

**AMENDED AND RESTATED
BYLAWS
OF
THE HAWK RIDGE ESTATES HOMEOWNERS ASSOCIATION**

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OF
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RECITALS

The Hawk Ridge Estates Homeowners Association, a Colorado nonprofit corporation, certifies that:

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

The Bylaws of the Association are hereby amended by striking in their entirety Articles One through Thirteen, inclusive, and by substituting the following:

ARTICLE 1. INTRODUCTION AND PURPOSES

Section 1.1 Introduction. These Bylaws are adopted for the regulation, management and governance of the affairs of the Association. The Association was organized as a Colorado nonprofit corporation under Colorado law to act as the Association under the Declaration.

Section 1.2 Purposes. The purposes for which the Association is formed are:

- (a) to protect the value and desirability of the Community and the Lots;
- (b) to further the interests of the residents of the Community and Members of the Association;
- (c) to be the owners association provided for in the Declaration;
- (d) to operate and govern the Community;
- (e) to provide for the administration, maintenance, preservation and architectural review of the Lots and Common Area within the Community; and
- (f) to promote the health, safety, welfare and common benefit of the Owners within the Community.

ARTICLE 2. DEFINITIONS

In supplement of the definitions provided for in the Declaration, the following terms shall have the meaning set forth below, unless the context requires otherwise:

Section 2.1 Act means the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 *et. seq.*, as it may be amended.

Section 2.2 Annual Meeting means the annual meeting of the Members held in accordance with Article 4.

Section 2.3 Assessment includes all Common Expense Assessments, Special Assessments, Individual Assessments, Fines levied pursuant to the Declaration, and any other expense levied to pursuant to or allowed under the Declaration or the Act, including interest, late fees, attorney fees, fines and costs.

Section 2.4 Association means The Hawk Ridge Estates Homeowners Association, and its successors and assigns.

Section 2.5 Board means the board of directors, a body designated in the Project Documents to act on behalf of the Association.

Section 2.6 Board Meeting means any meeting of the Board pursuant to these Bylaws.

Section 2.7 Board Quorum means a presence of a minimum of the three (3) directors currently in office, unless there are fewer than three (3) directors, in which case all directors must be present to constitute a quorum.

Section 2.8 Bylaws means the amended and restated bylaws of the Association set forth in this document.

Section 2.9 Common Area means all real property (including improvements thereon) owned by the Association for the common use and enjoyment of the Owners.

Section 2.10 Common Expenses means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

Section 2.11 Community means the Hawk Ridge Estates Planned Community, as further defined by the recorded plats and the Declaration.

Section 2.12 Declaration means and refers to The Declaration of Covenants, Conditions, and Restrictions of Hawk Ridge Estates, as may be amended, applicable to the Property recorded in the office of the Clerk and Recorder of Boulder County, Colorado.

Section 2.13 Fiscal Year means the fiscal year of the Association which is a calendar year.

Section 2.14 Lot means and refers to any of the platted Lots shown upon the recorded Plat of the Planned Community, together with all appurtenances thereto and improvements now or hereafter located thereon, with the exception of the Common Area.

Section 2.15 Managing Agent means the managing agent referred to in Section 7.2.

Section 2.16 Meeting means any Annual Meeting and/or Special Meeting pursuant to these Bylaws.

Section 2.17 Member means any Owner. The terms "Member" and "Owner" may be used interchangeably.

Section 2.18 Member Quorum means the presence of at least twenty percent (20%) of the Members entitled to vote by proxy or physical presence.

Section 2.19 Operational Documents means the Bylaws and the Hawk Ridge Estates Guidelines (including fence guidelines) of the Association, as they may be amended.

Section 2.20 Owner means the owner of record title, whether one or more persons or entities to any Lot which is subject to the Declaration, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 2.21 Planned Community means the property described in or which is subject to the Declaration together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon.

Section 2.22 Policies means the Operational and Procedural Policies of the Association as they may be adopted and amended in accordance with the Bylaws and Colorado law.

Section 2.23 Project Documents means the Declaration, the Maps, and the Articles of Incorporation of the Association, as they may be amended.

Section 2.24 Special Meeting means a special meeting of the Members held in accordance with Article 4.3.

ARTICLE 3. MEMBERSHIP AND VOTING

Section 3.1 Membership and Voting. Every person who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. Each Lot shall be entitled to cast one vote. Fractional and cumulative voting are prohibited.

Section 3.2 Suspension of Voting Rights and Use Rights. During any period in which an Owner shall be in default in the payment of any Assessment levied by the Association, such Owner's voting rights and right to use of the Common Areas shall be deemed suspended by the Board, 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 Project Documents.

Section 3.3 Member Voting at Meetings.

(a) At any Meeting, each Member eligible to vote may vote in person or by proxy pursuant to the terms of these Bylaws.

