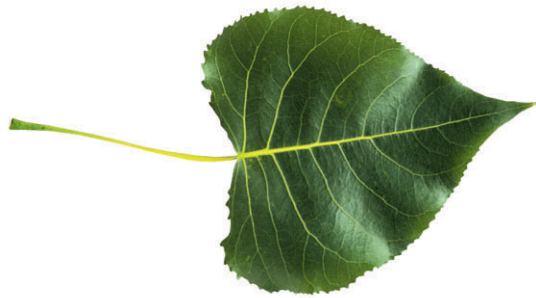


BY-LAWS  
OF THE  
HYLAND VILLAGE ASSOCIATION



MCSTAIN  
NEIGHBORHOODS

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## **ATTACHMENTS**

- A. Policy Regarding Books and Records
- B. Investment Policy
- C. Delinquency Policy
- D. Compliance Policy
- E. Policy Regarding Amendment of Policies, Rules and Regulations
- F. Policy Regarding Conduct of Meetings
- G. Conflict of Interest Policy

**ARTICLE 1**  
**Name, Principal Office, and Definitions**

**1.1. Name.**

The name of the corporation is the Hyland Village Association (the "Association"), which is organized as a Colorado nonprofit corporation.

**1.2. Principal Office.**

The Association's initial principal office shall be located in the City of Louisville, Boulder County, Colorado, or such other location as the Board shall direct. The Association may have such other offices as the Board may determine or as the Association's affairs require.

**1.3. Definitions.**

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meaning ascribed to them in the Community Charter for Hyland Village, recorded by McStain Enterprises, Inc., a Colorado corporation, in the public records of Jefferson County, Colorado, as it may be amended (the "Charter"). The term "majority," as used in these By-Laws, means those votes, Owners, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

**ARTICLE 2**  
**Membership: Meetings, Quorum, Voting Proxies**

**2.1. Membership.**

The Association shall have one class of membership. Each Owner of a Home shall automatically be a member of the Association. Transfers of a membership shall be made on the books of the Association only upon the presentation to the Association's Secretary of a copy of the recorded deed that transfers ownership of a Home. Prior to presentation of such deed, the Association may treat the previous Owner as the holder of the membership entitled to all rights in connection therewith, including the rights to vote and to receive notices.

If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in writing to the Association's Secretary.

For the purpose of determining members entitled to notice of, or to vote at, any meeting of the members or in order to make a determination of such members for any other proper purpose, the Board may fix, in advance, a date as the record date for any such determination of members. The record date shall be not more than 50 days prior to the meeting of the members or the event requiring a determination of the members.

## **2.2. Place of Meetings.**

The Association shall hold meetings at such suitable place as the Board may designate.

## **2.3. Meetings of the Voting Delegates.**

(a) General. Association meetings shall be of the Voting Delegates unless the Board otherwise specifies or Colorado law otherwise requires; provided, **until Voting Delegates are selected, Association meetings shall be of the Members and references in these Bylaws to Voting Delegates shall be deemed to be references to the Members.** The first Association meeting, whether a regular or special meeting, shall be held within one year after the first transfer of a Home from the Founder to a Person other than a Builder.

(b) Annual Meetings of the Association. The Board shall schedule regular annual meetings to occur within 90 days before or after the close of the Association's fiscal year, on such date and at such time and place as the Board shall determine. All Members and residents of the Community shall be invited to attend the annual meeting.

(c) Special Meetings of the Association. Special Association meetings may be called by the President, by a majority of the Board, or by written petition of Voting Delegates representing at least twenty percent of the total votes in the Association.

## **2.4. Notice of Meetings of Voting Delegates.**

The Secretary shall deliver to cause to be delivered to each Voting Delegate a notice of any meeting of the Voting Delegates. In the case of a special meeting or when otherwise required by statute, the Charter or these Bylaws, the purpose or purposes for which the meeting is called shall also be stated in the notice. The notice of any meeting of the Voting Delegates shall also be physically posted in a conspicuous place, to the extent that such posting is feasible and practicable. The notice shall state the place, day, and hour of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Charter or these Bylaws, any budget changes, and any proposal to remove an officer or a member of the Board.

## **2.5. Waiver of Notice of Meetings of the Voting Delegates.**

Waiver of notice of meetings of the Voting Delegates shall be deemed the equivalent of proper notice. Any Voting Delegate may waive, in writing, notice of any Association meeting, either before or after such meeting. In addition, by attending a meeting, a Voting Delegate shall be deemed to have waived notice of the time, date, and place of the meeting, unless the Voting Delegate specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a meeting of the Voting Delegates also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

## **2.6. Quorum at Meetings of the Voting Delegates.**

Except as these By-Laws may otherwise provide, the presence of Voting Delegates representing at least 30% of the total votes in the Association shall constitute a quorum at all Association meetings and the vote of Voting Delegates representing a majority of the total eligible votes cast shall constitute the action of the Voting Delegates. Until such time as Voting Delegates are elected, a quorum shall be deemed present throughout any meeting of the Association if persons entitled to cast at least 10% of the total votes in the Association are present, in person or by proxy, at the beginning of the meeting.

## **2.7. Voting at Meetings of the Voting Delegates.**

(a) Voting Rights. Members shall have such voting rights as are set forth in the Charter, which provisions are specifically incorporated by this reference. Until such time as the Board first calls for election of a Voting Delegate for any Voting District, the Owners within such Voting District shall be entitled personally to cast the votes attributable to their respective Homes on any issue as to which a Voting Delegate representing the Voting District would be entitled to voted, and the term "Voting Delegate" shall include all such Owners.

(b) Election of and Removal of Voting Delegates. Once the Board determines to utilize a representative system of voting within a given Voting District, the Owner Members within each Voting District shall elect a Voting Delegate to cast all votes attributable to their Homes on all Association matters requiring a membership vote, except as otherwise specified in the Charter or these Bylaws. In addition, each Voting District shall elect an alternate Voting Delegate who shall be responsible for casting such votes in the absence of the Voting Delegate.

The first election of a Voting Delegate and alternate from each Voting District shall occur no later than sixty (60) days after the Board determines to utilize a representative system of voting within a particular Voting District. Thereafter, the Board shall call for an election of Voting Delegates and alternates on an annual basis.

Voting Delegate elections shall be by ballots cast by mail, email, or at a meeting of the Owner Members within such Voting District, as the Board determines. Upon written petition signed by Owner Members holding at least 20% of the votes attributable to Homes within any Voting District, the election for such Voting District shall be held at a meeting. Candidates for election as Voting Delegates may be nominated by the Board, a nominating committee the Board may appoint, or from the floor at any meeting at which such election is to be held. In addition or in the alternative, any Person may submit his or her own name for consideration.

The presence, in person or by proxy, or the filing of ballots of Owner Members representing at least 10% of the total votes attributable to Homes in a Voting District shall constitute a quorum for any election of Voting Delegates from such Voting District. In the event of a failure to obtain a quorum or vacancy in such positions for any Voting District, the Board may appoint a Voting Delegate or alternate Voting Delegate to represent such Voting District until a successor is elected.

Subject to the above quorum requirements, in any election of Voting Delegates the candidate who receives the greatest number of votes shall be elected as the Voting Delegate and the candidate receiving the next to greatest number of votes shall be elected as the alternate Voting Delegate. In the event of a tie vote among the leading candidates, the Voting Delegate shall be determined by drawing names from a hat, with the first person drawn being the Voting Delegate and the second being the alternate Voting Delegate. The Voting Delegate and alternate Voting Delegate shall serve a term of one year or until their successors are elected, whichever is longer.

Any Voting Delegate or alternate may be removed, with or without cause, upon the vote or written petition of Owner Members representing a majority of the total number of Homes in the Voting District that the Voting Delegate or alternate represents.

(c) Secret Ballots. At the discretion of the Board or upon the request of twenty percent of the Owners who are present at the meeting or represented by proxy, if a quorum has been achieved, a vote on any matter affecting the Community on which all Owner Members are voting personally (as opposed to through Voting Delegates) shall be by secret ballot. Ballots shall be counted by a neutral third party or by a committee of volunteers. Such volunteers shall be Owners who are selected or appointed at an open meeting, in a fair manner, by the chair of the Board or another person presiding during that portion of the meeting. The volunteers shall not be board members or candidates for the board. The results of a vote taken by secret ballot shall be reported without reference to the names, addresses, or other identifying information of Owners participating in such vote.

## **2.8. Proxies for Meetings of the Voting Delegates.**

Voting Delegates may not vote by proxy but only in person or through their designated alternates; however, any Voting Delegate who is entitled to cast only the vote(s) for his own Home pursuant to the Charter may cast such vote(s) in person or by proxy until such time as the Board first calls for the election of a Voting Delegate to represent the Voting District of which the Home is a party. Likewise, if a Member is entitled personally to cast the vote for his Home on any manner, he or she may vote in person or by proxy, subject to the limitations of Colorado law and subject to any particular provisions to the contrary in the Charter or these Bylaws.

Every proxy must identify the Home for which it is given, be dated, be signed by the Member or Member's duly authorized attorney-in-fact, and be filed with the Association's Secretary prior to the meeting at which it is sought to be exercised. An Owner may not revoke a proxy except by actual notice of revocation given to the person presiding over the meeting at which such proxy is sought to be utilized. A proxy is void if it purports to be revocable without notice. A proxy terminates eleven months after its date, unless it provides otherwise. Unless the proxy specifically provides otherwise, a proxy shall be presumed to cover all votes which the member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.



The Association is entitled to reject a proxy 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 authority to sign for the Owner.

