

**BYLAWS  
OF  
THE HOMEOWNERS ASSOCIATION  
OF WELLINGTON SOUTH  
(A Nonprofit Corporation)**

**ARTICLE I. NAME**

The name of the corporation is The Homeowners Association of Wellington South (“the Association”), a Colorado Nonprofit Corporation.

**ARTICLE II. PURPOSE AND DEFINITIONS**

1. The Association is formed pursuant to the Colorado Revised Nonprofit Corporation Act, as amended, C.R.S. & 7-121-011, et seq. (“the Nonprofit Corporation Act”), for the purpose of preserving and enhancing the value of the properties of Members and to operate, govern, manage, supervise, and care for the planned community and the Common Elements of The Homeowners Association of Wellington South (the “Community”).
2. The terms used in these Bylaws are defined by the definition of terms in the Declaration of Covenants, Conditions, and Restrictions for WELLINGTON SOUTH recorded in the office of the Clerk and Recorder of Larimer County, Colorado, and any modifications thereto, and in the Colorado Common Interest Ownership Act, as amended, C.R.S. & 38-33.3-101, et seq. (“CCIOA”).

**ARTICLE III. OFFICES**

The Principal office of the Association is located at 706 S. College Ave., Fort Collins, CO 80524. The Association may have such other offices within the State of Colorado as the Board of Directors may designate or as the business of the Association may from time to time require.

**ARTICLE IV. MEMEBERSHIP**

1. Membership and Voting. Every person or entity who is a record owner of a Unit which is subject to the Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit. Ownership of a Unit shall be the sole qualification for Membership. Each Member shall be allocated votes pursuant to the Declaration.
2. Suspension of Member Rights. During any period in which an Owner shall be in default in the payment of any Assessments, including interest, fines, late fees, attorney fees and costs, levied by the Association, the voting rights of the Owner shall be deemed suspended by the Board of Directors, without notice or hearing, until the Assessment has

been paid. Voting rights and use rights of an Owner may also be suspended during any period of violation of any other provision of the Governing Documents.

## **ARTICLE V. MEETINGS**

1. Annual Meetings. An annual meeting of the Members shall be held during each of the Association's fiscal years, at such date and time of year as determined by the Board of Directors. The directors shall be elected by the Members at the annual meeting, or at any special meeting of the Members, in accordance with these Bylaws. The Members may transact other business as may properly come before them at the annual meeting. Failure to hold an annual meeting shall not be considered a forfeiture or dissolution of the Association.
2. Special Meetings.
  - a. Special meetings of the Association may be called by the President, by a majority of the Members of the Board of Directors, or by the Secretary upon receipt of a petition signed by Owners comprising at least 10% of the votes in the Association. The form of notice, date, time, and place of the meeting shall be determined by the Board. If a notice for a special meeting demanded pursuant to petition is not given by the Secretary, the person signing the demand or demands may set the time and place of the meeting and give notice, pursuant to the terms of these Bylaws. Any meeting called under this Section shall be conducted by the President of the Board, or in his/her absence, a person chosen by a majority of the Board.
  - b. Special meetings of the Members may be held in or out of this state, at a place stated or fixed in accordance with a resolution of the Board of Directors. If no place is so stated or fixed, special meetings shall be held at the Association's principal office.
  - c. Only business within the purpose or purposes described in the notice of the meeting may be conducted at a special meeting of the Members.
3. Budget Meetings. Meetings to consider proposed budgets shall be called in accordance with the Act. The Act's budget process to be followed is as follows:
  - a. Effective for the first full year after these Bylaws are adopted and become effective, and for each year thereafter, the Board of Directors of the Association is to prepare and approve a proposed budget at least annually.
  - b. Within 90 days after the Board of Director's adoption of the proposed budget, 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 10 days nor more than 50 days before the meeting, or such longer time as allowed by the Act.
- d. At the meeting, unless Owners holding a majority of the votes in the Association vote to reject the proposed budget, the proposed budget becomes the approved budget of the Association.
- 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.

4. Notice of Meeting.

- a. The Association shall give to each Member entitled to vote at the meeting notice of meetings of Members in a fair and reasonable manner.
- b. Any notice that conforms to the requirements of subsection (c) hereinafter is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered.
- c. Notice is fair and reasonable if:
  - 1. The Association notifies its Members of the place, date, and time of each meeting of Members no fewer than ten (10) days, or if notice is mailed by other than first class or registered mail, no fewer than thirty (30) days and no more than sixty (60) days before the meeting date.
  - 2. Notice of a meeting includes a description of any matter or matters that must be approved by the Members or for which the Members' approval is sought.
  - 3. Notice of a special meeting includes a description of the purpose or purposes for which the meeting is called.
- d. If a meeting of Members is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed, however, notice of the adjourned meeting must be given to the Members of record as of the new record date.

- e. When giving notice of a meeting of Members, the Association shall give notice of a matter a Member intends to raise at the meeting if:
  - 1. Requested in writing to do so by a person entitled to call a special meeting; and
  - 2. The request is received by the Secretary or President of the Association at least ten (10) days before the Association gives notice of the meeting.
- f. If the Association has the ability to give electronic notice, the Association may email notice of the Members' meeting to any Member who requests, and who provides his or her email address to the Association. Any such email notice shall be given at least 24 hours prior to the meeting. Such notice shall specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. No matters shall be heard nor action adopted at a special meeting except as stated or allowed in the notice.

5. Waiver of Notice.

- a. A Member may waive any notice required by these Bylaws, whether before or after the date or time stated in the notice as the date or time when any action will occur or has occurred. The waiver shall be in writing, be signed by the Member entitled to the notice, and be delivered to the Association for inclusion in the minutes or filing with the Association records, but such delivery and filing shall not be conditions of the effectiveness of the waiver.
- b. A Member's attendance at a meeting:
  - 1. Waives objection to lack of notice or defective notice of the 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; and
  - 2. 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.

6. Record Date – Determining Members Entitled to Notice and Vote.

- a. Members are entitled to notice of any meeting at the close of business on the business day preceding the day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held.
- b. On the date of the meeting, Members who are otherwise eligible to vote are entitled to vote at the meeting.

- c. A determination of Members entitled to notice of or to vote at a meeting of Members is effective for any adjournment of the meeting unless the meeting is adjourned to a date more than one hundred twenty (120) days after the record date for determining Members entitled to notice of the original meeting.