(b) If only one of several Owners of a Lot is present at a Meeting, the Owner present is entitled to cast the vote allocated to such Lot.

(c) If more than one of the Owners is present, the vote allocated to the Lot may 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 Lot without protest being made promptly to the chair of the Meeting by another Owner of the Lot. In the event of disagreement between or among co-Owners and an attempt by two or more of them to cast such vote or votes, such vote or votes shall not be counted.

(d) The vote of a corporation or business trust may be cast by any officer of that corporation or business trust in the absence of express notice of the designation of a specific person by the board of directors or bylaws of the owning corporation or business trust.

(e) The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership.

(f) The chair of the Meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership or business trust is qualified to vote.

Section 3.4 Transfer of Membership. Transfers of membership shall be made on the books of the Association only upon presentation of evidence, satisfactory to the Association, of the transfer of ownership of the Lot to which the membership is appurtenant.

ARTICLE 4. MEETINGS OF MEMBERS

- a. (b) the directors shall be elected by the Members at the Meeting in accordance with the provisions of these Bylaws; and

- b. (c) the Members may transact other business as may properly be brought forth by a Member at the Annual Meeting.

Section 4.2 Budget Procedure. Meetings to consider proposed budgets shall be called in accordance with the Act. The budget procedure to be followed is as follows:

- (a) Effective the first full Fiscal Year after these Bylaws are adopted and become effective, and for each Fiscal Year thereafter, the Treasurer shall prepare a budget for the approval by the Board.
- (b) Within ninety (90) days after the Board's approval of the proposed budget, or such longer time as allowed by the Act, the Board must mail or deliver a copy of the proposed budget to all Members and set a date for an Budget Meeting to consider the proposed budget. The Owners have a right to veto or reject the proposed budget per Paragraph 4.10 of the Declaration.

Section 4.3 Special Meetings. Special Meetings may be called by the president, by a majority of directors or by the secretary upon receipt of a petition signed by eleven (11) or more Owners. The form of notice, date, time and place of the Special Meeting shall be determined by the Board. If a notice for a Special Meeting demanded pursuant to a petition is not given by the secretary within thirty (30) days after the date the written demand or demands are delivered to the secretary, the person(s) signing the demand or demands may set the time and place of the Special Meeting and give notice to the Members, pursuant to the terms of these Bylaws. Any Special Meeting called under this Section 4.3 shall be chaired by the president, or in his absence, any vice president, or in his absence, a person chosen by a majority of the Board. If no officer or director attends a Special Meeting called by eleven (11) or more of the Owners, then a person or persons selected by a majority of the Owners in attendance shall conduct the Special Meeting. No matters shall be heard nor action adopted at a Special Meeting except as stated or allowed in the notice.

Section 4.4 Notice of Meetings.

- (a) Notice of any Meeting shall be physically posted in a conspicuous place in the Community, if feasible and practicable, at least seventy-two (72) hours prior to the Meeting.
- (b) Written notice of any Meeting shall be given to each Member by, or at the direction of, the secretary or person authorized to call the Meeting, by either (i) mailing a copy of the notice to the Member's address last appearing on the books of the Association, or supplied by a Member to the secretary for the purpose of receiving such notices, or (ii) by personal delivery to the residence of the Member in the Community. In each such instance, notice shall be given at least fifteen (15) days before, but not more than fifty (50) days before the Meeting.

(c) In addition to mailing, but not in lieu of, notice of any Meeting may also be sent by any other means permitted by the Colorado Revised Nonprofit Corporation Act, including, but not limited to, facsimile and e-mail delivery. If the Association has the ability to give electronic notice, the Association shall e-mail notice of a Meeting to any Member who requests e-mail notification and who provides an e-mail address to the secretary for the purpose of receiving such notices. Any such e-mail notice shall be given at least seventy-two (72) hours prior to the Meeting.

(d) Any notice of a Meeting shall specify the place, day and hour of the Meeting and: (i) in the case of a Special Meeting, a description of the purpose of the Meeting; (ii) in the case of an Annual Meeting, a copy of the agenda, the proposed budget, and a description of the purpose or purposes with respect to: (1) an amendment to, or restatement of, the Articles of Incorporation, Declaration or Bylaws; (2) merger; (3) a sale, lease or exchange of all or substantially all of the property of the Association; (4) dissolution of the Association; (5) any proposal to remove a Director from office; (6) any other purpose for which a statement of purpose is required by the Act or the Colorado Revised Nonprofit Corporation Act.

Section 4.5 Place of Meetings. Meetings shall be held in the Community or in any other location in Boulder County as specified in the notice of the Meeting and may be adjourned to a suitable place convenient to the Members, as may be designated by the chair of the Meeting.

