

HIGHLAND MESA TOWNHOMES

HOMEOWNERS ASSOCIATION

BYLAWS

MASTER

# BYLAWS

OF

## HIGHLAND MESA TOWNHOMES HOMEOWNERS ASSOCIATION

### ARTICLE I

#### General Provisions

1.0. Defined Terms. Capitalized terms used in these Bylaws without definition shall have the meanings specified for such terms in the Declaration of Covenants, Conditions and Restrictions for Highland Mesa Townhomes recorded with the County Recorder of Coconino County, Arizona, as Instrument Number \_\_\_\_\_.

1.1. Conflicting Provisions. In the case of any 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 of Covenants, Conditions and Restrictions and these Bylaws, the Declaration of Covenants, Conditions and Restrictions shall control.

1.2. Corporate Seal. The Association shall have a seal in a form approved by the Board.

1.3. Designation of Fiscal Year. The fiscal year of the Association shall begin on the first day of January and shall end on the 31st day of December every year, except that the first fiscal year shall begin on the date of Incorporation of the Association.

1.4. Books and Records. The books, records and papers of the Association shall be available for inspection by any Member during reasonable business hours.

1.5. Amendment.

(A). These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of the Members having more than 2/3 rds of the votes entitled to be cast by the Members present in person or by proxy.

(B). So long as the Declarant owns any Lot or any part of the annexable property subject to annexation, any amendment of these Bylaws must be approved in writing by the Declarant.

1.6. Indemnification. All Directors and Officers of the Corporation shall be indemnified by the Corporation against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon them in connection with any proceeding to which they may be a party, or in which they may become involved, by reason of their being or having been a Director or Officer of the Corporation, or any settlement thereof, whether or not they are Directors or Officers at the time such expenses are incurred.

provided that the Board shall determine, in good faith, that such Officer or Director did not act, fail to act, or refuse to act wilfully or with gross negligence, or fraudulent or criminal intent in the performance of his or her duties. The forgoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Directors or Officers may be entitled, but shall not apply to the extent such liability, damage or injury is covered by insurance of any type. Indemnification of any such person shall be made in accordance with the procedures set forth in the Arizona Nonprofit Corporation Act.

## ARTICLE II

### Meetings and Members

2.0. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year of the date of incorporation of the Association at such time and place as may be set by the Board. An annual meeting of the Members shall be held at least once every twelve (12) months thereafter at such time and place as is determined by the Board.

2.1. Special Meetings. Special meetings of the Members may be called at any time by the president or by the Board or upon written request signed by Members having at least one-third (1/3) of the total authorized votes.

2.2. Notice of Meeting. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting by mailing a copy of each notice, postage prepaid, at least fifteen (15) days prior to such meeting to each member entitled to vote thereat addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. 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. By attending a meeting, a Member waives any right he may have had to object to the meeting on the basis that the proper notice of the meeting was not given in accordance with these Bylaws or the statutes of the State of Arizona.

2.3. Quorum. Except as otherwise provided in the Articles, the Declaration or these Bylaws, the presence in person or by proxy of Members entitled to cast one-fourth (1/4) of the total authorized votes in the Association shall constitute a quorum at all meetings of the Members. If a quorum shall not be present at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

2.4. Proxies. At all meeting of the Members a vote may be cast in person or by proxy. A proxy may be granted by any Member in favor of only another member, the Secretary of the Association, the Declarant, or the Member's mortgagee. A proxy shall be duly executed in writing and it shall be valid only for the particular meeting designated in the proxy. All proxies must be filed with the Secretary prior to the commencement of the meeting for which the proxy is given. The proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of a notice of revocation signed by the person who granted the proxy. Except with respect to the proxies in favor of a mortgagee, no proxy shall in any event be valid for a period in excess of 30 days after the execution thereof.

## ARTICLE III

### Board of Directors

3.0. Number. The affairs of this Association shall be initially managed by a Board of three (3) directors. So long as the Declarant owns more than one-fourth of the Lots the directors need not be Members of the Association. After Declarants ownership of Lots falls below one-fourth of the Lots in the subdivision, all directors must be Members of the Association. The Board may increase the number of directors on the Board but the total number of directors must always be an odd number and shall not exceed five (5) directors.