7. Action Without Meeting.

- a. Any action required or permitted to be taken at a Members' meeting may be taken without a meeting if Members entitled to vote thereon unanimously agree and consent to such action in writing.
- b. No action taken pursuant to this Section shall be effective unless writings describing and consenting to the action, signed by Members sufficient under subsection (a) hereinabove to take the action and not revoked pursuant to subsection (c) hereinafter, are received by the Association within sixty (60) days after the date the earliest dated writing describing and consenting to the action is received by the Association. Any such writing may be received by the Association by electronic transmitted facsimile, electronic mail, or other form of wire or wireless communication providing the Association with a complete copy thereof, including a copy of the signature thereto. Action taken pursuant to this Section shall be effective when the last writing necessary to effect the action is received by the Association unless the writings describing and consenting to the action set forth a different effective date.
- c. Any Member who has signed a writing describing and consenting to action taken pursuant to this Section may revoke such consent by a writing signed and dated by the Member describing the action and stating the Member's prior consent thereto is revoked if such writing is received by the Association before the last writing necessary to effect the action is received by the Association.
- d. The record date for determining Members entitled to take action without a meeting or entitled to be given notice under subsection (f) hereinafter of action so taken is the date a writing upon which the action is taken pursuant to subsection (a) hereinabove is first received by the Association.
- e. Action taken under this Section has the same effect as action taken at a meeting of Members and may be described as such in any document.
- f. In the event action is taken under subsection (a) hereinabove with less than unanimous consent of all Members entitled to vote upon the action, the Association or the Members taking the action shall promptly, after all of the writings necessary to effect the action have been received by the Association, give notice of such action to all Members who were entitled to vote upon the action. The notice shall contain or be accompanied by the same material, if any, that would have been required to be given to Members in or with a notice of the meeting at which the action would have been submitted to the Members for action.

- g. All signed, written instruments necessary for any action taken pursuant to this Section shall be filed with the minutes of the meetings of the Members.
- 8. Meetings by Telecommunications. Any or all of the Members may participate in an annual, regular, or special meeting of the Members by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. A Member participating in a meeting by this means is deemed to be present in person at the meeting.
- 9. Action by Written Ballot.
  - a. Any action that may be taken at any annual, regular, or special meeting of Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter.
  - b. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.
  - c. Approval by written ballot pursuant to this Section shall be valid only when the number of votes cast by ballot 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.
  - d. All solicitations for votes by written ballot shall:
    - 1. Indicate the number of responses needed to meet the quorum requirements;
    - 2. State the percentage of approvals necessary to approve each matter other than election of directors;
    - 3. Specify the time by which a ballot must be received by the Association in order to be counted; and
    - 4. Be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.
  - e. A written ballot may not be revoked.
  - f. Action taken under this Section has the same effect as action taken at a meeting of Members and may be described as such in any document.

## **ARTICLE VI. VOTING**

- 1. Members List for Meeting and Action by Written Ballot.

- a. The Association shall prepare an alphabetical list of the names of all its Members who are entitled to notice of, and to vote at, a meeting or to take such action by written ballot. The list shall show the address of each Member entitled to notice of, and to vote at, the meeting or to take such action by written ballot and the number of votes each Member is entitled to vote at the meeting or by written ballot.
- b. If prepared in connection with a meeting of the Members, the Members list shall be available for inspection by any Member entitled to vote at the meeting, beginning the earlier of ten (10) days before the meeting for which the list was prepared to two (2) business days after notice of the meeting is given and continuing through the meeting, adjournment thereof, at the Association's principal office or at a place identified in the notice of the meeting in the city where the meeting will be held. The Association shall make the Members list available at the meeting, and any Member entitled to vote at the meeting, or an agent or attorney of a Member entitled to vote at the meeting, is entitled to inspect the list at any time during the meeting or any adjournment. If prepared in connection with action to be taken by the Members by written ballot, the Members list shall be available for inspection by any Member entitled to cast a vote by such written ballot, beginning on the date that the first written ballot is delivered to the Members and continuing through the time when such written ballots must be received by the Association in order to be counted, at the Association's principal office. A Member entitled to vote at the meeting or by such written ballot, or an agent or attorney of a Member entitled to vote at the meeting or by such written ballot, is entitled on written demand to inspect and copy the list during regular business hours, at the Member's expense, and during the period it is available for inspection.
- c. Failure to prepare or make available the list of Members does not affect the validity of action taken at the meeting or by means of such written ballot.

2. Voting Entitlement.

- a. Only voting Members shall be entitled to vote with respect to any matter required or permitted to be submitted to a vote of the Members.
- b. Each Member entitled to vote shall be entitled to vote on each matter submitted to a vote of Members as provided in the Declaration.
- c. If a Membership consists of several Owners of a Unit, their acts with respect to voting shall have the following effect:
  1. If only one votes, such act binds all; and
  2. If more than one votes, the vote shall be cast only in accordance with the agreement of a majority of those Owners. Majority agreement exists if any one of the Owners casts the vote allocated to the Unit without protest being made promptly to the Board of Directors by another Owner of the Unit. In the event of

disagreement between or among co-Owners, such vote or votes shall not be counted.

- d. The omission or failure of the Association or any Owner to enforce the covenants, conditions, restrictions, uses, limitations, obligations, or other provisions of the Declaration or Bylaws, or the Rules or Regulations adopted pursuant thereto, shall not constitute or be deemed a waiver, modification, or release, and the Association shall have the right to enforce the same.

3. Proxies.

- a. A Member entitled to vote may vote or otherwise act in person or by proxy.
- b. Without limiting the manner in which a Member may appoint a proxy to vote or otherwise act for the Member, the following shall constitute valid means of such appointment:
  - 1. A Member may appoint a proxy by signing an appointment form, either personally or by the Member's attorney-in-fact.
  - 2. A Member may appoint a proxy by transmitting or authorizing the transmission of a telegram, teletype, or other electronic transmission providing a written statement of the appointment to the proxy or to the Association; except that the transmitted appointment shall set forth or be transmitted with written evidence from which it can be determined that the Member transmitted or authorized the transmission of the appointment.
- c. An appointment of a proxy is effective against the Association when received by the Association, including receipt by the Association of an appointment transmitted pursuant to subsection (b)(2) hereinabove. An appointment is valid for eleven (11) months unless a different period is expressly provided in the appointment form.
- d. Any complete copy, including an electronically transmitted facsimile, of an appointment of a proxy may be substituted for or used in lieu of the original appointment for any purpose for which the original appointment could be used.
- e. An appointment of a proxy is revocable by the Member. A proxy is void if it is not dated or purports to be revocable without notice. Every proxy shall automatically cease upon conveyance by the Member of his Lot.
- f. Appointment of a proxy is revoked by the person appointing the proxy attending any meeting and voting in person, or signing and delivering to the Secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.

