, Designated Voting Member or Authorized Representative may submit the ballot form to the Association. To be counted in the election the ballot form must be properly voted for the correct number of Board positions, duly executed by the Member, Designated Voting Member or Authorized Representative, as the case may be, and timely transmitted to the Association as follows:
  - i. Electronically, hand delivery, mail or facsimile as directed by the Association on the ballot form or upon the instructions accompanying the ballot form. Transmission must permit the Association to be capable of determining that in fact the Member, Designated Voting Owner or Authorized Representative signed and transmitted the ballot form;
  - ii. Transmission must occur by the deadline stated by the Association in the ballot mailing.

## **ARTICLE 9: BUDGET MEETINGS**

### **Section 9.1 Budget Meetings.**

The Members shall consider the proposed annual budget for the Association at the Annual Member Meeting or at a Special Member Meeting to review the budget called in accordance with the following procedures and the Act:

- a) The Board of Directors of the Association shall prepare and approve a proposed budget at least annually.
- b) If a budget is not considered by the Members at an Annual Member Meeting within 90 days after the Board of Directors' adoption of the proposed budget and level of dues, or such longer time as allowed by the Act, the Board of Directors must mail or deliver a summary of the proposed budget to all Members and set a date for a meeting to consider the proposed budget.
- c) Notice for the meeting at which the budget will be considered must be mailed not less than ten (10) days nor more than fifty (50) days before the meeting, or such longer time as allowed by the Act.
- d) As provided in the Act, the budget proposed by the Board shall be deemed to have been ratified and approved by the Members and shall become the approved budget

of the Association for the following year without any affirmative actions, unless Members holding a majority (at least 51%) of all of the votes in the Association veto and reject the proposed budget at the meeting.

- e) A quorum is not required at the meeting if the meeting is just a budget meeting. If the meeting is also an Annual or Special Meeting at which other business is to be conducted, a quorum is required for other business to be conducted at the annual or special meeting, but not for consideration of the budget.
- f) In the event the proposed budget is rejected by a majority vote, the budget last ratified is continued until such time as a subsequent budget proposed by the Board of Directors is ratified.

## **ARTICLE 10: BOOKS AND RECORDS**

### Section 10.1 Association Records.

The Association records will be maintained and available for inspection and copying as provided for in the Act and the Association's Records Policy.

## **ARTICLE 11: BYLAW AMENDMENTS**

### Section 11.1 Bylaw Amendments.

- a) These Bylaws may be amended by:
  - i. The affirmative vote of a majority of the Members of the Board of Directors at a duly constituted meeting; provided, however, no amendment shall be made to the quorum requirements or election requirements as to Directors without the affirmative vote of a majority of the Members in accordance with (a)(ii) below, or
  - ii. The affirmative vote of a majority of the Members present and voting in person or by proxy, at a regular or special meeting of the Members called for such purpose at which a quorum is present, or voting by mail or e-mail or other electronic means and with a quorum being present, provided that notice has been sent to all Members pursuant to these Bylaws, and such notice sets forth that the voting is being conducted for the purpose of amendment.
- b) Notwithstanding anything to the contrary in these Bylaws, these Bylaws may be amended by the Board of Directors, without Member approval, to comply with any statutory or judicial requirements.

## ARTICLE 12: INDEMNIFICATION

### Section 12.1 Obligation to Indemnify.

Except as provided herein, the Association shall indemnify against actual and reasonable expenses (including expert witness fees, attorney fees and costs), any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a Director, Officer or Committee Member of the Association, provided the person is or was acting on behalf of the Association or at direction of the Board, and provided that the person:

- (a) acted in good faith;
- (b) in a manner that the person reasonably believed to be in the best interests of the Association; and
- (c) with respect to any claimed criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

### Section 12.2 Payment in Advance of Final Disposition.

The Association shall pay for or reimburse the reasonable expenses as described in Section 12.1 in advance of final disposition of the action, suit or proceeding if the person requesting indemnification provides the Board with:

- (a) A written affirmation of that person's good faith belief that he or she has met the standard of conduct described in Section 12.1; and
- (b) A written guarantee that the person shall repay the advance if it is ultimately determined that he or she did not meet the standard of conduct described in Section 12.1.