## **2.9. Adjournment of Meetings of the Voting Delegates.**

If any Association Meeting cannot be held because a quorum is not present, the Voting Delegates representing a majority of the votes present at such meeting may adjourn the meeting to a time at least 5 but not more than 30 days from the scheduled date of the original meeting. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If those in attendance at the original meeting do not fix a time and place for reconvening the meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, the Board shall provide notice to the Voting Delegates of the time and place for reconvening the meeting in the manner prescribed for Association Meetings.

Voting Delegates present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Voting Delegates to leave less than a quorum, provided at least a majority of the votes required to constitute a quorum must approve any action taken.

## **2.10. Telephonic Participation in Meetings of the Voting Delegates.**

The Voting Delegates may participate in Association Meetings 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 Voting Delegate participating by this means is deemed to be present in person at the meeting.

## **2.11. Conduct of Meetings of the Voting Delegates.**

The President or a Board-approved designee shall preside over all Association Meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions adopted and all other transactions occurring at such meetings are kept with the Association's books. All meetings of the Association shall be open to all Voting Delegates, every Owner, every resident of the Community, and to any person designated in writing by an Owner to be an Owner's representative. All Association Meetings shall be conducted in accordance with the "Policy Regarding Conduct of Meetings" attached hereto, as the same may be amended by the Board from time to time.

## **2.12. Action By Unanimous Consent of the Voting Delegates.**

After the election of Voting Delegates, any action required by the Charter, the Articles or Colorado law to be taken at a meeting of the Voting Delegates may be taken without a meeting, without prior notice, and without a vote if unanimously approved in writing by all Voting Delegates. Such approval shall be evidenced by one or more written consents specifically authorizing the proposed action, dated and signed by the Voting Delegates. The Association's Secretary

shall file (or cause to be filed) such written action with the Association's minutes and the written approvals shall have the same force and effect as a vote of the Members or Voting Delegates at a meeting.

### **2.13. Action by Written Ballot.**

Prior to the election of Voting Delegates, any action that may be taken at any Association meeting may be taken without a meeting if the Association delivers a written ballot to every Owner entitled to vote on the matter. The written ballot shall state each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and if the number of affirmative votes equals or exceeds the number that would be required to approve the matter at which the total number of votes cast was the same as the total number of votes cast by ballot.

All solicitations for votes by written ballot shall (a) indicate the number of responses needed to meet the quorum requirements, (b) state the percentage of approvals necessary to approve each matter other than election of directors, (c) state the time by which a ballot must be received by the Association in order to be counted, and (d) be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. A written ballot may not be revoked once received by the Association. Actions taken by written ballot have the same effect as actions taken at a meeting of the Owners and may be described as such in any document.

## **ARTICLE 3**

### **Board of Directors: Selection, Meetings, Powers**

#### **A. Composition and Selection.**

##### **3.1. Governing Body; Qualifications.**

The Board shall govern the Association's affairs. Each director shall have one vote. Directors shall be Owners, except with respect to directors appointed by the Founder. However, no co-Owners representing the same Home may serve on the Board at the same time. If an Owner is not an individual, any officer, director, partner, manager, member, or any trust officer of such Owner shall be eligible to serve as a director unless a written notice to the Association signed by the Owner specifies otherwise. However, no Owner may have more than one such representative on the Board at the same time except in the case of directors the Founder appoints.

##### **3.2 Number of Directors.**

The number of Board members shall be equal to the number of Voting Districts within the Community, except as set forth in Section 3.3 below.

##### **3.3. Selection of Directors; Term of Office.**

(a) Initial Board. The initial Board shall consist of three directors appointed by the Founder, who shall serve until their successors are appointed or elected as provided in this Section.

(b) Directors During Founder Transition Period. Except as otherwise provided in this subsection, the Founder may appoint, remove, and replace Board members until termination of the Founder Transition Period. During such period, the Voting Delegates shall be entitled to elect directors according to the following schedule per the Act (directors elected by the Voting Delegates are referred to as "Owner Directors"):

(i) Within 60 days after the time that Owners other than the Founder own 25% of the maximum number of Homes permitted under the Charter, or whenever the Founder earlier determines, the President shall call for an election by which the Voting Delegates shall be entitled to elect one of the three directors. The Founder shall appoint the remaining two directors. The Owner Director shall be elected for a term of two years or until the happening of the event described in Section 3.3(b)(ii), whichever is shorter. If such director's term expires prior to the happening of the event described in Section 3.3(b)(ii), a successor shall be elected for a like term.

(ii) Within 60 days after the time that Owners other than the Founder own 50% of the maximum number of Homes permitted under the Charter, or whenever the Founder earlier determines, the Board shall be increased to five directors and the President shall call for an election by which the Voting Delegates shall be entitled to elect a total of two directors. The Founder shall appoint the remaining three directors. The Owner Directors shall be elected for a term of two years or until the happening of the event described in Section 3.3(b)(iii), whichever is shorter. If such directors' terms expire prior to the happening of the event described in Section 3.3(b)(iii), successors shall be elected for a like term.

(iii) The Owner Directors elected pursuant to subsections (i) and (ii) above shall be elected "at large" and not according to Voting Districts and the provision of Section 3.4 below shall not apply to such elections.

(c) Directors After the Founder Transition Period.

(i) Not later than 60 days after the time that Owners other than the Founder own 75% of the maximum number of Homes permitted under the Charter (the "Founder Transition Period"), or whenever the Founder earlier determines, the President shall call for an election by which the Voting Delegates shall be entitled to elect all of the directors in accordance with the procedures set forth in Section 3.4 below. Three directors shall be elected to serve until the second annual meeting following their election and the remaining directors shall be elected to serve until the third annual meeting following their election, as such directors determine among themselves. If the directors are unable to agree as to which directors shall serve until the second annual meeting and which directors shall serve until the third annual meeting, the names of the directors shall be drawn at random from a hat. The first three names being drawn shall be the directors who shall serve until the second annual meeting and the remaining directors shall serve until the third annual meeting.

(iv) Upon expiration of the term of office of each director elected under Section 3.3(b)(iii), a successor shall be elected to serve a term of two years. Directors shall hold office until their respective successors have been elected. Directors may serve any number of consecutive terms.

The diagram below illustrates the concept of transition of the Board during and after the Founder Transition Period.

TRANSITION OF CONTROL OF BOARD OF DIRECTORS			
Initial Board	Conveyance of 25% of maximum number of Homes permitted under the Charter	Conveyance of 50% of maximum number of Homes permitted under the Charter	Conveyance of 75% of maximum number of Homes permitted under the Charter Turnover of Founder Board
Founder	Owner Director – At Large	Owner Director – At Large	Owner Director – Voting District 1
Founder	Founder	Owner Director – At Large	Owner Director – Voting District 2
Founder	Founder	Founder	Owner Director – Voting District 3
		Founder	Owner Director – Voting District 4
		Founder	Owner Director – Voting District 5
			Owner Director – Voting District 6

(d) Founder Advisory Seat. For a period of ten years following the termination of the Founder Transition Period, the Founder may appoint one person to serve on the Board in an ex officio capacity. The Founder's representative serving in this capacity shall serve in an advisory role and shall not be entitled to vote on Board matters. Otherwise, the Founder's representative shall be entitled to notice of Board meetings and shall be entitled to participate in Board meetings in the same manner as any other director.

(e) Adjustment of Board Size. Following the termination of the Founder Transition Period, the number of directors shall always equal the number of Voting Districts. If the number of Voting Districts becomes more or less than six, then the size of the Board shall be adjusted accordingly. In the event of such a change in the size of the Board, the President shall call for meeting of the Voting Delegates to elect new board members in accordance with the new Voting Districts. At such election, the Board may vary the initial terms of the directors between two and three years so as to stagger their terms. Thereafter, directors shall all serve terms of two years.

### **3.4. Nomination and Election Procedures for Board of Directors.**

(a) Allocation of Board Seats. In order to insure that different areas within the Community each have an opportunity to have representation on the Board, Section 2.3 of the Charter requires each Voting District be entitled to be represented on the Board, if possible. Exhibit F of the Charter depicts the portions of the Community within each of the Voting Districts established by the Charter. Ideally, each of the directors shall live in different Voting Districts.

(b) Nomination of Candidates. At least 30 days prior to any election of directors by the Voting Delegates, the Board shall appoint a Nominating Committee consisting of a chairman, who shall be a Board member, and three or more Owners or representatives of Owners. The Nominating Committee shall serve a term of one year or until its successors are appointed.

In preparation for each election, the Nominating Committee shall meet and nominate at least one Person for each Voting District for which a director is to be elected. All such nominees shall reside in the Voting District that he or she will represent, unless no such nominee can be found, in which case the Nominating Committee may nominate a Person without regard to such residency requirement. The Nominating Committee shall nominate a separate slate of candidates for each Voting District for which a director is to be elected. Any qualified Person that petitions the Nominating Committee to be included as a candidate shall also be placed on the slate of candidates for the relevant Voting District, subject to the residency requirement set forth above. All candidates shall have a reasonable opportunity to communicate their qualifications and to solicit votes.

(c) Election Procedures. Although nominated from Voting Districts, members of the Board of Directors shall be elected by the vote of all of the Voting Delegates. At each election, voting shall be by written ballot. Each Voting Delegate may cast all votes assigned to the Homes he or she represents for each position to be filled from any slate of candidates. In the event of a tie vote on any slate, the Voting Delegates shall be informed of the tie vote and given the opportunity to discuss the candidates among themselves in an effort to resolve the tie before another vote is taken. If the second vote of the Voting Delegates results in a tie, a name shall be drawn at random from a hat, with the candidate whose name is first drawn being selected as a director.