- g. The death or incapacity of the Member appointing a proxy does not affect the right of the Association to accept the proxy's authority unless notice of the death or incapacity is received by the Secretary or other officer or agent authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.
- h. Subject to any express limitation on the proxy's authority appearing on the appointment form, the Association is entitled to accept the proxy's vote or other action as that of the Member making the appointment.
- i. Proxies obtained through fraud or misrepresentation are invalid as determined in the sole discretion of the Board of Directors of the Association.

4. Association's Acceptance of Votes.

- a. If the name signed on a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation corresponds to the name of a Member, the Association, if acting in good faith, 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.
- b. If the name signed on a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation does not correspond to the name of a Member, the Association, if acting in good faith, 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:
  - 1. The Member is an entity and the name signed purports to be that of an officer or agent of the entity;
  - 2. The name signed purports to be that of an administrator, executor, guardian, or conservator representing the Member and, if the Association requests, evidence of fiduciary status acceptable to the Association has been presented with respect to the vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation;
  - 3. The name signed purports to be that of a receiver or trustee in bankruptcy of the Member and, if the Association requests, evidence of this status acceptable to the Association has been presented with respect to the vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation;
  - 4. The name signed purports to be that of a pledge, beneficial owner, or attorney-in-fact of the Member and, if the Association requests, evidence acceptable to the Association of the signatory's authority to sign for the Member has been presented with respect to the vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation;

5. Two or more persons are the Member as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-tenants or fiduciaries and the person signing appears to be acting on behalf of all of the co-tenants or fiduciaries; or
  6. The acceptance of the vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation is otherwise proper under rules established by the Association that are not inconsistent with the provisions of this subsection (b).
  - c. The Association is entitled to reject a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation if the Secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authorization to sign for the Member.
  - d. The Association and its officer or agent who accepts or rejects a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation, in good faith and in accordance with the standards of this Section, are not liable in damages for the consequences of the acceptance or rejection.
  - e. Association action based on the acceptance or rejection of a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation under this Section is valid unless a court of competent jurisdiction determines otherwise.
5. Quorum and Voting Requirements.
- a. Twenty-five percent (25%) of the votes entitled to be cast on the matter by the Members constitutes a quorum of the Members for action on that matter.
  - b. Once a Member is represented for any purpose at a meeting, including the purpose of determining that a quorum exists, the Member is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting, unless a new record date is or shall be set for that adjourned meeting.
  - c. If a quorum exists, action on a matter is approved if the votes cast favoring the action exceeds the votes cast opposing the action unless a greater number of affirmative votes is required by these Bylaws or the Declaration.
6. Voting Agreements. Two or more Members may provide for the manner in which they will vote by signing an agreement for that purpose. A voting agreement created under this Section is specifically enforceable.
7. Voting by Mail or Electronic Means.
- a. In the case of a vote by mail or electronic means in lieu of a meeting, the Secretary shall mail or deliver written notice to all Members at each Member's address as it

appears in the records of the Association given for notice purposes. The notice shall include: (i) a proposed written resolution setting forth a description of the proposed action, (ii) a statement that Members are entitled to vote by mail or electronic means for or against such proposal, (iii) a date at least 10 days after the date such notice shall have been given on or before which all votes must be received at the office of the Association at the address designated in the notice, and (iv) the number of votes which must be received to meet the quorum requirement and the percentage of votes received needed to carry the vote. Voting by mail or electronic means shall be acceptable in all instances in the Governing Documents requiring the vote of Members at a meeting.

- b. The Association may conduct elections of directors by mail or electronic means, in its sole discretion, and pursuant to procedures adopted by it; *provided however*, that any procedures adopted shall provide for notice to Members of the opportunity to run for a vacant position and/or nominate any Member of the Association for a vacant position, subject to the nominated Member's consent.
8. Counting of Ballots. All ballots shall be counted by a neutral third party, or a committee of volunteers who are not Board Members and not candidates in a contested election, selected or appointed at an open meeting in a fair manner by the chair of the Board or person presiding at such meeting or as otherwise required by law and as may be further defined by policy or procedures of the Association.

## **ARTICLE VII. BOARD OF DIRECTORS**

1. Powers. All Association powers shall be exercised by or under the authority of, and the business and affairs of the Association managed under the direction of, the Board of Directors. The Board of Directors shall have power:
  - a. To adopt and publish rules and regulations, as required by the Act, governing the use of the Common Elements and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof.
  - b. To suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations.
  - c. To exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the Membership by other provisions of these Bylaws, the Articles of Incorporation, the Declaration, or the Act.
  - d. To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

- e. To employ a Managing Agent, independent contractors, or such other employee as they deem necessary, and to prescribe their duties.

2. Duties. It shall be the duty of the Board of Directors:

- a. To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote.
- b. To adopt and amend budgets for revenues, expenditures, and reserves (subject to the budget being distributed to the Owners and not vetoed by the Owners at a meeting of the Owners, as that procedure is set forth in the Declaration, the Act, and in these Bylaws).
- c. To supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed.
- d. To allocate, assess, and collect from each Owner its proportionate share of the Assessments imposed by the Association and pay those Assessments to the Association.
- e. To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- f. To procure and maintain adequate liability and hazard insurance as set forth in the Declaration.
- g. To 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.
- h. To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate. The premiums on such bonds shall be paid by the Association.
- i. To cause the Common Elements and any other area set forth in the Declaration to be maintained.
- j. To provide Association disclosures required by, and pursuant to, the Act.

- k. To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration.
3. Number and Qualification of Directors. A director shall be a natural person who is eighteen (18) years of age or older. A director need not be a resident of this state or a Member of the Association, except as otherwise provided in the Colorado Nonprofit Corporation Act or the Articles of Incorporation. The Board of Directors shall be composed of not less than three (3) persons and not more than nine (9) persons. Directors shall be elected at each annual meeting of Members and shall hold office until the next annual meeting of Members and thereafter until their successors shall have been elected and qualified. In the case where through removal or resignation, the total number of Board members is less than three, the Board will be considered properly constituted until such vacancies are filled. The number of members of the Board may be increased or decreased by amendment of these Bylaws.
  4. Terms of Directors.
    - a. Directors shall be elected or appointed for terms of three (3) years.
    - b. A decrease in the number of directors or in the term of office does not shorten an incumbent director's term.
    - c. The term of a director filling a vacancy expires at the end of the unexpired term that such director is filling.
    - d. Despite the expiration of a director's term, a director continues to serve until the director's successor is elected, appointed, or designated and qualifies, or until there is a decrease in the number of directors.
  5. Resignation of Directors.
    - a. A director may resign at any time by giving written notice of resignation to the President, to the Secretary, or to the Board of Directors.
    - b. A resignation of a director is effective when the notice is received by the Association unless the notice specifies a later effective date. Acceptance of such resignation shall not be necessary to make the resignation effective.
  6. Removal of Directors. Any director may be remove from the Board at any meeting, with or without cause, by a majority vote of all Members of the Association present and entitled to vote. Notice of a meeting of the Members to remove directors shall set forth that the meeting is being conducted for that purpose 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. In the event of death, resignation, or removal of a director, his

successor shall be selected by a majority vote of the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

7. Election. Election to the Board of Directors shall be by secret ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and Articles of Incorporation. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.
8. Compensation of Directors. Directors shall not receive compensation for service on the Board of Directors. However, any director may be reimbursed for the actual expenses incurred by the director in the performance of his or her duties.