Section 4.6 Member Quorum. The presence of a Member Quorum shall be required for any action except as otherwise provided in the Project Documents. If the required Member Quorum is not present, the Members who are present shall have power to adjourn the Meeting from time to time to a later date, until such time as a Member Quorum shall be present. If adjourned, notice of the new date, time or place shall be both announced at the Meeting before adjournment and given to all Members via email or other reasonable method in the discretion of the Board following the adjournment.

Section 4.7 Proxies for Meetings.

(a) The vote allocated to a Lot may be cast under a proxy duly signed and dated by an Owner.

(b) Proxies will be provided by the Association along with the notice of any Meeting. All proxies shall be in writing and sent electronically or mailed to be received by the secretary no later than 24 hours before the meeting, or hand-delivered to the secretary of the Association immediately prior to the Meeting. The proxy shall specify an abstention or yes-or-no vote on each particular issue on the stated agenda of the Meeting (except as provided in Section 4.12(b)) for which the proxy was executed. Proxies which do not specify an abstention or yes-or-no vote shall not be counted for the purpose of a Member Quorum or as a vote on the particular issue at the Meeting.

(c) If a Lot is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of the vote by the other Owners of the Lot through a duly executed proxy. In the event of disagreement between or among co-Owners and an attempt by two (2) or more of them to cast such vote or votes, such vote or votes shall not be counted.

(d) An Owner may revoke a proxy given under this section by written notice of revocation to the secretary prior to the Meeting or to the chair of a Meeting.

(e) A proxy is void if it is not signed and dated.

(f) A proxy terminates immediately after the Meeting, or any adjournment thereof, for which it was given.

(g) A proxy obtained through fraud or misrepresentation is invalid as determined in the sole discretion of the secretary.

(h) Proxies may only be used for vote on those items that are set forth on the agenda of the Meeting.

(i) Proxies may not be used to vote for the election of directors (except as provided in Section 4.12(b)) or removal of directors.

(j) A proxy is automatically revoked if the Owner attends the Meeting for which the proxy is given.

Section 4.8 Order of Business. The Board may establish the order of business for all Meetings and Board Meetings. Unless the Board prescribes an agenda, the order of business at all Meetings shall be conducted pursuant to Robert's Rules of Order as follows:

- (a) Roll call (or other check-in procedure);
- (b) Receipt and/or revocation of proxies;
- (c) Proof of notice of Meeting or waiver of notice;
- (d) Appointment of ballot counter(s);
- (e) Reading and acceptance of minutes of the preceding Meeting;
- (f) Optional reports (manager, officers and committees);
- (g) Election of directors, where applicable;
- (h) Review of or report on the budget (subject to veto, if provided for in the Declaration);
- (i) Unfinished business;
- (j) New business; and
- (k) Adjournment.

Failure to strictly follow Robert's Rules of Order shall not invalidate any action taken at a Meeting or Board Meeting.

Section 4.9 Waiver of Objection of Notice. A Member's attendance at a Meeting 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. Further, a Member's attendance at a Meeting waives objection to consideration of a particular matter at the Meeting that is not within the purpose or purposes described in the Meeting notice, unless the Member objects to considering the matter when it is presented.

Section 4.10 Voting Procedures/Secret Balloting.

- (a) Secret ballots must be used in contested director elections and in any other matter as required by law.
- (b) Voting for removal of a director may only be done by Members in attendance at a Meeting, i.e., voting by proxy is not permitted.
- (c) All other voting may be by voice, by proxy where permitted, by written ballot, or as otherwise determined by the Board prior to the Meeting or by a majority of the Members present at a Meeting.

Section 4.11 Voting by Mail or Electronic Means. In 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:

- (a) a proposed written resolution setting forth a description of the proposed action;
- (b) a statement that Members are entitled to vote by mail or electronic means for or against such proposal;
- (c) a date at least thirty (30) 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
- (d) the number of votes which must be received to meet the quorum 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 Operational Documents and Project Documents requiring the vote of Members at a Meeting.

Section 4.12 Voting by Members. With respect to:

- (a) All matters except as provided below in Sections 4.12 (b), (c), and (d), the vote of more than twenty percent (20%) of Members represented at a Meeting (both by physical presence and proxy) at which at a Member Quorum is present shall constitute a majority and shall be binding upon all Members for all purposes.

(b) The election of directors, each Member in attendance at the Meeting shall have a number of votes equal to the number of directors to be elected. No cumulative voting is permitted. The candidate-Members receiving the largest number of votes shall be elected. In the event of a tie vote, a runoff vote between the relevant candidate-Members shall be conducted. A Member may only vote via proxy for a candidate-Member listed on the agenda for a Meeting in which Directors are to be elected.