(d) Representation. Regardless of the election of directors by Voting District, each director shall consider the overall good of the Community in all of his/her deliberations and not simply the particular interests of his/her own Voting District. The residency requirement by Voting Districts in the election of directors are not meant to divide the Community, but rather to provide fair and equitable representation on the Board so that a wide range of viewpoints are presented.

### **3.5. Removal of Directors and Vacancies.**

Any Owner Director may be removed, with or without cause, by the vote of Voting Delegates holding a majority of the total votes in the Association. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director by the Voting Delegates, the Voting Delegates shall elect a successor for the remainder of the term of such director.

At any meeting of the Board at which a quorum is present, a majority of the directors may remove any Owner Director who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent in the payment of any assessment or other charge due to the Association. The Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of an Owner Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Delegates shall elect a successor for the remainder of the term. If possible, the successor shall be an Owner, or the authorized representative Owner, of a Home within the Voting District with respect to which the former director was elected.

This section shall not apply to directors the Founder appoints. The Founder may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Founder.

## **B. Meetings of the Board of Directors**

### **3.6. Organizational Meetings of the Board of Directors.**

The Board shall hold an organizational meeting within 60 days following each annual Association meeting at such time and place as the President of the Board shall fix.

### **3.7. Regular Meetings of the Board of Directors.**

The Board shall hold regular meetings at such time and place as a majority of the directors shall determine, but the Board shall meet at least four times during each fiscal year with at least one meeting per quarter.

### **3.8. Special Meetings of the Board of Directors.**

The President, Vice President, or any two directors may call a special meeting of the Board.

### **3.9. Notice; Waiver of Notice of the Board of Directors Meetings.**

(a) Notices of Board Meetings to Directors. Notices of Board meetings to directors shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Secretary shall notify each director of meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. The Board shall deposit notices sent by first class mail into a United States mailbox at least five business days before the day of the meeting. The Board shall give notices by personal delivery, telephone, or electronic communication at least 72 hours before the time set for the meeting, except in the case of emergencies.

(b) Notices of Board Meetings to the Members.. If the Association maintains a website or newsletter, the meeting notice may be posted on the website or set forth in the newsletter in order to advise Members of upcoming Board meetings.

(c) Waiver of Notice. Transactions at any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if: (i) a quorum is present; and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

### **3.10. Telephonic Participation in Meetings of the Board of Directors.**

Members of the Board may participate in a Board meeting by conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence at such meeting.

### **3.11. Quorum at Board of Directors Meetings.**

(a) Quorum. At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting, or to the next regularly scheduled Board meeting. At the reconvened meeting, if a quorum is present the Board may transact, without further notice, any business it might have transacted at the original meeting.

(b) Use of Proxies. 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 Section 3.11(b) and Section 3.14, directors may not otherwise vote or act by proxy.

### **3.12. Conduct of Board of Director Meetings.**

The President or any designee the Board approves shall preside over all Board meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions and all transactions occurring at such meetings are included in the Association's records. Meetings of

the Board shall be subject to the Policy Regarding Conduct of Meetings adopted from time to time by the Board.

### **3.13. Open Meetings of the Board of Directors; Executive Session.**

(a) Open Meetings. Subject to the provisions of Section 3.13(b) and Section 3.14, all Board meetings shall be open to all Voting Delegates, Owners, residents of the Community and any person designated by an Owner in writing as the Owner's representative. At an appropriate time determined by the Board, but before the Board votes on any issue under discussion, any Owner or their designated representatives shall be permitted to speak regarding that issue. The Board may place reasonable time restrictions on persons speaking during the meeting. If more than one person desires to address an issue and there are opposing views, the Board shall provide for a reasonable number of persons to speak on each side of an issue.

(b) Executive Sessions. Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive or closed door session, and may exclude persons other than directors and other persons the Board permits, to discuss the following matters:

- (i) Matters pertaining to Association employees or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the Association;
- (ii) Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
- (iii) Investigative proceedings concerning possible or actual criminal misconduct;
- (iv) Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting proceedings or matters from public disclosure;
- (v) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy; or
- (vi) Review of or discussion relating to any written or oral communication from legal counsel.

Prior to the time the Board convenes in executive session, the President shall announce the general matter of the discussion as enumerated above. No Board rule or regulation 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 Board 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.

The above requirements with respect to executive sessions shall also apply to meetings of any Board committee. In such case, the chair of the committee shall perform the role of the President, as described above.



### **3.14. Action Without a Formal Meeting of the Board of Directors.**

Any action required or permitted at a meeting of the Board of Directors may be taken without a meeting if each and every director, in writing, votes (or abstains from voting) on such action and no director demands that the vote only occur at a meeting of the directors. Any action taken without a meeting must receive the affirmative votes equal to or greater than the number of affirmative votes that would be necessary to approve such action at a meeting at which all of the directors then in office were present and voting. To be effective, the action taken without a meeting must be described in a writing signed by all directors, which can be done in counterparts. Such writing(s) may be received by the Association by electronically transmitted facsimile or other form of wire or wireless communication that provides the Association with a complete copy of the document, including a copy of the signature on the document. Action so taken shall be effective when the last writing necessary to effect the action has been received by the Association, unless the writings specify a different effective date.

## **C. Powers and Duties of the Board of Directors.**

### **3.15. Powers.**

The Board shall have the power to administer the Association's affairs, perform the Association's responsibilities, and exercise the Association's rights as set forth below and in the Charter and as provided by law. The Board may do or cause to be done on the Association's behalf all acts and things except those which the Governing Documents or Colorado law require to be done and exercised exclusively by the Owners or the membership generally. Section 4.3 of the Charter sets forth a list of actions that require Member rather than Board action.

### **3.16. Duties and Responsibilities of the Board of Directors.**

The Board's duties and responsibilities shall include, without limitation:

(a) preparing and adopting, in accordance with Section 11.2 of the Charter, an annual budget establishing each Owner's share of the Common and any Special Benefit Area Expenses;

(b) levying and collecting assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;

(d) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) opening bank accounts on the Association's behalf and designating the signatories required;

(f) depositing all funds received on the Association's behalf in a bank depository which it shall approve and using such funds to operate the Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks, in accordance with the Investment Policy of the Association;

(g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Area of Common Responsibility in accordance with the Governing Documents;

(h) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; however, the Association's obligation in this regard shall be conditioned and limited in the manner provided in the Governing Documents;

(i) obtaining and carrying property and liability insurance and fidelity bonds, as provided in Chapter 10 of the Charter, paying the cost thereof, and filing and adjusting claims, as appropriate;

(j) paying the cost of all services rendered to the Association;

(k) keeping a detailed accounting of the Association's receipts and expenditures in accordance with the Act and Section 7.4 of these By-Laws;

(l) making available to any prospective purchaser of a Home, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Home, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in the Association's Policy Regarding Books and Records;

(m) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent permitted by Colorado law, the Charter, the Articles and these Bylaws (See Section 6.3);

(n) understanding the Association's governing documents and becoming educated with respect to applicable state and local laws, and managing the Association accordingly;

(o) attending training, workshops, seminars, conferences, and reading newsletters for further education on Association matters;

(p) being prepared, attending and participating in meetings of the Association and the Board;

(q) representing the residents of the Community in good faith, with the best interests of the Association, by being informed before acting and by exercising sound judgment;

(r) communicating with fellow Board members and Owners;

(s) welcoming and educating new residents of the Community, Owners and non-Owner residents alike;

(t) encouraging events that foster neighborliness and a sense of Voting District;

(u) seeking appropriate professional advice;

(v) hiring qualified professional;

(w) fulfilling their fiduciary duties to the Association and exercising discretion in a matter they reasonably believe to be in the best interest of the Community; and

(x) adopting and following responsible governance policies as provided in Section 3.17 of these By-Laws.

### **3.17. Governance Policies.**

The Board may adopt and amend from time to time, written policies that shall bind the Association and all Owners regarding various aspects of the operation of the Association (the “Policies”). The Board shall adopt at least the following Policies:

- (a) Delinquency Policy regarding the collection of unpaid assessments;
- (b) Policy Regarding the Conduct of Meetings concerning the conduct of meetings of the Board, Members and committees of the Association;
- (c) Compliance Policy regarding enforcement of covenants and rules, including notice and hearing procedures and the schedule of fines;
- (d) Policy Regarding Books and Records regarding the inspection and copying of Association records by Owners;
- (e) Conflict of Interest Policy regarding procedures to identify and handle conflicts of interests between Board members and the Association;
- (f) Investment Policy regarding the investment of reserve funds;
- (g) Policy Regarding Amendment of Policies, Rules and Regulations.

The initial Policies of the Association are attached hereto as Exhibits A through G. The Board may amend the Policies, and may adopt new or different Policies, at any time by the unanimous vote of the all members of the Board and in compliance with the Policy Regarding Amendment of Policies, Rules and Regulations. Provisions for the resolution of certain disputes between the Association, the Founder and the Owners are set forth in Chapter 16 of the Charter.

## **ARTICLE 4**

### **Officers**

#### **4.1. Officers.**

To assist the Board in the day to day operation and management of the Association, the Association shall have the following officers: a President, a Vice President, a Secretary, and a Treasurer. The officers have the powers and duties set forth in Section 4.4 below, and such other powers and duties as may be delegated to them from time to time by the Board. The President and Secretary shall be elected from among the Board members; other officers may, but need not, be Board Members. The Board may appoint such other officers, including additional Vice Presidents, one or more Assistant Secretaries and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

#### **4.2. Election and Term of Office.**

The Board shall elect the Association's officers at the first Board meeting following each Annual Association Meeting, to serve until their successors are elected.