#### **ARTICLE VIII. MEETINGS AND ACTION OF THE BOARD**

1. Meetings.
  - a. The Board of Directors may hold regular or special meetings in or out of this state.
  - b. The Board of Directors may permit any director to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.
2. Action Without Meeting.
  - a. Any action required or permitted to be taken at a Board of Directors' meeting may be taken without a meeting if each and every Member of the Board in writing either:
    1. Votes for such action; or
    2. Votes against such action or abstains from voting, and waives the right to demand that action not be taken without a meeting.
  - b. Action is taken under this Section only if the affirmative vote for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the directors then in office were present and voted.
  - c. No action taken pursuant to this Section shall be effective unless writings describing the action taken and otherwise satisfying the requirements of subsection (a) hereinabove, signed by all directors and not revoked pursuant to subsection (d) of this Section, are received by the Association. Any such writing may be received by the Association by electronically transmitted 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. A director's right to demand that

action not be taken without a meeting shall be deemed to have been waived if the Association receives a writing satisfying the requirements of subsection (a) hereinabove that has been signed by the director and not revoked pursuant to subsection (d) hereinafter. Action taken pursuant to this Section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings describing the action taken set forth a different effective date.

- d. Any director who has signed a writing pursuant to this Section may revoke such writing by a writing signed and dated by the director describing the action and stating that the director's prior vote with respect thereto is revoked, if such writing is received by the Association before the last writing necessary to effect the action is received by the Association.
- e. Action taken pursuant to this Section has the same effect as action taken at a meeting of directors and may be described as such in any document.
- f. All signed, written instruments necessary for any action taken pursuant to this Section shall be filed with the minutes of the meetings of the Board of Directors.

3. Notice of Meeting.

- a. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors.
- b. Special meetings of the Board of Directors shall be preceded by at least two (2) days' notice to each director, given personally, by mail, or by email, which notice shall state the date, time, place, and purpose of the meeting.

4. Waiver of Notice.

- a. A director may waive any notice of a meeting before or after the time and date of the meeting stated in the notice. Except as provided by subsection (b) hereinafter, the waiver shall be in writing and signed by the director entitled to the notice. Such waiver shall be delivered to the Association for filing with the Association records, but such delivery and filing shall not be conditions of the effectiveness of the waiver.
- b. A director's attendance at or participation in a meeting waives any required notice to that director of the meeting 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.

5. Quorum and Voting.

- a. A quorum of the Board of Directors consists of a majority of the number of directors in office immediately before the meeting begins.

- b. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the Board of Directors unless the vote of a greater number of directors is required by these Bylaws or the Declaration.
  - c. For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a director may be deemed to be present at a meeting and to vote if the director has granted a signed, written proxy to another director who is present at the meeting, authorizing the other director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy. Except as provided in this subsection (c), directors may not vote or otherwise act by proxy.
  - d. A director who is present at a meeting of the Board of Directors when Association action is taken is deemed to have assented to all action taken at the meeting unless:
    - 1. 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.
    - 2. 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
    - 3. 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 adjournment of the meeting or by the Association promptly after adjournment of the meeting.
  - e. The right of dissent or abstention pursuant to subsection (d) hereinabove as to a specific action is not available to a director who votes in favor of the action taken.
6. Committees of the Board.
- a. The Board of Directors may create one or more committees of the Board and appoint one or more directors to serve on them.
  - b. The creation of a committee of the Board and appointment of directors to it shall be approved by a majority of all the directors in office when the action is taken.
  - c. Action without meeting, notice, waiver of notice, and quorum and voting requirements of the Board of Directors apply to committees of the Board and their Members as well.
  - d. To the extent specified by the Board of Directors, each committee of the Board shall have the authority of the Board of Directors, except that a committee of the Board

- shall not authorize distributions; approve or propose to Members actions that are required to be approved by Members; elect, appoint, or remove any director; amend Articles of Incorporation; adopt, amend, or repeal Bylaws; approve a plan of merger not requiring Member approval; or approve a sale, lease, exchange, or other disposition of all, or substantially all, of its property, with or without good will, other than in the usual and regular course of business, subject to approval by Members.
- e. The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in these Bylaws.
  - f. Nothing in these Bylaws shall prohibit or restrict the Association from establishing by action of the Board of Directors one or more committees, advisory boards, auxiliaries, or other bodies of any kind, having such members and rules of procedure as the Board of Directors may provide, in order to provide such advice, service, and assistance to the Association, and to carry out such duties and responsibilities for the Association as may be specified by the Board of Directors; except that if any such committee or other body has one or more members thereof who are entitled to vote on committee matters and who are not then also directors, such committee or other body may not exercise any power or authority of the Board of Directors.
7. Executive Sessions. The members of the Board of Directors or any committee thereof may hold an executive or closed-door session and may restrict attendance to Board members and such other persons requested by the Board during a regular or specially announced meeting or a part thereof. The matters to be discussed at such an executive session shall include only the following matters:
- a. Matters pertaining to employees of the Association or involving 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.
  - e. Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

Prior to the time the members of the Board or any committee thereof convene in executive session, the chair of the body shall announce the general matter of discussion as enumerated in subparagraphs (a) through (e) above. No rule or regulation of the Board 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 or after the body goes back into 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.

8. Owner Participation. Except during an executive session, Owners must be allowed to speak before the Board votes on any issue under discussion. The Board shall allow a reasonable number of persons to speak on each side of the issue, but the Board may place reasonable restrictions on the time allowed for each Owner to speak. Owners may also be allowed to speak at such other times as the Board, in its sole discretion, deems appropriate.