(c) Amendments to the Project Documents shall be governed by the amendment requirements of the relevant document, and shall be binding upon all Members for all purposes.

(d) Any other matter in which the applicable law requires a percentage vote other than as provided above, such law shall control.

Section 4.13 Acceptance or Rejection of Individual Votes. The Association has the right to reject a vote, written ballot, waiver, proxy or proxy revocation when it has a reasonable, good faith basis to doubt the validity of the signature or the signatory's authority to sign for the Owner. Any director, officer, or agent who accepts or rejects any of the above in good faith is not liable for any damages that may result from the acceptance or rejection. Unless a court decides otherwise, any action taken on the acceptance or rejection of any of the above shall be deemed valid.

Section 4.14 Counting of Ballots. All ballots shall be counted by a neutral third party, or a committee of volunteers who are not directors and not candidates in a contested election, selected or appointed at a Meeting in a fair manner by the president or the chair of such Meeting or as otherwise required by law and as may be further defined in the Policies.

ARTICLE 5. BOARD

Section 5.1 Number. The affairs of the Association shall be governed by the Board which shall consist of five (5) directors, elected or appointed as provided below. In the case where through removal or resignation, the total number of directors is less than five (5), the Board will be considered properly constituted until such vacancies are filled. The number of directors of the Board may be increased or decreased by amendment of these Bylaws pursuant to Article 11.

Section 5.2 Director Qualification.

(a) Only one Owner per Lot, eligible to vote, current in the payment of Assessments, and otherwise in good standing, may be elected to, or appointed to fill a vacancy on the Board.

(b) If any Lot is owned by a partnership, corporation or trust, any officer, partner, trustee or employee of that entity shall be eligible to serve as a director and shall be deemed to be a Member for the purposes of these Bylaws.

(c) Any director who is in violation of any provision of either the Operational Documents or the Project Documents for more than thirty (30) days shall not be qualified to serve on the Board.

(d) Any director who has unexcused absences from three (3) consecutive Board Meetings shall not be qualified to serve on the Board. An absence will be excused if the absent director notifies the Board president of the planned absence and the reason for the absence at least three (3) days before the Meeting, and a majority of the remaining directors approve the absence as being for a valid purpose.

(e) Any director who maintains an adversarial proceeding of any type against the Association shall not be qualified to serve on the Board for the duration of the proceeding.

(f) Any director who discloses confidential information acquired by virtue of his position on the Board shall not be qualified to serve on the Board. Information will be deemed "confidential" if a majority of the Board determines, in its sole discretion, that it is confidential prior to the disclosure. The Board may also adopt Policies which further address confidentiality.

(g) If a director is not qualified to serve on the Board, the director's position shall be deemed vacant.

Section 5.3 Term of Office for Directors. The election of directors shall be staggered as provided in this section. The term of office for directors shall be three (3) years, except as provided in subsection (a) below:

(a) At the 2012 Annual Meeting, one (1) director shall be elected for a term of two (2) years and two (2) directors shall be elected each for a term of three (3) years;

(b) At the 2013 Annual Meeting and every third Annual Meeting thereafter, one (1) director shall be elected for a term of three (3) years; and

(c) Except as provided above, at each Annual Meeting two (2) directors shall be elected each for a term of three (3) years.

All directors may serve an unlimited number of terms of office; provided, however, a director must wait at least one (1) year between terms of office before being elected or appointed to the Board.

Section 5.4 Resignation of Directors. Any director may resign at any time by giving written notice to either the president, the secretary or the Board stating the effective date of the resignation. Acceptance of a resignation shall not be necessary to make the resignation effective.

Section 5.5 Removal of Directors.

(a) One or more directors or the entire Board may be removed at a Meeting called pursuant to these Bylaws, with or without cause, by a vote of at least a majority of the Members present and entitled to vote at a Meeting at which a Member Quorum is present. No proxy voting is permitted for this purpose. Notice of a Meeting to remove directors shall set forth that the Meeting is being conducted for that purpose and shall be provided to every Member, including the director 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.

(b) In the event of removal of a director, a successor shall be elected by the Members at the Meeting to serve for the unexpired term of his predecessor.

Section 5.6 Vacancies. Vacancies on the Board caused by any reason (other than removal) shall be filled by appointment by a majority vote of the remaining Board at any time after the occurrence of the vacancy. Each person so appointed shall be a director who shall serve until the next Meeting at which directors are elected.

Section 5.7 Compensation. No director shall receive compensation for any service the director may render as a director to the Association; however, a director may be reimbursed for actual expenses incurred in the performance of Association duties, if allowed by law.