3.1. Term of Office. The initial members of the Board shall hold office until the first annual meeting of the Members and until their successors are elected and qualified. Commencing with the first annual meeting of the Members, all directors shall be elected for a term of one (1) year.

3.2. Removal. At any annual or special meeting of the Members duly called, any one or more of the members of the Board of Directors may be removed from the Board with or without cause by Members having more than one-half (1/2) of the votes entitled to be cast by the Members present in person or by proxy at the meeting, and a successor may then and there be elected to fill the vacancy thereby created.

3.3. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

3.4. Action Taken Without a Meeting. The Directors shall have the right to take any action, in the absence of a meeting, which they could take at a meeting by obtaining the written consent of all the Directors. Any such written consent shall be filed with the minutes of the proceedings of the Board.

3.5. Vacancies. Vacancies on the Board caused by any reason other than the removal of a Director in accordance with the provisions of Section 3.2. of these Bylaws shall be filled by a majority vote of the remaining Directors though less than a quorum or by a sole remaining Director. Each person so elected shall serve the unexpired portion of the prior Director's term. Any newly created directorship shall be deemed a vacancy.

3.6. Regular Meetings. Regular meetings of the Board may be held at such time and place that shall be determined from time to time by the Board. Such meetings shall be held at least once during each fiscal year.

3.7. Special Meetings. Special meetings of the Board may be called by the President on three business days notice to each Director, given in writing, by hand deliver, mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two Directors.

3.8. Quorum. A majority of the Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board.

3.9. Powers and Duties.

(A). The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not exercised or done by the Members. In addition to the duties imposed by these Bylaws or by any resolution of the Members that may hereinafter be adopted, the Board shall have the following powers and duties:

(a). Open bank accounts on behalf of the Association and designate the signatories thereon;

(b). Make, or contract for the making, repairs or additions to, improvements to or alterations to the Common Area after damage or destruction by fire or other casualty;

(c). In the exercise of its discretion, enforce by legal means the provisions of the Declaration of Covenants, Conditions, and Restrictions; the Articles of Incorporation and these Bylaws;

(d). Designate, hire and dismiss the personnel necessary for the maintenance, operation and repair or replacement of the Common Area and provide services for the Members, and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

(e). Provide for the operation, care, upkeep and maintenance of all of the Common Area and borrow money on behalf of the Association when required in connection with any one instance relating to the operation, upkeep and maintenance of the Common Area; provided however, the consent of Members having at least two-thirds (2/3) of the total votes in the Association shall be obtained either in writing or at a meeting called and held for such purpose in accordance with the provisions of these Bylaws in order for the Association to borrow in excess of \$5,000.00;

(f). Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year;

(g). Adopt and publish rules and regulations governing the use of the Common Area and facilities and the personal conduct of the Members, their family members, guests, lessees and invitees thereon and establish penalties for the infraction thereof;

(h). Suspend the voting rights and the right to use of the Common Area, of a Member during any period in which Member shall be in default in the payment of any Assessment or other amounts due under the terms of the Declaration of Covenants, Conditions, and Restrictions; the Articles of Incorporation and these Bylaws;

(i). Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of the Declaration of Covenants, Conditions, and Restrictions; the Articles of Incorporation and these Bylaws;

(j). Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;

(k). Employ, hire and dismiss such employees as they deem necessary and to prescribe their duties and their compensation;

(l). Cause to be kept a complete record of all its act 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 any Member entitled to vote;

(k). Supervise all officers, agents and employees of the Association and see that their duties are properly performed;

(l). Levy and collect Assessments as provided in the Declaration;

(m). Issue, or caused an appropriate officer to issue upon demand to 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;

(n). Procure and maintain adequate property, liability and other insurance as required by the Declaration;

(o). Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(p). Cause the Common Area to be maintained, as more fully set forth in the Declaration.