#### **4.3. Removal and Vacancies of Officers.**

The Board may remove any officer whenever in its judgment the Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term. The removal of a person as officer does not affect such person's role as a director, if such person is also a director.

#### **4.4. Powers and Duties of Officers.**

The Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Vice President shall assist the President and shall perform such duties as may be assigned to the Vice President by the President or the Board. In the absence of the President, the Vice President shall have the powers and perform the duties of the President. The Treasurer shall have primary responsibility for preparing the Association's budgets as provided for in the Charter, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The Secretary shall keep the minutes of meetings, maintain the Association's corporate books, and prepare, execute, certify, and record amendments to the Charter and may delegate all or part of the preparation and notification duties to a management agent.

#### **4.5. Resignation.**

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 the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective and shall not affect person's role as a director if the person is also a director.

### **ARTICLE 5** **Committees**

#### **5.1. General.**

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. In the conduct of its duties and responsibilities, each committee shall abide by the Association's Policy Regarding Conduct of Meetings Except as otherwise provided by Board resolution or the Governing Documents, members of a committee may act by unanimous written consent in lieu of a meeting.

**ARTICLE 6**  
**Standards of Conduct; Liability and Indemnification**

**6.1. Standards for Directors, Officers and Committee Members**

In performing their duties, directors, officers and committee members shall act as fiduciaries and shall be insulated from liability as provided for directors of nonprofit corporations under Colorado law and as otherwise provided by the Governing Documents. Directors and officers shall discharge their respective duties in a manner that they believe in good faith to be in the best interest of the Association and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A director and officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by others to the extent authorized under Colorado law.

**6.2. Liability.**

(a) A director, officer, or committee member shall not be personally liable to the Association, any member, or any other Person for any action taken or not taken as a director or officer if he or she has acted in accordance with Section 6.1.

(b) Pursuant to the business judgment rule, a director, officer, or committee member also shall not be personally liable for any action taken or not taken in such capacity if such person:

(i) acts within the expressed or implied scope of the Governing Documents and his or her actions are not ultra vires;

(ii) affirmatively undertakes to make decisions which he or she reasonably believes are necessary or appropriate for the Association's continued and successful operation and, when decisions are made, makes them on an informed basis;

(iii) acts on a disinterested basis, promptly disclosing any real or potential conflict of interests (pecuniary or other), and avoiding participation in decisions and actions on matters as to which he has a conflict of interest (beyond that which all directors have by virtue of their ownership or occupancy of a Home), all in accordance with the Association's Conflicts of Interest Policy; and

(iv) acts in a non-fraudulent manner and without reckless indifference to the Association's affairs.

(c) The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, willful malfeasance, willful misconduct, or bad faith. The officers, directors, and committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such officers, directors, or committee members may also be members).

### **6.3. Indemnification.**

To the fullest extent permitted by Colorado law, the Association shall indemnify every officer, director, and committee member against any and all liability, damages and expenses arising from any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, to which he or she may be a party by reason of being or having been an officer, director, or committee member. Such indemnification shall include, without limitation, counsel fees and expenses reasonably incurred in connection with any such action, suit, or other proceeding, and any obligation to pay a judgment, settlement, penalty or fine (including settlement of any suit or proceeding, if approved by the then Board). Notwithstanding the foregoing, the Association shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

(a) brought by or in the name of the Association, and the individual is adjudged liable to the Association; or

(b) to the extent that the individual is adjudged liable for conduct that constitutes:

- (i) appropriation, in violation of his or her duties, of any business opportunity of the Association;
- (ii) intentional misconduct or knowing violation of the law;
- (iii) an unlawful distribution to members, directors or officers; or
- (iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance, if such insurance is reasonably available.

### **6.4. Training.**

The Board may conduct or provide for seminars and continuing educational opportunities designed to educate and inform the Association's officers, directors and committee members of their respective responsibilities to the Association and the membership. Such programs may include instruction on applicable Colorado corporate and fiduciary law principles, other issues relating to administering community affairs, and upholding and enforcing the Governing Documents. The Board may retain industry professionals, which may include association managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected officer and director shall be encouraged to complete a training seminar within the first six months of assuming such position. The seminar may be live, video or audiotape, or in other format. The nature and the cost of such seminar shall be subject to approval by the Board and, if approved, the cost shall be a Common Expense.

The Board also may provide, or provide for, Owner and resident education designed to foster a better understanding of Association's governance and operations, and leadership training classes designed to educate Owners of the nomination, election, and voting processes and the duties and responsibilities of directors, officers and committees.

## **ARTICLE 7**

### **Management and Accounting**

#### **7.1. Compensation of Directors, Officers, and Committee Members.**

The Association shall not compensate directors, officers, and committee members for acting as such unless Voting Delegates representing a majority of the total votes in the Association approve such compensation at an Association Meeting. Nothing herein shall prohibit the Association from compensating a director or officer, or any entity with which a director or officer is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director or officer pursuant to a contract or agreement with the Association, following compliance with the Association's Conflicts of Interest Policy.

#### **7.2. Advancement or Reimbursement of Expenses.**

In accordance with the procedures and subject to the conditions and limitations set forth in the Colorado Revised Nonprofit Corporation Act, the Board may authorize the Association to advance funds to pay for or reimburse the reasonable expenses incurred by a present or former officer, director, or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Association upon approval of a majority of the other directors.

#### **7.3. Right of Founder to Disapprove Actions.**

During the Development and Sale Period, which is the period of time during which the Founder owns real property in the Community or has an unexpired option to expand the Community pursuant to Chapter 14 of the Charter, the Founder shall have a right to disapprove any action, policy, or program of the Association, the Board and any committee which, in the Founder's sole and absolute judgment, might tend to impair rights of the Founder under the Charter or these By-Laws, interfere with development or construction of any portion of the Community or diminish the level of services the Association provides. The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this section have been met.

(a) Notice. The Association shall give the Founder written notice of all meetings of the membership, the Board, and committees and any actions which any of them propose to take by written consent in lieu of a meeting. The Association shall give such notice by electronic mail to a person designated by the Founder. Such notice shall comply as to Board Meetings with Section 3.9, and shall, except in the case of regular Board Meetings pursuant to these By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.



(b) Opportunity to be Heard. At any such meeting, the Association shall give the Founder the opportunity to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

The Founder, its representatives, or its agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Founder, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 30 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 30 days following Founder's receipt of written notice of the proposed action.

The Founder may use this right to disapprove or block proposed actions but shall not use it to require any action of any committee, the Board, or the Association. The Founder shall not use its right to disapprove to reduce the level of services the Association is obligated to provide in the absence of the proposed action or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

#### **7.4. Managing Agent.**

The Board may employ for the Association professional management agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 3.16. The Board may employ the Founder or its affiliate as managing agent or manager.

In the event the Board delegates its duties to a management agent with regard to collection, deposit, transfer or disbursement of Association funds, such agent shall:

(a) maintain fidelity insurance coverage or a bond in a form and with a company reasonably acceptable to the Association Board, in an amount at least equal to the greater of (i) the maximum amount of funds expected to be in the Manager's control at anytime during the term of this Agreement; (ii) an amount equal to two times the total current monthly assessments of the Association, plus reserves, as calculated from the then current budget of the Association; (iii) \$50,000, and (iv) the amount required by the Act or any federal lending agencies involved in the Community;

The management agent shall also maintain the following additional insurance: (i) Broad Form Commercial General Liability insurance on an occurrence basis in an amount of at least One Million Dollars; (ii) Worker's Compensation Insurance that provides statutory benefits and employers liability such that the Association and the Association Board will have no liability to Manager or Manager's personnel, employees or agents for work related injuries, and (iii) Automotive Liability Insurance covering all owned, non-owned and hired automobiles and vehi-

cles used by Manager in connection with the Services, containing a per occurrence limit of no less than One Million Dollars.

A copy of all such insurance policies shall be provided to the Association Board and the Association shall be named as an additional insured. The cost of all such insurance shall be borne solely by Manager and not billed through to the Association.

(b) Establish and maintain, all funds and accounts of the Association at an FDIC insured bank approved by the Association Board, separate from the funds and accounts of other associations; and separate accounts for general operating funds, reserve funds and any other accounts directed by the Board. Manager shall promptly deposit all receipts into the appropriate account and maintain and verify monthly the balances of each such account.

(c) Prepare a financial statement and an accounting of the Association funds on a monthly basis to be presented to the Association by the managing agent, a public accountant, or a certified public accountant.

The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent that might arise between Board meetings.

The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association. The managing agent shall promptly disclose to the Board any financial or other interest that it may have in any firm providing goods or services to the Association.

## **7.5. Financial Accounts and Reports.**

The Board and Association shall maintain books and records and prepare financial reports sufficient to fulfill its obligations under the Charter, these By-Laws and the Act. The Association shall follow the following accounting standards unless the Board by resolution specifically determines otherwise:

- (a) maintain accurate and complete records;
- (b) the Association's cash accounts shall not be commingled with any other accounts and operating accounts shall not be commingled with reserve accounts;
- (c) accounting and controls should conform to generally accepted accounting principles; and
- (d) when the first Home is sold and closed, the following financial reports shall be prepared for the Association within 30 days and every month thereafter:
  - (i) an income statement reflecting all income and expense activity for the preceding period;

- (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
- (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
- (iv) a balance sheet as of the last day of the preceding period; and
- (v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report. A copy of the financial report shall be made available at no charge to any Owner requesting a copy.

An annual report consisting of at least the following shall be made available for each Owner's review within 180 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines or as required by the Act.