## **ARTICLE IX. STANDARDS OF CONDUCT**

1. General Standards of Conduct for Directors and Officers.
  - a. Each director shall discharge the director's duties as director, including the director's duties as a member of a committee of the Board, and each officer with discretionary authority shall discharge the officer's duties under that authority in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director or officer reasonable believes to be in the best interests of the Association.
  - b. In discharging duties, a director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements, and other financial data, if prepared or presented by:
    1. One or more officers or employees of the Association whom the director or officer reasonably believes to be reliable and competent in the matters presented;
    2. Legal counsel, a public accountant, or another person as to matters the director or officer reasonable believes are within such person's professional or expert competence; or
    3. In the case of a director, a committee of the Board of Directors of which the director is not a member if the director reasonable believes the committee merits confidence.
  - c. A director or officer is not acting in good faith if the director or officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) hereinabove unwarranted.
  - d. A director or officer is not liable to the Association or its Members for any action taken or omitted to be taken as a director or officer, as the case may be, if, in

connection with such action or omission, the director or officer performed the duties of the position in compliance with this Section.

- e. A director, regardless of title, shall not be deemed to be a trustee with respect to the Association or with respect to any property held or administered by the Association, including, without limitation, property that may be subject to restrictions imposed by the donor or transferor of such property.

2. Liability of Directors for Unlawful Distributions.

- a. A director who votes for or assents to a distribution made in violation of these Bylaws is personally liable to the Association for the amount of the distribution that exceeds what could have been distributed without violating these Bylaws if it is established that the director did not perform the director's duties in compliance with the foregoing Section. In any proceeding commenced under this Section, a director shall have all of the defenses ordinarily available to the director.
- b. A director held liable under subsection (a) hereinabove for an unlawful distribution is entitled to contribution:
  - 1. From every other director who could be held liable under subsection (a) hereinabove for the unlawful distribution; and
  - 2. From each person who accepted the distribution knowing the distribution was made in violation of these Bylaws, the amount of the contribution from such person being the amount of the distribution to that person that exceeds what could have been distributed to that person without violating these Bylaws.

**ARTICLE X. DIRECTORS' CONFLICTING INTEREST TRANSACTIONS**

- 1. As used in this Section, "conflicting interest transaction" means a contract or other financial relationship between the Association and a director of the Association, or between the Association and a party related to a director, or between the Association and an entity in which a director of the Association is a director or officer or has a financial interest.
- 2. No loans shall be made by the Association to its directors or officers. Any director or officer who assents to or participates in the making of any such loan shall be liable to the Association for the amount of such loan until the repayment thereof.
- 3. No conflicting interest transaction shall be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by a Member or by or in the right of the Association solely because the conflicting interest transaction involves a director of the Association or a party related to a director or an entity in which a director of the Association is a director or officer or has a financial interest, or solely because the director is present at or participates in the meeting of the Association's Board

of Directors or of the committee of the Board of Directors that authorizes, approves, or ratifies the conflicting interest transaction, or solely because the director's vote is counted for such purpose if:

- a. The material fact as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or the committee, in good faith, authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors are less than a quorum; or
  - b. The material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Members entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the Members entitled to vote thereon; or
  - c. The conflicting interest transaction is fair as to the Association.
4. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes, approves, or ratifies the conflicting interest transaction.
  5. For purposes of this Section, a "party related to a director" shall mean a spouse, a descendent, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the director or a party related to a director has a beneficial interest, or an entity in which a party related to a director is a director, officer, or has a financial interest.

#### **ARTICLE XI. LIMITS OF CERTAIN LIABILITIES OF DIRECTORS**

1. There shall be no personal liability, either direct or indirect, of any director or officer to the Association or to its Members for monetary damages for any breach or breaches of fiduciary duty as director or officer, except that this provision shall not eliminate the liability of a director or officer to the Association or its Members for monetary damages for any breach, act, omission, or transaction to which the Nonprofit Corporation Act expressly prohibits the elimination of liability.
2. This provision shall not limit the rights of directors or officers of the Association for indemnification or other assistance from the Association. This provision shall not modify, restrict, or otherwise diminish the provisions of C.R.S. § 13-21-116(2)(b) (concerning elimination of liability of directors, except for willful and wanton acts or omissions); any amendment or successor provision thereto; or any law limiting or eliminating liabilities.
3. Any repeal or modification of the foregoing provisions of this Article by the Members of the Association or any repeal or modification of the provisions of the Nonprofit Corporation Act which permits the elimination of liability of directors by this Article shall not affect adversely any elimination of liability, right, or protection of a director or

officer of the Association with respect to any breach, act, omission, or transaction of such director or officer occurring prior to the time of such repeal or modification.

## **ARTICLE XII. INDEMNIFICATION**

1. Indemnification Definitions. As used in this Article:

- a. “Director” means an individual who is or was a director of the Association or an individual who, while a director of the Association, is or was serving at the Association’s request as a director, officer, partner, member, manager, trustee, employee, fiduciary, or agent of another domestic or foreign corporation, nonprofit corporation, or other person of or an employee benefit plan. A director is considered to be serving an employee benefit plan at the Association’s request if the director’s duties to the Association also impose duties on, or otherwise involve services by, the director to the plan or to the participants in or beneficiaries of the plan. “Director” includes, unless the context requires otherwise, the estate of personal representative of a director.
- b. “Expenses” include counsel fees.
- c. “Liability” means the obligation incurred with respect to a proceeding to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses.
- d. “Official capacity” means, when used with respect to a director, the office of director in the Association and, when used with respect to a person other than a director, the office in the Association held by the officer or the employment, fiduciary, or agency relationship undertaken by the employee, fiduciary, or agent on behalf of the Association. “Official capacity” does not include service for any other domestic or foreign corporation, nonprofit corporation, or other person or employee benefit plan.
- e. “Party” includes a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding.
- f. “Proceeding” means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal.