ARTICLE 6. MEETINGS OF DIRECTORS

Section 6.1 Regular Meetings. Regular Board Meetings shall be held at such times, place and hour as may be fixed by the Board but no less than four (4) times each Fiscal Year. Specifically, a Board Meeting shall be held immediately after the Annual Meeting or if this is not possible, no later than fifteen (15) days after such Annual Meeting for the purpose of electing officers of the Association and any other matter. The Board may set a schedule of regular Board Meetings by resolution, and no further notice to directors is necessary to constitute such scheduled regular Board Meetings. Notice of such regularly scheduled Board Meetings may also be sent to Members pursuant to the penultimate sentence of Section 6.3.

Section 6.2 Special Meetings. Special Board Meetings shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days' prior written notice to each director.

Section 6.3 Notice of Board Meetings. Except as provided in Section 6.1 above, written notice of each Board Meeting shall be given by, or at the direction of, the secretary, by mailing a copy of the notice, postage prepaid, at least three (3) days before the Board Meeting, or by any other means permitted by the Colorado Revised Nonprofit Corporation Act, including, but not limited to, personal delivery, facsimile, and e-mail delivery, to each director entitled to vote, addressed to the director's address last appearing on the books of the Association, or supplied by a director to the Association for the purpose of notice. If a notice for a special Board Meeting demanded pursuant to Section 6.2 is not given by the Board within thirty (30) days after the date the written demand or demands are delivered to the Board, the directors signing the

demand or demands may set the time and place of the Board Meeting and give notice, pursuant to the terms of this Section 6.3. The notice shall specify the place, day and hour of the Board Meeting, and, in the case of a special Board Meeting, the purpose of the Board Meeting. Additionally, notice of any Board Meeting may be given by e-mail to any Member who has provided previously his e-mail address to the secretary for this purpose. Further, notice of any Board Meeting may be physically posted in a conspicuous place in the Community, if feasible and practicable, at least seventy-two (72) hours prior to the Board Meeting.

Section 6.4 Locations of Meetings and Open Meetings.

(a) All Board Meetings shall be open to attendance by Members, as provided by applicable law.

(b) All Board Meetings shall be held in the Community or in Boulder County.

(c) All Board Meetings may be conducted in person, via conference call, via electronic means, or via any other method permitted by applicable law.

(d) Amendments or additions to the Policies shall be adopted in open Board Meetings of the Board, and may not be adopted in closed or executive sessions of the Board.

(e) For any executive session or closed Board Meeting, minutes kept for that part of the Board Meeting should only indicate that an executive session was held and the general subject of the executive session.

Section 6.5 Waiver of Notice. Any director may waive notice of any Board Meeting in writing. Attendance by a director at any Board Meeting shall constitute a waiver of notice. If all the directors are present at any Board Meeting, no notice shall be required, and any business may be transacted at the Board Meeting.

Section 6.6 Board Quorum. At all Board Meetings a Board Quorum shall be required for the transaction of business. The votes of a majority of the directors present at a Board Meeting at which a Board Quorum is present shall constitute a decision of the Board. If at any Board Meeting there shall be less than a Board Quorum present, a majority of those present may adjourn the Board Meeting.

Section 6.7 Proxies for Board Meetings. For the purposes of determining a Board Quorum with respect to a particular issue and for the purposes of casting a vote, a director may execute, in writing, a proxy to be held by another director. The proxy shall specify an abstention or yes-or-no vote on each particular issue for which the proxy was executed. Proxies which do not specify an abstention or a yes-or-no vote shall not be counted for the purpose of having a Board Quorum present or as a vote on the particular issue before the Board.

Section 6.8 Consent to Corporate Action. The directors shall have the right to take any action, except an amendment or addition to the Policies, in the absence of a Board Meeting, which they could otherwise have taken at a Board Meeting, by:

(a) Obtaining the unanimous verbal vote of all directors which vote shall be noted in the minutes of the next Board Meeting and ratified at that time; or

(b) Providing written notice to each director of a proposed action to be taken, stating the date and time by which the directors must respond to the proposed action and that failure to respond by such date and time will have the same effect as abstaining in writing to a proposed action and failing to demand in writing that action be taken with a Board Meeting. Upon receiving written notice of a proposed action, each director, by the stated date and time, may: (i) vote in writing for such action; (ii) vote in writing against such action; (iii) abstain in writing from voting; (iv) fail to respond or vote; or (v) demand in writing that action be taken with a Board Meeting.

(1) In the event a sufficient number of affirmative votes for the proposed action, pursuant to these Bylaws, are cast in writing and not revoked by the stated date and time, the Board may take such action unless one or more directors demands that the action be taken with a Board Meeting. In the event action is taken pursuant to this provision, the action shall be noted in the minutes of the next Board Meeting and ratified at that time.

(2) Any director who in writing has voted, abstained, or demanded action be taken with a Board Meeting pursuant to this Section may revoke such vote, abstention, or demand in writing; provided such revocation is received by the Board by the stated date and time. A director's right to demand that action be taken with a Board Meeting shall be deemed to have been waived unless the Board receives such demand from the director in writing by the stated date and time.