### Section 12.3 Determination and Authorization of Indemnification.

(a) Before undertaking to indemnify a person under this Section 12, the Association shall determine that indemnification is appropriate in the circumstances because the person has met the standard of conduct set forth in Section 12.1, or that an advance of expenses is appropriate under Section 12.2 because the person has provided the written affirmation and guarantee required by Subsections 12.2(a) and (b), and the facts then known to those making the determination indicate that indemnification is appropriate pursuant to Section

12.1.

(b) The determinations required by this Section 12.3(a) shall be made:

(1) By the Board of Directors by a majority vote of those present at a meeting at which a quorum is present, and only those Directors not parties to the proceeding shall be counted in satisfying the quorum and only those Directors not parties to the proceeding shall be entitled to vote on the matter; or

(2) If a quorum cannot be obtained, by a majority vote of a Committee of the Board of Directors designated by the Board of Directors, which Committee shall consist of two or more Directors not parties to the proceeding; except that Directors who are parties to the proceeding may participate in the designation of Directors for the Committee.

(3) If a quorum cannot be obtained as contemplated in Section 12.3(b)(1), and a Committee cannot be established under Section 12.3(b)(2), the determinations shall be made by independent legal counsel selected by a majority of the full Board, and Directors who are parties to the proceeding may participate in the selection of the counsel.

(c) To the extent that the person has been wholly successful on the merits in defense of any action, suit or proceeding whether civil, criminal, administrative or investigative, the Association shall determine that the person shall be indemnified against all actual, reasonable expenses (including expert witness fees, attorney fees and costs).

(d) The determination by a court or other tribunal in any action, suit, or proceeding by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not be binding on the Association and shall not, by itself, require a finding that the person did not meet the standard of conduct described in Section 12.1.

(e) The Association may not indemnify a person under this Section 12.3:

(1) In connection with a proceeding by or on behalf of the Association, where the person has been adjudged to be liable to the Association; or

(2) In connection with any other proceeding charging that the person received an improper personal benefit, where the person has been adjudged liable on the basis the person received an improper personal benefit.



Section 12.4 Directors and Officers Insurance.

The Association shall purchase and maintain insurance for the protection of any person who is or was a Member of the Board of Directors, the Manager, Committee Members, or anyone acting at the direction of the Board, covering defense and liability expenses arising out of any action, suit or proceeding asserted against the person by virtue of the person's actions on behalf of the Association or at the direction of the Board, whether or not the Association would have the obligation to indemnify the person against liability under the provisions of this Section.

**ARTICLE 13: MISCELLANEOUS**

Section 13.1 Fiscal Year.

The Board has the right to establish and, from time to time, change the fiscal year of the Association.

Section 13.2 Notices.

All notices to the Association or the Board shall be delivered to the Office of the Managing Agent, or, if there is no Managing Agent, to the Office of the Association, or to such other address as the Board may designate by written notice to all Owners. Except as otherwise provided, all notices to any Owner shall be mailed to the Owner's address as it appears in the records of the Association. All notices shall be deemed to have been given when mailed or transmitted, except notices of changes of address, which shall be deemed to have been given when received.

Section 13.3 Conflicts.

In the case of any conflicts between the Declaration and these Bylaws or the Articles of Incorporation, the terms of the Declaration shall control. In the case of any conflicts between the Articles of Incorporation and these Bylaws, the terms of the Articles of Incorporation shall control.

Section 13.4 Waiver.

No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**CERTIFICATION**

By signing below, the Secretary of the Board of Directors certifies these Amended and Restated Bylaws received the affirmative vote of a majority of the Members present and voting, in person or by proxy, at a regular or special meeting of the Members at which a quorum was present.

**THE RESERVE ON EAGLE RIVER CONDOMINIUM ASSOCIATION**, a Colorado nonprofit corporation

By: Chris Piles  
Secretary

Date: 2-19-18