2. Authority to Indemnify Directors.

- a. Except as provided in subsection (d) hereinafter, the Association shall indemnify a person made a party to a proceeding because the person is or was a director against liability incurred in the proceeding if:
  - 1. The person’s conduct was in good faith; and

2. The person reasonable believed:
    - (i) In the case of conduct in an official capacity with the Association, that the conduct was in the Association's best interests;
    - (ii) In all other cases, that the conduct was at least not opposed to the Association's best interests; and
    - (iii) In the case of any criminal proceeding, the person had no reasonable cause to believe the conduct was unlawful.
  - b. A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in or beneficiaries of the plan is conduct that satisfies the requirement of subsection (a)(2)(ii) hereinabove. A director's conduct with respect to an employee benefit plan for a purpose that the director did not reasonable believe to be in the interests of the participants in or beneficiaries of the plan shall be deemed not to satisfy the requirements of subsection (a)(1) hereinabove.
  - c. The termination of a proceeding by judgment, order, settlement, or conviction or upon a plea of *nolo contendere* or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this Section.
  - d. The Association may not indemnify a director under this Section:
    1. In connection with a proceeding by or in the right of the Association in which the director was adjudged liable to the Association; or
    2. In connection with any other proceeding charging that the director derived an improper personal benefit, whether or not involving action in an official capacity, in which proceeding the director was adjudged liable on the basis that the director derived an improper personal benefit.
  - e. Indemnification permitted under this Section in connection with a proceeding by or in the right of the Association is limited to reasonable expenses incurred in connection with the proceeding.
3. Mandatory Indemnification of Directors. The Association shall indemnify a person who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the person was a party because the person is or was a director, against reasonable expenses incurred by the person in connection with the proceeding.
  4. Advance of Expenses to Directors.

- a. The Association shall pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:
    1. The director furnishes to the Association a written affirmation of the director's good faith belief that the director has met the standard of conduct described in these Bylaws;
    2. The director furnishes to the Association a written undertaking, executed personally or on the director's behalf, to repay the advance if it is ultimately determined that the director did not meet the standard of conduct; and
    3. A determination is made that the facts then known to those making the determination would not preclude indemnification under this Article.
  - b. The undertaking required by subsection (a)(2) hereinabove shall be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.
5. Determination and Authorization of Indemnification of Directors.
- a. The Association may not indemnify a director under this Article unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in these Bylaws. The Association shall not advance expenses to a director under this Article unless authorized in the specific case after the written affirmation and undertaking required by these Bylaws are received and the determination required by these Bylaws has been made.
  - b. The determination required by subsection (a) hereinabove 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; or
    2. If a quorum cannot be obtained, a majority vote of a committee of the Board of Directors designated by the Board of Directors, which committee shall consist of two (2) 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.
  - c. If a quorum cannot be obtained as contemplated in subsection (b)(1) hereinabove, and a committee cannot be established under subsection (b)(2) hereinabove, or even if a quorum is obtained or a committee is designated, if a majority of the directors constituting such quorum or such committee so directs, the determination required to be made by subsection (a) hereinabove shall be made:

1. By independent legal counsel selected by a vote of the Board of Directors or the committee in the manner specified in subsection (b)(1) or (b)(2) hereinabove, or if a quorum of the full board cannot be obtained and a committee cannot be established, by independent legal counsel selected by a majority vote of the full Board of Directors; or
  2. By the voting Members, but voting Members who are also directors and who are at the time seeking indemnification may not vote on the determination.
- d. Authorization of indemnification and advance of expenses shall be made in the same manner as the determination that indemnification or advance of expenses is permissible; except that if the determination that indemnification or advance of expenses is permissible is made by independent legal counsel, authorization of indemnification and advance of legal expenses shall be made by the body that selected such counsel.
6. Indemnification of Officers, Employees, Fiduciaries, and Agents.
- a. An officer is entitled to mandatory indemnification under this Article, in each case to the same extent as a director.
  - b. The Association shall indemnify and advance expenses to an officer, employee, fiduciary, or agent of the Association to the same extent as to a director.
  - c. The Association shall also indemnify and advance expenses to an officer, employee, fiduciary, or agent who is not a director to a greater extent, if not inconsistent with public policy or these Bylaws, general or specific action of the Board of Directors or voting Members or contract.
7. Insurance. The Association may purchase and maintain insurance on behalf of a person who is or was a director, officer, employee, fiduciary, or agent of the Association or who, while a director, officer, employee, fiduciary, or agent of the Association, is or was serving at the request of the Association as a director, officer, partner, member, manager, trustee, employee, fiduciary, or agent of another domestic or foreign corporation, nonprofit corporation, or other person, or of an employee benefit plan, against liability asserted against or incurred by the person in that capacity or arising from the person's status as a director, officer, employee, fiduciary, or agent, whether or not the Association would have power to indemnify the person against the same liability under this Article. Any such insurance may be procured from any insurance company designated by the Board of Directors, whether such insurance company is formed under the laws of this state or any other jurisdiction of the United States or elsewhere, including any insurance company in which the Association has an equity or any other interest through stock ownership or otherwise.

8. Limitation of Indemnification of Directors. This Article does not limit the Association's power to pay or reimburse expenses incurred by a director in connection with an appearance as witness in a proceeding at a time when the director has not been made a named defendant or respondent in the proceeding.
9. Notice to Voting Members of Indemnification of Director. If the Association indemnifies or advances expenses to a director under this Article in connection with a proceeding by or in the right of the Association, the Association shall give written notice of the indemnification or advance to the voting Members with or before the notice of the next voting Members' meeting. If the next voting Member action is taken without a meeting at the instigation of the Board of Directors, such notice shall be given to the voting Members at or before the time the first voting Member signs a writing consenting to such action.

### **ARTICLE XIII. SALE OF PROPERTY**

1. Sale of Property.
  - a. Subject to the terms and provisions of the Declaration, the Association may, as authorized by the Board of Directors:
    1. Sell, lease, exchange, or otherwise dispose of all or substantially all of its property in the usual and regular course of business; and
    2. Mortgage, pledge, dedicate to the repayment of indebtedness (whether with or without recourse), or otherwise encumber all or substantially all of its property, whether or not in the usual and regular course of business.
  - b. Approval by the Members of a transaction described in this Section is not required.
2. Sale of Property Other Than in Regular Course of Activities.
  - a. Subject to the terms and provisions of the Declaration, the Association may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, with or without its good will, other than in the usual and regular course of business on the terms and conditions and for the consideration determined by the Board of Directors if the Board of Directors proposes, and the Members entitled to vote thereon approve, the transaction. A sale, lease, exchange, or other disposition of all, or substantially all, of the property of the Association, with or without good will, in connection with its dissolution, other than in the usual and regular course of business, and other than pursuant to a court order, shall be subject to the requirements of this Section; but a sale, lease, exchange, or other disposition of all, or substantially all, of the property of the Association, with or without its good will, pursuant to a court order shall not be subject to the requirements of this Section.