(B). The Board may employ a "Managing Agent" at a compensation established by the Board. The Managing Agent must be an independent contractor. The Managing Agent shall perform such duties and services as the Board shall authorize, including but not limited to, all of the duties listed in the Declaration and these Bylaws except for such duties and services that under the Declaration may not be delegated to the Managing Agent. The Board may delegate to the Managing Agent all of the powers granted to the Board or the officers of the Association by the Declaration and these Bylaws other than the following powers:

- (a). To adopt the annual budget, any amendments thereto or to levy Assessments;
- (b). To adopt, repeal or amend Association Rules and Regulations;
- (c). To designate signatories on Association bank accounts;
- (d). To borrow money on behalf of the Association.

(C). Any contract with the Managing Agent must provide that it may be terminated with or without cause and without payment of any penalty or termination fee on no more than thirty (30) days written notice. The term of any such contract may not exceed three (3) years.

## ARTICLE IV

### Officers and Their Duties

4.0. Enumeration of Officers. The principal officers of the Association shall be the president, the secretary and the treasurer, all of whom shall be elected by the Board. The president must be a member of the Board. Any other officer may, but need not, be members of the Board.

4.1. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

4.2. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

4.3. Special Appointments. The Board may elect such other officers 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.

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

4.5. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

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

4.7. Powers and Duties. To the extent such powers and duties are not assigned or delegated to a manager pursuant to Section 3.9.(B) of these Bylaws the powers and duties of the officers shall be as follows:

(A). President. The president shall be the chief executive officer of the Association; shall preside at all meetings of the Board or the Members; shall see that orders and resolutions of the Board are carried into effect; and have general and active management of the business of the Association;

(B). Secretary. The secretary shall record the votes and keep minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; 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, and shall perform such other duties as required by the Board;

(C). Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds for appropriate Association purposes as set forth in the Declaration of Covenants, Conditions, and Restrictions; the Articles of Incorporation and these Bylaws; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members; and, in general, perform all the duties incident to the office of treasurer.

## ARTICLE V

### Architectural Control

5.0. Committee Composition. The Architectural Control Committee shall consist of not less than three (3) members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be, but may be, a member of the Board or an officer of the Association.



5.1. Terms of Office. The term of office for members of the Architectural Control Committee shall be a period of one year, or until the appointment of a successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have expired may be reappointed.

5.2. Appointment and Removal. The right to appoint and remove all members of the Architectural Control Committee at any time, shall be and is hereby vested solely in the Board; provide, however, that no member may be removed from the Architectural Control Committee by the Board except by vote or written consent of fifty-one percent (51%) of all of the members of the Board.

5.3. Resignations. Any member of the Architectural Control Committee may at any time resign from the Committee by giving written notice thereof to the Board.

5.4. Vacancies. Vacancies on the Architectural Control Committee, however caused, shall be filled by the Board. A vacancy or vacancies on the Architectural Control Committee shall be deemed to exist in case of death, resignation or removal of any member.

5.5. Duties. It shall be the duty of the Architectural Control Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms of the Declaration, to adopt rules, to perform other duties delegated to it by the Board, and to carry out all other duties imposed upon it by the Declaration.

5.6. Meetings and Compensation. The Architectural Control Committee shall meet from time to time as necessary to perform its duties. The vote or written consent of a majority of the members of the Committee, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any other provision of the Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meeting or otherwise. Members of the Architectural Control Committee shall not be entitled to compensation for their services.

5.7. Architectural Control Committee Rules. The Architectural Control Committee may adopt, amend and repeal, by unanimous vote or written consent, rules and regulations. Said rules shall interpret and implement the Declaration by setting forth the standards and procedures for Architectural Control Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are required to be used within the property.

5.8. Waiver. The approval by the Architectural Control Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee under the Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or other matter subsequently submitted for approval.

5.9. Time for Approval. In the event the Architectural Control Committee fails to approve or disapprove any application for approval within thirty (30) days after the application, together with supporting plans and specifications, have been submitted to it, approval will not be required and this Article will be deemed to have been complied with.

*[Handwritten signature]*  
Secretary

I hereby certify that the foregoing Bylaws were duly adopted by the Board of Directors of the Association on the            day of            1995.

**CERTIFICATION**