#### **7.6. Borrowing and Lending.**

The Association shall have the power to borrow money for any legal purpose. However, the Board shall obtain Voting Delegate approval in the same manner provided in the Charter for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 20% of the Association's budgeted gross expenses for that fiscal year.

Under no circumstances is the Association authorized to make loans to its members, directors or officers. Any director, officer or member 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.

#### **7.7. Right to Contract.**

The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, cost sharing, operational, or other agreements with third parties or entities.

#### **7.8. Agreements, Contracts, Deeds, Leases, Checks, Etc.**

All Association agreements, contracts, deeds, leases, checks, and other instruments shall be approved by at least two officers or by such other person or persons as the Board may designate. Following termination of the Founder Transition Period, the Association shall have the right, but not the obligation, to terminate certain agreements entered into during the Founder Transition

Period without penalty, provided, the Association gives no less than 90 day's notice of its intent to terminate the agreement. Such agreements include:

(a) any management agreement, employment contract, or lease of recreational or parking area facilities, to the extent provided by the Act;

(b) any other contract or lease between the Association and the Founder or an affiliate of the Founder; or

(c) any contract or lease that is not bona fide or was unconscionable to the Owners at the time entered into under the circumstances then prevailing.

## **ARTICLE 8**

### **Enforcement Procedures**

The Association shall have the power, as provided in the Charter, to impose sanctions for any violation of the Governing Documents. The Board shall adopt, and may amend from time to time, a Compliance Policy dealing with compliance and enforcement issues. The Board's initial Compliance Policy is attached hereto. In addition, Chapter 16 of the Charter sets forth procedures governing the resolution of various disputes between the Owners, the Association and others.

## **ARTICLE 9**

### **Miscellaneous**

#### **9.1. Fiscal Year.**

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

#### **9.2. Conflicts.**

If there are conflicts among the provisions of Colorado law, the Articles of Incorporation, the Charter, and these By-Laws, the provisions of Colorado law, the Charter, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

#### **9.3. Notices.**

(a) Form of Notice and Method of Delivery. Except as otherwise provided in the Charter or these By-Laws or by Colorado law, all notices, demands, bills, statements, or other communications under the Charter or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has given its prior written au-

thorization to use such method of delivery, by facsimile or electronic mail with printed confirmation of transmission.

(b) Delivery Address. Notices shall be delivered or sent to the intended recipient as follows:

- (i) if to a Member, Voting Delegate or Owner, at the address, telephone facsimile number, or e-mail address which the Person has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Home of such Person;
- (ii) if to the Association, the Board, or a committee of either, at the address, facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association shall designate by notice in writing to the members pursuant to this section; or
- (iii) if to the Founder, at the Founder's principal address as it appears on the Secretary of State's records, or at such other address as the Founder shall designate by notice in writing to the Association pursuant to this section.

(c) Effective Date. Notice sent in accordance with subsections (a) and (b) shall be deemed to have been duly given and effective:

- (i) if sent by United States mail, when deposited with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;
- (ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or if sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

#### **9.4. Minutes.**

Minutes or any similar record of the meetings of the 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.

**ARTICLE 10**  
**Amendment of Bylaws**

(a) By Founder and Board. Prior to termination of the Founder Transition Period, the Founder may unilaterally amend these By-Laws. Thereafter, the Founder or the Board may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary: (i) to correct typographical errors, incorrect cross-references, improper designation of sections and subsections, or mistakes in punctuation; (ii) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (iii) to enable any reputable title insurance company to issue title insurance coverage on the Homes; or (iv) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Homes. During the Development and Sale Period, the Founder may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any substantive right of any Owner.

(b) By Members. The By-Laws may also be amended by the affirmative vote or written consent, or any combination thereof, of Voting Delegates representing 67% of the total votes in the Association, and the written consent of the Founder prior to expiration of the Development and Sale Period. No approval of the Members shall be required for the Board to amend or adopt Policies, as long as such Policies are not inconsistent with the Bylaws or the Charter.

(d) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon approval in accordance with subsections (a) or (b) above, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its adoption, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

(e) Consent of Founder. These By-Laws and the Policies may not be amended or modified during the Development and Sale Period without the written consent of the Founder. Even after the Development and Sale Period, no amendment may remove, revoke, or modify any right or privilege of Founder without the written consent of Founder or the assignee of such right or privilege.

APPROVED AND ADOPTED THIS 31 DAY OF May, 2007.

HYLAND VILLAGE ASSOCIATION

By: Colleen Hawkins By: Betty Coyle  
Director Director

By: Jim Corn  
Director

**EXHIBIT A**

**POLICY REGARDING BOOKS AND RECORDS**

*[see attached]*



## Hyland Village Association

### Policy Regarding Books, Records and Disclosures

### **Policy Regarding Books, Records and Disclosures**

1. Turnover of Books and Records. Within 60 days after termination of the Founder Transition Period, the Founder shall deliver to the Association (directly or constructively through the Managing Agent) all property, books and records of the Association.

2. Permanent Records. The Association shall keep as permanent records the following documents:

- (a) minutes of all meetings of Owners and the Board;
- (b) a record of all actions taken by the Owners or Board by written ballot or written consent in lieu of a meeting;
- (c) a record of all actions taken by a committee of the Board in place of the Board on behalf of the Association;
- (d) a record of all waivers of notices of meetings of Owners and of the Board or any committee of the Board;
- (e) a record of all Owners in a form that permits preparation of a list of the names and addresses of all Owners, showing the number of votes each Owner is entitled to vote;
- (f) the Charter and Bylaws;
- (g) all resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations, and obligations of Owners or any class of Owners;
- (h) the minutes of all Owners meeting, and records of all action taken by the Owners without a meeting, for at least the past three years;
- (i) all written communications within at least the past three years to Owners generally as Owners;
- (j) a list of the names and business or home addresses of the Association's directors and officers;
- (k) the Association's most recent annual report, if any; and

## Hyland Village Association

### Policy Regarding Books, Records and Disclosures

- (l) all financial audits or reviews conducted during at least the immediately preceding three years.

3. Inspection by Members and Mortgagees. All financial and other records of the Association shall be made reasonably available for examination and copying by any Owner, any holder, insurer or guarantor of a first Mortgage on a Home, or the duly appointed representative of any of the foregoing. The Board shall provide for such inspection to take place at the Association's office or at such other place within the community as the Board shall designate. The Association may charge a fee, not to exceed the Association's actual cost, for copies of the Association's records. As used in this Section, "reasonably available" means available during normal business hours Monday through Friday from 8:00am – 5:00pm, upon notice of five business days, or at the next regularly scheduled meeting if such meeting occurs within thirty days after the request, to the extent that:

- the request is made in good faith and for a proper purpose;
- the request describes with reasonable particularity the records sought and the purpose of the request; and
- the records are relevant to the purpose of the request.

4. Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties owned or controlled by the Association. A director's right of inspection includes the right to make a copy of relevant documents at the Association's expense.

5. No Commercial Use of Membership List. Notwithstanding Sections 3 and 4 above, a membership list or any part thereof may be not obtained or used by any person for any purpose unrelated to an Owner's interest as a homeowner without the consent of the Board. Without limiting the generality of the foregoing, a membership list or any part thereof may not be:

- (a) Used to solicit money or property unless such money or property will be used solely to solicit votes of the Owners in an election to be held by the Association;
- (b) Used for any commercial purpose; or
- (c) Sold to or purchased by any person.

## Hyland Village Association

### Policy Regarding Books, Records and Disclosures

6. Initial Disclosures. Within ninety days after the expiration of the Founder Transition Period, the Association shall make the following information available to Owners, in the manner described in Section 8 below:

- (a) the name of the Association;
- (b) the name of the Association's designated agent or management company, if any;
- (c) a valid physical address and telephone number for both the Association and its designated agent or management company, if any;
- (d) the name of the common interest community; and
- (e) the initial date of recording and recording information for the Charter.

If the Association's or management company's address changes, or the designated agent or management company changes, the Association shall make updated information available to all Owners within ninety days of the change.

7. Annual Disclosures. Within ninety days after the expiration of the Founder Transition Period, and ninety days after the end of each fiscal year thereafter, the Association shall make the following information available to all Owners in the manner set forth in Section 8 below:

- (a) The date on which its fiscal year commences;
- (b) Its operating budget for the current fiscal year;
- (c) A list, by unit type, of the Association's current assessments, including both regular and special assessments;
- (d) Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- (e) The results of its most recent available financial audit or review;
- (f) A list of all Association insurance policies, including, but not limited to, property, general liability, association director and officer professional liability, policy deductibles, additional named insureds, and expiration dates of the policies listed;

## Hyland Village Association

### Policy Regarding Books, Records and Disclosures

- (g) All of the Association's bylaws, articles, and rules and regulations;
- (h) The minutes of the Board and Owners meetings for the fiscal year immediately preceding the current annual disclosure; and
- (i) The Association's responsible governance policies adopted pursuant to Section 3.17 of the Bylaws.

8. Means of Disclosure. The disclosures required under Sections 6 and 7 above shall be accomplished by one or the following means:

- (a) Posting on an internet web page with accompanying notice of the web address via first-class mail or email;
- (b) The maintenance of a literature table or binder at the Association's principal place of business; or
- (c) Mail or personal delivery.

The cost of such distribution shall be considered a common expense.

9. Disclosures in Connection with Sales. Upon request, the Association shall provide to an Owner, or directly to a prospective purchaser of an Owner's Home if so authorized by the Owner, any documents concerning the Association required by law to be provided by an Owner to a purchaser of such Owner's Home, such as the following:

- (a) the Charter, Bylaws and Rules and Regulations of the Association;
- (b) any party wall agreements affecting such Owner's Home;
- (c) the minutes of the most recent annual Owner's meeting and of any Board meeting that occurred within the prior six months;
- (d) the Association's current operating budget, annual income and expenditures statement, and balance sheet.