- b. If the Association is entitled to vote or otherwise consent, other than in the usual and regular course of its business, with respect to the sale, lease, exchange, or other disposition of all, or substantially all, of the property with or without the good will of another entity which it controls, and if the property interests held by the Association in such other entity constitute all, or substantially all, of the property of the Association, then the Association shall consent to such transaction only if the Board of Directors proposes and the Members, if any are entitled to vote thereon, approve the giving of consent.
- c. For a transaction described in subsection (a) hereinabove or a consent described in subsection (b) hereinabove to be approved by the Members:
  - 1. The Board of Directors shall recommend the transaction or the consent to the Members unless the Board of Directors determines that, because of conflict of interest or other special circumstances, it should make no recommendation and communicates the basis for its determination to the Members at a Membership meeting with the submission of the transaction or consent; and
  - 2. The Members entitled to vote on the transaction or the consent shall approve the transaction or the consent as provided in subsection (f) hereinafter.
- d. The Board of Directors may condition the effectiveness of the transaction or the consent on any basis.
- e. The Association shall give notice to each Member entitled to vote on the transaction described in subsection (a) hereinabove or the consent described in subsection (b) hereinabove of the Members' meeting at which the transaction or the consent will be voted upon. The notice shall:
  - 1. State that the purpose, or one of the purposes, of the meeting is to consider:
    - (i) In the case of action pursuant to subsection (a) hereinabove, the sale, lease, exchange, or other disposition of all, or substantially all, of the property of the Association; or
    - (ii) In the case of action pursuant to subsection (b) hereinabove, the Association's consent to the sale, lease, exchange, or other disposition of all, or substantially all, of the property of another entity, which entity shall be identified in the notice, the property interests of which are held by the Association and constitute all, or substantially all, of the property of the Association.
  - 2. Contain or be accompanied by a description of the transaction in the case of action pursuant to subsection (a) hereinabove, or by a description of the transaction underlying the consent in the case of action pursuant to subsection (b) hereinabove.

- f. The transaction described in subsection (a) hereinabove or a consent described in subsection (b) hereinabove shall be approved by the vote of a majority of the Members.
- g. After a transaction described in subsection (a) hereinabove or a consent described in subsection (b) hereinabove is authorized, the transaction may be abandoned or the consent withheld or revoked, subject to any contractual rights or other limitations on such abandonment, withholding, or revocation, without further action by the Members.

#### **ARTICLE XIV. OBLIGATIONS OF OWNERS**

1. Assessments. Except as otherwise provided in the Declaration, all Owners shall be obligated to pay the assessments imposed by the Association pursuant to the Declaration. Unless otherwise determined by the Association, the annual assessments and any special assessments which are to be paid in periodic installments shall be paid periodically in advance and shall be due and payable to the Association at its principal office or as the Association may otherwise direct in writing. A Member shall be deemed to be in good standing and entitled to vote at any annual meeting or special meeting of the Members within the meanings of these Bylaws if, and only if, the Member shall have fully paid all assessments due against the Lot(s) owned by the Member as of the date of the meeting. The Association may bring an action at law against an Owner personally obligated to pay the same or foreclose the lien against such Owner's Lot, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessments. No Owner may waive or otherwise except liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his Lot.
2. Evidence of Ownership. Any person becoming an Owner of a Lot shall furnish to the Association a copy of the recorded instrument vesting that person with an interest or ownership in the Lot, which copy shall remain in the files of the Association.
3. Registration of Mailing Address. The Owner or Owners of one Lot shall have one and the same registered mailing address to be used by the Association for the mailing of statements, notices, demands, and all communications, and such registered address shall be the only mailing address of the Owner or Owners of the Lot. The registered address of an Owner shall be furnished by such Owner to the Association within fifteen (15) days after the transfer of title or any change of address, and such registration shall be in written form and signed by the Owner or Owners of each Lot. If no address is registered or if all Owners cannot agree, then the address of the Lot shall be deemed the registered address for the purposes of these Bylaws until another registered address is furnished as required by this Section. If the Lot is the registered address of the Owner(s), then any notice shall have been deemed to be duly given if delivered to any person occupying that Lot or, if such Lot is unoccupied, if the notice is held and available for the Owner(s) at the principal office of the Association.

## **ARTICLE XV. OFFICERS**

1. Officers. The Association shall have a President, a Secretary, a Treasurer, and such other officers as may be designated by the Board of Directors. An officer shall be a natural person who is eighteen (18) years of age or older. An officer need not be a director or a Member of the Association. Officers may be appointed by the Board of Directors, and appointed officers shall hold office at the pleasure of the Board. A duly appointed officer may appoint one or more officers or assistant officers if authorized by the Board of Directors. The Board of Directors shall delegate to the Secretary or to one or more other persons responsibility for the preparation and maintenance of minutes of the directors' and Members' meetings and other records and information required to be kept by the Association and for authenticating records of the Association. The Board may appoint other such officers and assistant officers, including a managing agent, as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. The same individual may simultaneously hold more than one office in the Association.
2. President. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board. The President shall have the general powers and duties that are usually vested in the office of president of a Colorado nonprofit corporation, including, but not limited to, the following: see that orders and resolutions of the Board are carried out; direct, supervise, coordinate and have general control over the day to day affairs; sign all leases, mortgages, deeds, and other written instruments; co-sign all checks and promissory notes; and appoint committees from and among the Owners from time to time as the President may determine to be appropriate to assist in the conduct of the affairs of the Association or as may be established by the Board or by the Members of the Association at any regular or special meetings.
3. Vice President. The Vice President shall have all the powers and authority and perform all functions and duties of the President in the absence of the President or his or her inability for any reason to exercise such powers and functions or to perform such duties, and shall exercise and discharge such other duties as may be required of him or her by the Board of Directors. 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.
4. Secretary. The Secretary shall keep all minutes of the meetings of the Board of Directors and the minutes of all meetings of the Association. The Secretary shall have charge of all books and papers that the Board may direct and shall, in general, perform all the duties incident to the office of the Secretary of a nonprofit corporation organized under the laws of the State of Colorado. The Secretary shall compile and keep up to date at the principal office of the Association a complete list of the Members and their registered addresses as shown on the records of the Association, and shall perform such other duties as required by the Board of Directors.