(c) Any action taken under subsections (a) and (b)(1) above shall have the same effect as though taken at a Board Meeting and shall be effective at the end of the time stated in the notice for such proposed action.

Section 6.9 Telephone or Electronic Communication in Lieu of Attendance. A director may attend a Board Meeting by using an electronic or telephonic communication method whereby the director may be heard by the other directors and may hear the deliberations of the other directors on any matter properly brought before the Board. The director's vote shall be counted and the presence noted as if that director were present in person.

Section 6.10 Owner Participation. Owners must be allowed to speak before the Board votes on any issue under discussion. The Board shall allow a reasonable number of Owners 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 on other matters as the Board, in its sole discretion, deems appropriate.

ARTICLE 7. POWERS AND DUTIES OF THE BOARD

Section 7.1 Powers and Duties. The Board may act in all instances on behalf of the

Association, except as provided in the Operational Documents, the Project Documents or the Act. The Board shall have, subject to the limitations contained in the Operational Documents, the Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Community, and for the operation and maintenance of the Community as a first class residential community, including the following powers and duties:

- (a) Exercise any other powers conferred by the Project Documents;
- (b) Adopt and amend Policies, including responsible governance policies, procedures and rules and regulations as required by the Act, and including penalties for infraction thereof;
- (c) Adopt and amend budgets (subject to any requirements of the Declaration and the Bylaws);
- (d) Keep and maintain full and accurate books and records showing all of the receipts, expenses, or disbursements of the Association;
- (e) Collect Assessments as provided by the Project Documents and Policies;
- (f) Employ a managing agent, independent contractors or employees as it deems necessary, and prescribe their duties;
- (g) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Operational Documents and the Project Documents, and, in the Association's name, on behalf of the Association or two or more Owners, on matters affecting the Community;
- (h) Provide Association disclosures required by, and pursuant to, the Act;
- (i) Make contracts, administer financial accounts, pay expenses, and incur liabilities in the name of the Association, the expense of which in each instance either (i) has been specifically ratified by the Members in the current budget, or (ii) has been specifically approved by the Members at a Special Meeting, as applicable.
- (j) Acquire, hold, encumber and convey, in the Association's name and in the ordinary course of business, any right, title or interest to real estate, pursuant to the consent requirements set forth in the Project Documents, if any, and upon approval of sixty-seven percent (67%) of the votes allocated to Lots of the Association;
- (k) Borrow funds and secure loans with an interest in future Assessments in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the recorded Declaration and these Bylaws, and to execute all such instruments evidencing such indebtedness as the Board may deem necessary and give security therefore, subject to the requirements set forth in the Declaration;
- (l) Provide for the indemnification of the directors and any person serving without compensation at the request of the Association, and maintain association professional liability insurance;
- (m) Supervise all persons acting on behalf of and/or at the discretion of the Association;
- (n) Procure and maintain liability and hazard insurance as set forth in the Project Documents;

- (o) Cause all persons having fiscal responsibilities for the assets of the Association to be insured and/or bonded, as it may deem appropriate;
- (p) Provide education to Owners on an annual basis;
- (q) Maintain a website for the Association;
- (r) Amend these Bylaws pursuant to Article 11; and
- (s) Exercise for the Association all powers, duties, rights and obligations in or delegated to the Association and not reserved to the membership by other provisions of the Project Documents or the Act.

Section 7.2 Managing Agent. The Board may employ a Managing Agent for the Community, at a compensation established by the Board, to perform duties and services authorized by the Board and approved by the Members at a Meeting. The Board shall have the authority to delegate any of the powers and duties set forth in this Article to a Managing Agent. Regardless of any delegation to a Managing Agent, the directors shall not be relieved of responsibilities under the Project Documents or Colorado law.

Section 7.3 No Waiver. The omission or failure of the Association or Owner to enforce the covenants, conditions, easements, uses, limitations, obligations, or other provisions of the Project Documents shall not constitute or be deemed a waiver, modification, or release thereof, and the Board or the Managing Agent shall have the right to enforce the same at any time.

ARTICLE 8. OFFICERS AND THEIR DUTIES

Section 8.1 Enumeration of Offices. The officers of this Association shall be a president, one or more vice-presidents, a secretary and a treasurer, all of whom are required to be Directors. Any two offices, except the offices of president and secretary, may be held by the same person.

Section 8.2 Election of Officers. The officers shall be elected by the Board for one-year terms at the first Board Meeting pursuant to Section 6.1.

Section 8.3 Resignation and Removal. Any officer may be removed from office with or without cause by a majority of the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. A resignation shall take effect on the date of receipt of a notice or at any later time specified therein. Acceptance of a resignation shall not be necessary to make it effective.