The Association may charge the Owner requesting such documents a fee, not to exceed the Association's actual cost per page, for copies of such documents.

10. Audits and Reviews. An audit or review of the books and records of the Association shall be performed (using generally accepted auditing standards in the event of an audit, and statements on standards for accounting and review services in the event of a review) by an

## **Hyland Village Association**

### **Policy Regarding Books, Records and Disclosures**

independent and qualified person selected by the Board (which person need not be a certified public accountant except in the case of an audit), prepared using generally accepted accounting principles or the cash or tax basis of accounting, in the following circumstances:

- (a) As may be directed by the Board;
- (b) An audit shall be performed if (i) the Association has annual reviews or expenditures of at least \$250,000, and (ii) an audit requested by the Owners having at least 33 1/3% of the votes in the Association;
- (c) A review shall be performed if requested by the Owners having at least 33 1/3% of the votes in the Association.

Copies of the audit or review shall be made available upon request to any Owner beginning no later than thirty days after its completion.

**EXHIBIT B**  
**INVESTMENT POLICY**

*[see attached]*

# Hyland Village Association

## Investment Policy

### **Investment Policy**

In Accordance with Article 3, Section 3.16 of the Bylaws for the Association, the Board of Directors is committed to ensuring that funds for the community are invested in accordance with the following guidelines. The Association has adopted this policy to allow for the protection of principals and ensure funds are available when needed

- Eligible investment instruments include Money Market Securities; CD's, Notes, and Bonds, with a rating of "AA" or better.
- All investment accounts must be fully insured at all times.
- Any investment made with maturity date of 5 years or longer, must first have unanimous Board of Director approval.
- Any investment in excess of \$100,000 must have prior unanimous Board of Director approval.
- A schedule of investments is to be provided to the Board of Directors on a monthly basis with the financials.
- The amount and uses of withdrawals will be disclosed on a monthly basis in the financials

**EXHIBIT C**  
**DELINQUENCY POLICY**

*[see attached]*



**Hyland Village  
Delinquency Policy**

**Delinquency Policy**

**RECITALS:**

- A. The Association is charged with certain responsibilities regarding the care, maintenance and service of certain portions of the homes and common elements throughout the community.
- B. The Association must have the financial means to discharge its responsibilities.
- C. The Board of Directors has a responsibility to pursue collection of assessments and other charges from Owners pursuant to the Charter of the Association ("Charter"), Bylaws of the Association ("Bylaws") and the Colorado Common Interest Ownership Act C.R.S. § 38-33.3-101, et seq. ("CCIOA").
- D. Section 209.5 of CCIOA requires that the Association have a policy regarding the collection of unpaid assessments.
- E. The Board of Directors believes that it is in the best interest of the Association to refer delinquent accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue. The Board of Directors has retained an attorney with experience in representing homeowner associations in collections and other matters.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following resolution for the collection of assessments and other charges of the Association.

- 1. Due Dates. The monthly installments of the annual assessments as determined by the Association and as allowed for in the Charter shall be due and payable on the first day of each month. Assessments or other charges not paid in full to the Association within 15 days of the due date shall incur late fees and interest.
- 2. Receipt Date. The Association shall post payments within two (2) days that the payment is received.
- 3. Late Charges and Interest on Delinquent Installments. The Association shall impose on a monthly basis a late charge of \$15 per month for each Owner whose account maintains a balance equal to one month of assessments for 15 days. Interest shall accrue on the entire unpaid balance at the rate of 18% per annum. The late charges and interest shall be a "common expense assessment" pursuant to the Charter and CCIOA for each delinquent Owner.
- 4. Collection Process.
  - (a) After the monthly installment of an annual assessment or other charges due to the Association becomes more than fifteen (15) days delinquent, the Association sends a written notice ("First Notice") of non-payment, amount past due, notice that interest, if applicable, and late fees have accrued and request for immediate payment.

## **Hyland Village Delinquency Policy**

(b) After the monthly installment of an annual assessment or other charges due to the Association becomes more than forty five (45) days delinquent, the Association sends a second written notice ("Second Notice") of non-payment, amount past due, notice that interest, if applicable, and late fees have accrued, notice of intent to file a notice of lien and request for immediate payment.

(c) After the monthly installment of an annual assessment or other charges due to the Association becomes more than seventy five (75) days delinquent, the Manager is directed to arrange for the filing of a notice of lien and/or garnishment to turn the account over to the Association's attorneys for collection. Upon receiving the delinquent account, the Association's attorneys shall send a letter to the delinquent Owner demanding immediate payment for past due assessments or other charges due. Upon further review, the Association's attorneys may file a summons and complaint with the court of jurisdiction. If a judgment or decree is obtained, including without limitation a foreclosure action, such judgment or decree shall include reasonable attorney fees together with the cost of the action and any applicable late fees, interest or other charges as provided not only in CCIOA but in the Charter.

(d) In addition to the steps outlined above, the Association may also elect to suspend the voting rights of any Owner whose account is past due at the time of such voting or suspend any other privileges as set forth in the Charter, Bylaws, or Rules and Regulations.

5. Small Balances. If an account balance is delinquent in an amount less than the equivalent of one month of assessments, the Board shall not be required to take the steps required by paragraph 4. Late fees and interest may continue to accrue.

6. Collection Procedures/Time Frames. The following timeframes shall be followed for use in the collection of monthly installments of the monthly assessment and other charges.

Due date (date payment due)	First day of the month
Past due date (date payment is late if not received on or before that date)	Fifteen (15) days after due date
First Notice (notice that late charges and interest, if applicable, have accrued)	Fifteen (15) days after due date
Second Notice (Notice that late charges and interest, if applicable, have accrued, notice of intent to file notice of lien)	Forty five (45) days after due date
Delinquent account turned over to Association's attorney; Notice of Lien filed; Demand letter sent to Owner.	Seventy five (75) days after due date

## **Hyland Village Delinquency Policy**

The attorney is to consult with the Association at all times, to determine if payment has been arranged or what collection procedures are appropriate.

7. Certificate of Status of Assessment. The Association shall furnish to an Owner or such Owner's designee upon written request, first class postage prepaid, return receipt requested, to the Association's agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's property.

8. Bankruptcies and Foreclosures. Upon receipt of any notice of a bankruptcy filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any unit within the Association, the Association shall advise their attorney of the same and turn the account over to the Association's attorney for appropriate collection or monitoring as directed by the Association.

9. Use of Certified Mail/Regular Mail. In the event the Association shall cause a collection or demand letter or notices to be sent to a delinquent Owner by regular mail, the Association may also cause, but shall not be required to send, an additional copy of that letter or notice by certified mail.

10. Referral of Delinquent Accounts to Attorneys. Upon referral to the Association's attorneys, the attorneys shall take all appropriate action to collect the accounts referred. After an account has been referred to an attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. The attorney is authorized to take whatever action is necessary, in consultation with the President of the Board of Directors or other authorized representative, believed to be in the best interests of the Association, including, but not limited to:

- (a) Garnishment
- (b) Filing of a suit against the delinquent Owner for a money judgment;
- (c) Instituting a judicial foreclosure action of the Association's lien;
- (d) Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interests;
- (e) File a court action seeking appointment of a receiver.

All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney or as otherwise agreed to by the parties.

Upon referral of any matter to the Association's attorney, the Association shall pay the Association's attorneys their usual and customary charges as well as any costs incurred by the attorney on the Association's behalf, promptly upon receipt of the monthly invoice from the attorney.

11. Appointment of a Receiver. The Association may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments pursuant to the Charter and Colorado law. A receiver is a disinterested person, appointed by the court that manages the rental of the property, collects the rent and disburses the rents according to the court's order.

## **Hyland Village Delinquency Policy**

The purpose of a receivership for the Association is to: obtain payment of current assessments, reduce past due assessment; correct any violations of the Charter, Bylaws or Rules and Regulations and prevent the waste and deterioration of the property.

12. Judicial Foreclosure. The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner in county court for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or other circumstances favor such action.

13. Waivers. The Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances.

14. Personal Obligation For Charges. Any the late charge, interest, attorney fees, liens other cost associated with the collection of the owner's account shall be the personal obligation of the Owner(s) of the unit for which such assessment or installment is unpaid. All late charges shall be due and payable immediately, without notice, in the manner provided by the Charter (and as set forth herein) for payment of assessments.

15. Returned Check Charges. In addition to any and all charges imposed under the Charter, Articles and Bylaws, the Rules and Regulations of the Association or this Policy, a twenty five dollar (\$25.00) fee or fee within applicable Colorado Law or other amount deemed appropriate by the Board of Directors shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to insufficient funds. This returned check charge shall be a "common expense assessment" pursuant to the Charter and CCIOA for each Owner who tenders payment by check or other instrument which is not honored by the bank upon which it is drawn. Such returned check charge shall be due and payable immediately, upon demand. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be the obligation of the Owner(s) of the unit for which payment was tendered to the Association. Returned check charges shall become effective on any instrument tendered to the Association for payment of sums due under the Charter, Articles, Bylaws, Rules and Regulations or this Policy after the date adopted. If two or more of an Owner's checks are returned unpaid by the bank within any (fiscal) year, the Association may require that all of the owner's future payments, for a period on one (1) year, be made by certified check or money order. This returned check charge shall be in addition to any late fees or interest incurred by an Owner. Any returned check shall cause an account to be past due if full payment of the monthly installment of the monthly assessment is not timely made within thirty (30) days of due date.