5. Treasurer. The Treasurer shall have the responsibility for the Association funds and shall be responsible for keeping a full and accurate account of all receipts and disbursements in the books belonging to the Association; provided, however, that when a manager has been delegated the responsibility of collecting and disbursing funds, the Treasurer's responsibility shall be to review the accounts of the manager not less often than quarterly. The Treasurer shall perform such other duties as from time to time may be assigned by the Board of Directors or provided for by the directors.
6. Resignation and Removal of Officers. An officer may resign at any time by giving written notice of resignation to the Association. A resignation of an officer is effective when the notice is received by the Association unless the notice specifies a later effective date. If a resignation is made effective at a later date, the Board of Directors may permit the officer to remain in office until the effective date and may fill the pending vacancy before the effective date with the provision that the successor does not take office until the effective date, or the Board may remove the officer at any time before the effective date and may fill the resulting vacancy. The Board of Directors may remove any officer at any time without cause, or the Board of Directors may make provisions for the removal of officers by other officers. An officer who resigns or is removed or whose appointment has expired may deliver to the Colorado Secretary of State for filing a statement to that effect.
7. Contract Rights With Respect to Officers. The appointment of an officer does not itself create contract rights. An officer's removal does not affect the officer's contract rights, if any, with the Association. An officer's resignation does not affect the Association's contract rights, if any, with the officer.
8. Delegation. The duties of any officer may be delegated to the manager or another Board member; provided, however, the officer shall not be relieved of any responsibility under these Bylaws or under Colorado law.
9. Agreements, Contracts, Deeds, Checks, Etc. Except as provided in these Bylaws, all agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by any officer of the Association or by any other person or persons designated by the Board of Directors.

## **ARTICLE XVI. ASSOCIATION RECORDS**

1. Association Records.
  - a. The Association or its managing agent, if any, shall keep as permanent records minutes of all meetings of its Members and Board of Directors, a record of all actions taken by the Members or Board of Directors without a meeting, a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the Association, a record of all waivers of notices of meetings of Members and of the Board of Directors or any committee of the Board of Directors, and all books and records as required by the Act. The Association shall also adopt and follow

a policy regarding an Owner's right to inspect and copy Association records to be permanently retained by the Association; a standard procedure to be followed when an Owner chooses to inspect or copy Association records, a document retention schedule for the retention of Association documents, and a standard procedure for the destruction of Association documents.

- b. The Association shall maintain appropriate accounting records.
- c. The Association or its agent shall maintain a record of its Members in a form that permits preparation of a list of the names and addresses of all Members in alphabetical order, showing the number of votes each Member is entitled to vote.
- d. The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.
- e. The Association shall keep a copy of each of the following records at its principal office:
  - (1) Its Articles of Incorporation;
  - (2) Its Bylaws;
  - (3) Resolutions adopted by its Board of Directors relating to the characteristics, qualifications, rights, limitations, and obligations of Members;
  - (4) The minutes of all Members' meetings and records of all action taken by Members without a meeting for the past three (3) years;
  - (5) All written communications within the past three (3) years to Members generally as Members;
  - (6) A list of the names and business or home addresses of its current directors and officers;
  - (7) A copy of its most recent corporate report delivered to the Colorado Secretary of State; and
  - (8) All financial statements prepared for periods ending during the last three (3) years that a Member could have requested under this Article.

2. Inspection of Association Records by Members.

- a. 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 subsection 1(e) above if the Member gives the Association written demand at least

five (5) business days before the date on which the Member wishes to inspect and copy such records.

- b. Pursuant to subsection (e) of this Section, a Member is entitled to inspect and copy, during regular business hours at a reasonable location specified by the Association, any of the other records of the Association if the Member meets the requirements of subsection (c) of this Section and gives the Association written demand at least five (5) business days before the date on which the Member wishes to inspect and copy such records.
  - c. A Member may inspect and copy the records described in subsection (b) of this Section only if:
    - 1. The Member has been a Member for at least three (3) months immediately preceding the demand to inspect or copy or is a Member holding at least five percent (5%) of the voting power as of the date the demand is made;
    - 2. The demand is made in good faith and for a proper purpose;
    - 3. The Member describes with reasonable particularity the purpose and the records the Member desires to inspect; and
    - 4. The records are directly connected with the described purpose.
  - d. For purposes of this Section:
    - 1. “Member” includes a beneficial owner whose Membership interest is held in a voting trust and any other beneficial owner of a Membership interest who establishes beneficial ownership.
    - 2. “Proper purpose” means a purpose reasonably related to the demanding Member’s interest as a Member.
  - e. The right of inspection granted by this Section may not be abolished or limited.
  - f. This Section does not affect:
    - 1. The right of a Member to inspect records to the same extent as any other litigant if the Member is in litigation with the Association; or
    - 2. The power of a court to compel the production of Association records for examination.
3. Scope of Member’s Inspection Right.

- a. A Member's agent or attorney has the same inspection and copying rights as the Member.
  - b. The right to copy records under this Article includes, if reasonable, the right to receive copies made by photographic, xerographic, electronic, or other means.
  - c. The Association may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the Member. The charge may not exceed the estimated cost of production and reproduction of the records.
  - d. The Association may comply with a Member's demand to inspect the record of Members by furnishing to the Member a list of Members that was compiled no earlier than the date of the Member's demand.
4. Limitations on Use of Membership List.
- a. Without consent of the Board of Directors, a Membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a Member's interest as a Member.
  - b. Without limiting the generality of subsection (a) hereinabove, without the consent of the Board of Directors, a Membership list or any part thereof may not be:
    - 1. Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Members in an election to be held by the Association.
    - 2. Used for any commercial purpose; or
    - 3. Sold to or purchased by any person.

**ARTICLE XVII. AMENDMENT**

- 1. Bylaw Amendments. These Bylaws may be amended, at a regular or special meeting of the Members, with the assent of a majority of all Members present in person or by proxy, provided notice has been provided pursuant to these Bylaws and such notice sets forth that the meeting is being conducted for the purpose of amendment. These Bylaws may be amended by the Board of Directors, without Member approval, to comply with any statutory or judicial requirements.

**ARTICLE XVIII. GENERAL PROVISIONS**

- 1. Conflict. In case of conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

2. Fiscal Year. The fiscal year of the Association shall be determined by the Board of Directors and shall be subject to change by the Board should such change be deemed necessary.
3. Notices to the Association. All notices to the Association or the Board of Directors shall be delivered to the office of the manager, or if there is no manager, to the office of the Association, or to such other address as the Board of Directors may designate by written notice to all Owners. Except as otherwise provided, all notices to any Owner 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.
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.
5. Reserves. As a part of the adoption of the regular budget, the Board of Directors shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of improvements to the Common Elements based upon the age, remaining life, and the quantity and replacement cost of improvements to the Common Elements.
6. Meaning of Terms. The capitalized terms appearing in these Bylaws shall have the same meaning as such terms have in the Association's Declaration.

IN WITNESS WHEREOF, we, being all of the directors of The Homeowners Association of Wellington South, Inc., have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CERTIFICATION

I, the undersigned, do hereby certify, that I am the duly elected and acting Secretary of The Homeowners Association of Wellington South, Inc., a Colorado Nonprofit corporation, and, that the foregoing Bylaws constitute the Bylaws of said corporation as duly adopted at a meeting of the Board of Directors thereof, held in Fort Collins, Colorado, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Secretary