Section 8.4 Vacancies in Office. A vacancy in any office may be filled by appointment by the Board by majority vote of the Board. The officer appointed to the vacancy shall serve for the remainder of the term of the officer replaced.

Section 8.5 Duties of Officers. The duties of the officers of the Board are as follows:

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

(b) Vice President. Any vice president may take the place of the president and perform the president's duties whenever the president is absent or unable to act. If neither the president nor any vice president is able to act, the Board shall appoint some other director to act in the place of the president on an interim basis. A vice president shall also perform other duties imposed by the Board or by the president.

(c) Secretary. The secretary shall record the votes and maintain or cause to be maintained the minutes of all Meetings and Board Meetings and other proceedings of the Board and of the Members; serve notice of Meetings and Board Meetings; keep appropriate current records showing the Members together with their addresses; cause Association records to be kept and maintained; and perform such other duties incident to the office of secretary or as required by the Board.

(d) Treasurer. The treasurer shall be responsible for the receipt, deposit and disbursement of Association funds and securities and for maintenance of full and accurate financial records; shall prepare an annual budget, balance sheet, and a statement of income and expenditures to be presented to the membership, and deliver a copy of each to the Members. The treasurer shall perform all duties incident to the office of treasurer and such other duties as may be assigned by the Board. The treasurer shall cause an audit of the Association's books to be made by an accountant if so directed by the Board, or if required under Colorado law and per the requirements of Colorado law. As of the date these Bylaws are adopted, Colorado statute requires an audit to be conducted by a certified public accountant if both of the following requirements are met: (i) the annual revenue or expenditure of the Association is at least \$250,000.00 and (ii) at least one-third of the Members request an audit be conducted.

Section 8.6 Delegation. The duties of any officer may be delegated to the managing agent or another Board member; *provided, however*, the officer shall not be relieved of any responsibility under this Section or under Colorado law.

ARTICLE 9. COMMITTEES

Section 9.1 Designated Committees. The Board may create committees and appoint such committee members as deemed appropriate in carrying out its purposes, including a Design Review Committee. A committee chairperson must meet the same qualifications to serve as Board members must meet to serve on the Board, as set forth in these Bylaws. Committees shall have authority to act only to the extent designated in the Project Documents or delegated by the Board. The Board shall also have the power to remove any and all committee members with or without cause and to terminate any such committee.

Section 9.2 Open Committee Meetings. All committee meetings shall be open to

attendance by Members, as provided by applicable law. Notice of any committee meeting may be given by e-mail to any Member who has provided previously his e-mail address to the secretary for this purpose. Additionally, notice of any committee meeting may be physically posted in a conspicuous place in the Community if feasible and practicable at least seventy-two (72) hours prior to the committee meeting.

ARTICLE 10. BOOKS AND RECORDS

Section 10.1 Association Records. The Association records will be available for production to Owners in accordance with statutory requirements, which may be clarified further in a policy adopted by the Board.

Section 10.2 Minutes and Presumptions Under the Minutes. Minutes or any similar record of the meetings of Members, or of the Board, when signed by the secretary or acting secretary of the meeting, shall be presumed to truthfully evidence the matters set forth therein. A recitation in any such minutes that notice of the meeting was properly given shall be prima facie evidence that the notice was given.

Section 10.3 Examination. The Association records shall at all times, during normal business hours and after at least ten days written notice, or at the next scheduled Board meeting if within thirty (30) days of written request, be subject to inspection and copying by any Member, at his or her expense, except documents determined by the Board to be withheld under the inspection of records policy of the Association in accordance with the Act. Any Owner's request to inspect and copy Association records must describe with reasonable particularity what records are requested. The Association may charge the actual costs for copying of the records, as clarified further in its inspection of records policy.

Section 10.4 Annual Disclosure of Records. With respect to the request for inspection of records that are required to be disclosed on an annual basis per C.R.S. 38-33.3-209.4 of the Act, the Board may direct the requesting Member to the website for obtaining such records if the Board has determined to make such annual disclosure by website. If the Member wishes a physical copy to be provided to the Member in lieu of accessing the information from the website, the Association may charge the actual cost of such copy(ies) per the policy for retention, examination, inspection and copying of records adopted by the Board.

ARTICLE 11. AMENDMENTS TO THE BYLAWS

These Bylaws may be amended by:

(a) The affirmative vote of at least fifty percent (50%) of all the Members (i.e., at least twenty-eight (28) Members) present and voting, in person or by proxy, at a Meeting called for such purpose at which a Member Quorum is present, provided that notice has been sent to all Members pursuant to these Bylaws, and such notice sets forth that the Meeting is being conducted for the purpose of amendment: or

(b) The affirmative vote of a majority of the members of the Board of Directors at a duly constituted Board Meeting; provided, however, the Board shall not amend the Bylaws regarding

the quorum requirement, the qualifications, powers and duties of the Board, or the terms of Directors.