16. Application Of Payments. Except as otherwise agreed to in writing by the Owner(s) and the Association, all sums collected on a delinquent account shall be remitted to the Association's attorney until the account is brought current. All payments received on an account of any Owner or the Owner's property (hereinafter collectively "Owner"), shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late charges, returned check charges, lien fees, and other costs

## **Hyland Village Delinquency Policy**

owing or incurred with respect to such Owner pursuant to the Charter, Articles, Bylaws, Rules and Regulations, or this Policy , prior to application of the payment to any special or regular assessments due or to become due with respect to such Owner.

17. Acceleration of Assessment. The Board reserves the right to accelerate and call due the entire unpaid annual assessment on any delinquent account. Such acceleration shall result in the entire unpaid annual assessment being due to the Association immediately. The Board also reserves the right to decelerate the entire unpaid annual assessment on any delinquent account, in its sole discretion.

18. Notification to and Communication with Owners. The Association shall, upon request, provide all Owners with a copy of this Policy. All communication with a delinquent Owner shall be handled through the Association's attorney once a matter has been referred to the attorney. Neither the Manager nor any member of the Board of Directors shall discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact.

19. Ongoing Evaluation. Nothing in this Resolution shall require the Association to take specific actions other than to notify the Owners of the adoption of these policies and procedures. Once and Owner's account is turned over to the Association's attorney, all communication regarding the account must be made through the attorney. However, the Association has the option and right to continue to evaluate each delinquency on a case-by-case basis.

20. Defenses. Failure of the Association to comply with any provision in this Policy shall not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this Policy.

21. Survival. In the event a court of competent jurisdiction finds a provision of this Policy void or otherwise unenforceable, the other provisions shall remain in full force and effect.

**EXHIBIT D**

COMPLIANCE POLICY

*[see attached]*

## **Hyland Village Association**

### **Compliance Policy**

The Association's mission is to promote the long-term value of the Neighborhood and harmony between the Residents, all for the greater good of the community. The Neighborhood is governed by the Charter, and the Association's bylaws, policies, and rules and regulations, all of which are referred to as the Governing Documents. Residents' compliance with the Governing Documents is a very important component of the Neighborhood's success. It is each resident's responsibility to know the Governing Documents. You can obtain copies from the Association's website or from the Association's management company. To enable the Association to enforce compliance of the Governing Documents, the Association has adopted the following compliance policy:

#### **RECITALS:**

- A. Pursuant to Colorado Revised Statute ("C.R.S.") 38-33.3-209.5 (1)(b)(IV) the Association is required to adopt a policy concerning the enforcement of the Association's Governing Documents.
- B. C.R.S. 38-33.3-302(1)(k) allows the Association to levy reasonable fines for violations of its Governing Documents, provided notice and an opportunity to be heard before an impartial decision maker is given to the member prior to the fine being imposed.
- C. For the benefit and protection of the Association and of the individual owners, the Board deems it desirable to establish and operate by procedures to insure proper process in cases where there is a question of compliance by an owner, a tenant, family members, and guests with the provisions of the Governing Documents.

The Association encourages the neighborly approach that residents first communicate with each other regarding a perceived violation of the Governing Documents and attempt themselves to resolve any problems. The intent of this Compliance Policy is to establish a procedure for resolving violations of the Governing Documents in situations where residents cannot themselves resolve a compliance dispute.

THEREFORE, IT IS RESOLVED that the following procedures shall apply to alleged violations of the Governing Documents other than those concerning payment of assessments. Enforcement of payment of assessments is governed by the Association's "Delinquency Policy."

#### **Informal Compliance**

Any owner, occupant, or agent of the Association may directly request that an owner or resident cease or correct any act or omission, which appears to be in violation of the Governing Documents. It is the preference of the Board that residents of the Association attempt such informal resolution prior to seeking formal compliance.

In the event the perceived violation would also be a violation of federal, state, or local laws or regulations the Board will request the complaining resident to contact the appropriate government to report the perceived violation.

## **Hyland Village Association**

### **Compliance Policy**

#### **Formal Compliance**

1. The Board or its management company may initiate Formal Compliance concerning alleged violations upon their observation of a perceived violation.
2. Owners and residents of the Association may also initiate Formal Compliance of violations by filing a Complaint with the Association. Complaints must be in writing and clearly indicate the specific nature of the alleged violation, the persons involved, and the date, time, address or other location of the alleged violation. A sample form to be completed by anyone requesting Formal Compliance can be obtained from the Association's management company or the Association's website. The written Complaint can be forwarded to the Association's management company either by regular mail or electronic mail.
3. It shall be is the sole discretion of the Board whether or not to take any action based on a Complaint.
4. When the Board shall, in its sole discretion, believes that action is required regarding alleged violation(s) of the Governing Documents, a courtesy letter will be sent to the accused owner (and occupant when applicable) identifying the alleged violation(s) and setting forth a timeframe of ten (10) days for correction.  
*If the information contained in the courtesy letter is incorrect, the Association does apologize and request that the homeowner contacts the Association's Management Company immediately for clarification. Also, once compliance has occurred, the homeowner needs to inform the Association's Management Company, so the Association can verify compliance and take the homeowner off the violation list. If the owner or occupant knows they will be in violation of the Governing Documents, they should contact the Association's Management Company in writing explaining the situation and then it will be presented to the Board of Directors.*
5. If the owner or occupant has not complied with or responded to the courtesy letter in a manner acceptable to the Board within ten (10) days, a notification letter will be sent to the owner and/or occupant.
6. If the owner or occupant has not complied with or responded to the notification letter in a manner acceptable to the Board within ten (10) days, a hearing letter will be sent to the owner and/or occupant requiring the accused owner or occupant to schedule a hearing before the Board concerning the alleged violation.
7. If the owner or occupant does not schedule such a hearing, or fails to appear at the scheduled hearing, he or she shall be deemed to have conceded the facts alleged in the Complaint and that the alleged violation occurred. The Board may then levy a fine against such the defaulting owner or occupant, without further hearing, in the amount of one hundred dollars (\$100.00), in addition to any other compliance action taken or fines.



## **Hyland Village Association**

### **Compliance Policy**

8. If a person charged with a violation responds to the hearing letter requesting a hearing, a hearing shall be set and written notice of the date, time and place of hearing, shall be provided to the accused. Such hearing shall be open to attendance to any person having the right to attend any meeting of the Board, except where an executive session is allowed under Colorado law. The hearing procedures shall be as follows:

- a. The Board shall act as the impartial decision maker required under CRS 38-33.3-209(2). Any Board member that has a direct personal or financial interest in the outcome of the proceeding shall not participate on the Board as a decision maker at the hearing, but may address the Board in the same manner and extent as other owners may be allowed. A Board member shall not be deemed to have a direct personal or financial interest in the outcome if such person will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association.
- b. The Board, through the chair of the meeting, shall direct all proceedings at the hearing. The chair shall also have complete authority to decide what evidence shall be accepted. No person shall speak without being recognized by the chair and the chair may limit the amount of time any person may speak. The failure to comply with the directions of the chair or otherwise conduct an orderly hearing may be considered, in itself, a violation of the rules resulting in fines or other penalties.
- b. The Board, through the chair of the hearing, will describe the specific provision of the Governing Documents that is alleged to have been violated, including the date and place and/or read the written Complaint.
- c. The person charged shall be asked to admit or deny the violation. The person charged may speak for himself or may be represented by counsel throughout the hearing.
- d. If the violation is denied, the complaining witness or witnesses shall describe the details of the circumstances at the hearing.
- e. The accused shall have the opportunity to ask questions of each witness.
- f. When all complaining witnesses have been heard the accused may make statements in rebuttal, and may provide witnesses in support of his position. The complaining owner may ask questions of each such rebuttal witness.
- g. The Board members shall have the opportunity to question any witness or involved parties if they so desires.

## **Hyland Village Association**

### **Compliance Policy**

h. At the conclusion of the hearing, the Board shall discuss the evidence presented and vote whether or not the accused violated the provisions of the Association's Governing Documents and if so, the appropriate fine, penalty or other sanction, if any. A majority vote of the Directors participating in the hearing shall control. The result of the vote shall be recorded in the minutes of the meeting, and announced to the accused and the party or parties who filed the Complaint.

i. If the Board imposes a fine or other penalty the Board shall provide written notice to the Owner of the fine or other penalty.

9. In the event of a default as described in Section 7 above, or as result of the hearing described in Section 8 above, the Board determines that an owner or occupant has violated the Governing Documents, the Association, in addition to any other fines or orders issued, may assess the violator an amount equal to all attorneys' fees, costs and other expenses incurred by the Association in connection with the violation or the hearing on the violation.

10. If, as a result of the hearing described above, the Board determines that the owner or occupant should not be held responsible for the alleged violation, the Association shall not allocate to such owner's account with the Association, any of the Association's costs, expenses or attorneys' fees incurred in connection with the alleged violation or the hearing on the alleged violation.

11. If the owner or occupant fails to pay any fines imposed, or comply with any order entered by the Board, the homeowner will be fined, without need for an additional hearing, the sum of hundred dollars (\$100.00) on a monthly basis until payment has been made and/or compliance has occurred. The Association may also engage an attorney to file an action in court to recover such fines, enforce compliance with its orders, or otherwise deal with the violation, and to the extent the Association prevails in such action, the Court shall also award the Association its costs, expenses and attorneys' fees incurred in such action, in addition to any other relief afforded. Nothing in this paragraph shall be construed to prevent Owners from recovering their costs and attorneys fees as otherwise provided by law.