ARTICLE 12. INDEMNIFICATION

Section 12.1 Obligation to Indemnify.

(a) The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative; by reason of the fact that the person is or was a director, officer or committee member of the Association; provided the person is or was serving at the request of the Association in such capacity; and provided that the person:

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

The determination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner reasonably believed to be in the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(b) Notwithstanding anything in subsection (a) above, unless a court of competent jurisdiction determines that, in view of all circumstances of the case, the person is fairly and reasonably entitled to expenses, no indemnification shall be made:

- (i) In connection with a proceeding by or in the right of the Association, where the person has been adjudged to be liable to the Association; or
- (ii) In connection with any other proceeding charging that the person received an improper personal benefit, whether or not involving action in an official capacity, the person has been adjudged liable on the basis the person received an improper personal benefit.

(c) To the extent that the person has been wholly successful on the merits in defense of any action, suit or proceeding as described above, the person shall be indemnified against actual and reasonable expenses (including expert witness fees, attorney fees and costs) incurred in connection with the action, suit or proceeding.

Section 12.2 Determination Required.

(a) The Board shall determine whether the person requesting indemnification has met the applicable standard of conduct set forth above. The determination shall be made by the Board by a majority vote of a Board Quorum consisting of those directors who were not parties to the action suit or proceeding.

(b) If a Board Quorum cannot be obtained as contemplated in (a) above or if a Board Quorum has been obtained and the Board so directs, a determination may be made, at the discretion of the Board, by:

(i) independent legal counsel selected by a majority of the full Board; or

(ii) a majority vote of the Members (excluding any Member seeking indemnification) attending an Annual meeting or Special Meeting.

Section 12.3 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses as described above in advance of final disposition of the action, suit or proceeding if the person requesting indemnification provides the Board with:

(a) A written affirmation of that person's good faith belief that he or she has met the standard of conduct described above and;

(b) A written statement that the person shall repay the advance if it is ultimately determined that he or she did not meet the standard of conduct described above.

Section 12.4 No Limitation of Rights. The indemnification provided in this Article shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the Members or disinterested members of the Board, or otherwise, nor by any rights which are granted pursuant to C.R.S. § 38-33.3-101, *et seq.*, and the Colorado Revised Nonprofit Corporation Act, as those statutes may be amended from time to time.

Section 12.5 Directors and Officers Insurance. The Association shall purchase and maintain insurance on behalf of any person who is or was a member of the Board, the managing agent, committee members, or anyone acting at the direction of the Board, covering defense and liability expenses arising out of any action, suit or proceeding asserted against the person by virtue of the person's actions on behalf of the Association or at the direction of the Board, whether or not the Association would have the power to indemnify the person against liability under provisions of this Article.

ARTICLE 13. MISCELLANEOUS

Section 13.1 Notices. All notices to the Association or the Board shall be delivered to the office of the Managing Agent, or, if there is no Managing Agent, to the office of the Association, or to such other address as the Board may designate by written notice to all Owners.

Except as otherwise provided, all notices to any Owner shall be mailed to the Owner's address as it appears in the records of the Association. All notices shall be deemed to have been given when mailed or transmitted, except notices of changes of address, which shall be deemed to have been given when received.

Section 13.2 Conflicts. In the case of any conflicts between the Declaration and these Bylaws, the Policies or the Articles of Incorporation, the terms of the Declaration shall control. In the case of any conflicts between the Articles of Incorporation and these Bylaws or the Policies, the terms of the Articles of Incorporation shall control. In the case of any conflict between the Bylaws and the Policies, the Bylaws shall control.

Section 13.3 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.

Section 13.4 Interpretation. The provisions of these Bylaws shall be construed to effect the purpose of ensuring that the Planned Community shall at all times be operated and maintained in a manner so as to optimize and maximize its enjoyment and utilization by each Lot Owner. Further,

- (a) The singular includes the plural and conversely.
- (b) A gender reference includes all genders.
- (c) A reference to an Article or Section is to an article or section of this Agreement.
- (d) The word "including" or "includes" or variations thereof means including, without limitation.
- (e) The titles president, vice president, secretary and treasurer used herein are references to those offices as set forth in Article 8.

CERTIFICATION

By signature below, the secretary certifies these Amended and Restated Bylaws received the approval in writing by a majority of the Members present and voting, in person or by proxy, at an Annual Meeting or Special Meeting.

THE HAWK RIDGE ESTATES HOMEOWNERS ASSOCIATION, a Colorado nonprofit corporation

By:


President

Date:

Jan 1, 2017