12. Any and all monies collected from fines imposed on owners or occupants pursuant to this Compliance Policy may be deposited in the Association's general operating fund.

13. Before commencing any judicial collection or enforcement actions pursuant to the provisions of this Compliance Policy (except as set forth below), the Association shall first comply with the dispute resolution provisions of Chapter 15 of the Charter, if such action would constitute a "Claim" as set forth in said Chapter 15. However, in the event a violation is of a continuing nature, or a violation constitutes a threat to the health, safety, or welfare of the residents or the property within the Neighborhood, or the Board determines, in its sole discretion that the circumstances otherwise justify such action, the Association acting through the Board of Directors, may institute an action in a court of competent jurisdiction to pursue legal or equitable remedies, including seeking injunctive relief, to abate the violation immediately without first proceeding through steps outlined above or Chapter 15 of the Charter. Nothing

## **Hyland Village Association**

### **Compliance Policy**

in this policy shall constitute an election of remedies nor preclude the Board from seeking assistance from other enforcement authorities such as police, fire or animal control.

14. **Reoccurring Violation:** If an owner or occupant has already been communicated to regarding a compliance issue and the same violation occurs again at a later date by the same owner and/or occupant, then the Association will start the compliance policy where the owner and/or occupant left off from the previous violation.

**For example:** *An owner or occupant leaves their trash can out for extended period of time, they receive a courtesy letter (step 1 of the compliance policy as set forth in section 4) from the Association and the owner or occupant complies immediately by bringing their trash cans in but then a couple weeks later the same owner or occupant leaves their trash cans out again for an extended period of time, this time they will receive a notification letter (step 2 of the compliance policy as set forth in paragraph 5) from the Association rather than another courtesy letter.*

15. Each owner shall be responsible for the actions of his family members, tenants and guests, and the Board may, if it so elects, assess any fine or other penalty against the owner in addition to or instead of assessing the fine or penalty against the family member, tenant or guest.

**EXHIBIT E**

**POLICY REGARDING  
AMENDMENT OF POLICIES, RULES AND REGULATIONS**

*[see attached]*

Policy Regarding  
Adoption and Amendment of Policies, Procedures and Rules  
Hyland Village

Existing policies, procedures and rules and regulations of the Association that have been adopted by the Board may be amended, and new policies, procedures and rules and regulations of the Association may be adopted (collectively referred to in this Policy as “Amendments”), in accordance with this Policy, except that the Charter and Bylaws may only be amended in accordance with the amendment provisions of such documents.

1. Open Meeting. Amendments may only be adopted at a meeting of the Board of Directors that is open to all Members or their representatives.

2. Criteria. The Board members shall consider the following criteria when adopting or amending a policy, procedure or rule:

- (a) Reasonableness and necessity;
- (b) Impact does not create separate groups of Members;
- (c) Clear and unambiguous; and
- (d) Reasonably relates to the preservation, protection and enhancement of property values or the common good of the community.

3. Majority Vote. The adoption of an Amendment requires an affirmative vote of a majority of the total number of Board members, not just a majority of those Board members in attendance. During the Development and Sale Period, any Amendment must also approve in writing by the Founder.

4. Effective Date. Any Amendment shall be effective as to each Owner fifteen days after delivery of notice of the Amendment, in writing, to such Owner. If an Owner has provided an email address to the Association, such notice to such Owner can be given by email.

5. Conflicts. In the event of any conflicts or inconsistencies between an Amendment and the Charter or Bylaws, the Charter or Bylaw shall control.

6. Protection of Owners and Others. As set forth in Section 7.3 of the Charter, all Amendments must comply with the following provisions:

- (a) Similar Treatment. Similarly situated Homes shall be treated similarly.
- (b) Displays. No Amendment shall prohibit an Owner or occupant of a Home from displaying political, religious, or holiday symbols and decorations on his or her Home of the kinds normally displayed in residential neighborhoods, nor regulate the content of political signs except content or graphics which the Board deems to be obscene, vulgar, or similarly disturbing to the average person. However, the Association may adopt time, place, and manner restrictions with respect to

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signs, symbols, and displays visible from outside structures on the Homes, including reasonable limitations on size and number.

- (c) Household Composition. No Amendment shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Home size and facilities and its fair share use of the Common Area.
- (d) Activities Within Homes. No Amendment shall interfere with the activities carried on within a Home, except that the Association may prohibit activities not normally associated with residential property, except for home occupations as set forth in the Charter. An Amendment may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the Home, or that are an unreasonable source of annoyance.
- (e) Leasing and Transfer of Homes. No Amendment shall prohibit leasing or transfer of any Home or require approval prior to leasing or transferring a Home, other than as stated in the Charter. An Amendment may require that Owners use Board-approved lease forms (or include specific lease terms), and may impose a reasonable review or administrative fee in connection with the Board's review of a lease.
- (f) Reasonable Rights to Develop. No Amendment shall unreasonably interfere with the Founder's ability to develop market and sell property in the community.
- (g) Interference with Easements. No Amendment may unreasonably interfere with the exercise of any easement.
- (h) Compliance with Laws. No Amendment shall violate the provisions of any applicable state, federal or local laws, including but not limited to the provisions of the Colorado Common Interest Ownership Act and Senate Bills 05-100 or Senate Bill 89.

**EXHIBIT F**

**POLICY REGARDING CONDUCT OF MEETINGS**

*[see attached]*

## Hyland Village Association

### Code of Conduct for Meeting Policy

### **Code of Conduct for Meetings Policy**

The Association encourages attendance at meetings by its members and desires that all members take an active interest in their community. The Association also believes that the best method for encouraging attendance at meetings and in exercising the board's obligations to the community is through orderly and efficient meetings.

The following procedures are established to inform members and encourage the efficient conduct of meetings:

1. Meetings are for the purpose of addressing and conducting Association business. While members are invited and encouraged to attend all meetings (except for those designated as executive sessions), members do not have the right to disrupt or interfere with the orderly process of the meeting.
2. The Board has discretion to establish the agenda. The Board may deny a Member's request to place an item on the agenda in its discretion including reasons such as the item does not constitute legitimate Association business or has been previously addressed and disposed of by the Board of Directors.
3. All members attending the meeting who intend to speak in any fashion are required to sign the appropriate sign-in sheet for that meeting as well as a copy of this policy indicating that they agree to abide by the terms of this policy and all other governing documents of the Association.
4. During the meeting, a member may and is encouraged to speak on an item if such participation is consistent with the orderly process of the meeting detailed below.
  - a) Homeowner input and comments will be the first order of business of the meeting.
  - b) Each homeowner who signs up to address the Board will be allowed to speak in that order for a maximum of five minutes.
  - c) Each homeowner who speaks shall first state his/her name and address.
  - d) When speaking, members must speak in a calm manner and conduct themselves with respect to all those in attendance. Profanity, shouting and name-calling of any kind are prohibited.
  - e) The limit of speakers on each topic will be three members on each side of the topic with a maximum of three minutes from each speaker. .



## **Hyland Village Association**

### **Code of Conduct for Meeting Policy**

f) Each homeowner signing up to address the Board shall be permitted to speak without interruption from anyone.

Following the period for homeowner input and comments, no further comments from the audience will be accepted, except as allowed by the Board of Directors. Interruptions will be handled in the manner below

- a. The first interruption from an audience member will be met with a warning.
- b. The second interruption from the same member of the audience will be met with a request to leave the meeting.

The Chair of the meeting has all authority to enforce this policy. The failure to comply with this policy may result not only in the denial of the ability to speak at that meeting, but may result in imposing fines and/or being removed from the meeting. These provisions may be in addition to other specific provisions outlined in the rules and regulations, the Charter, By Laws or Articles of Incorporation of the Association. The Association may at any time pursue legal remedies, including filing a court action and seeking injunctive relief, or seek assistance from other enforcement authorities. The Board of Directors reserve the right to modify this policy as appropriate.

**EXHIBIT G**

**CONFLICT OF INTEREST POLICY**

*[see attached]*

## Hyland Village Association

### Policy Concerning Conflict of Interest

### **Policy Concerning Conflict of Interest**

I. Definitions. As used in this Policy, the following terms have the following meanings:

(a) “Conflicting interest transaction” means: A contract, transaction, or other financial relationship between the Association and a member of the Board of Directors (a “director”) of the Association, or between the Association and a party related to a director, or between the Association and a entity in which a director of the Association is a director or officer or has a financial interest.

(b) “Officer” means any person designated as an officer of the Association and any person to whom the Board delegates any of its responsibilities, including, without limitation, a managing agent, attorney or accountant employed by the Board.

(c) A “party related to a director or officer” 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 officer or a party related to a director or officer has a beneficial interest, or any entity in which a party related to a director or officer has a financial interest.

2. No Loans. No loans shall be made by the Association to its directors or officers, or to a party related to a director or officer. Any director or officers of the Association 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. Approval of Transactions. 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 an Owner or by or in the right of the Association, solely because the conflicting interest transaction involves a director or officer of the Association or a party related to a director or officer, or an entity in which a director or officer has a financial interest or solely because the director or officer is present at or participates in the meeting of the Association’s Board or a committee of the Board 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 facts as to that director’s or officer’s relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board or the committee, and the directors or committee in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested directors or committee members, even though the disinterested directors or committee members are less than a quorum; or

## **Hyland Village Association**

### **Policy Concerning Conflict of Interest**

(b) The material facts as the director's or officer's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Owners entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved or ratified in good faith by a vote of the Owners entitled to vote thereon; or

(c) The conflicting interest transaction is fair as to the Association.

4. Quorum. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies the conflicting interest transaction.