

BYLAWS  
OF  
WATERMARK CONDO ASSOCIATION, INC.  
a Montana nonprofit mutual benefit corporation

## Table of Contents

	Page
ARTICLE 1. PURPOSES, ASSENT OF OWNERS, AND DEFINITIONS.....	1
Section 1.1 Purposes.....	1
Section 1.2 Assent.....	1
Section 1.3 Adoption. These Bylaws are adopted by the Board of Directors.....	1
Section 1.4 Definitions.....	1
ARTICLE 2. MEMBERSHIP .....	1
Section 2.1 Membership.....	1
Section 2.2 Responsibilities of Owners.....	1
Section 2.3 Membership Certificates.....	2
Section 2.4 Voting Rights.....	2
Section 2.5 Designated Person and Registered Address.....	2
ARTICLE 3. MEETINGS OF OWNERS.....	3
Section 3.1 Place of Meeting.....	3
Section 3.2 Annual Meeting.....	3
Section 3.3 Special Meetings.....	3
Section 3.4 Notice of Meetings.....	3
Section 3.5 Adjourned Meetings.....	3
Section 3.6 Proxies.....	3
Section 3.7 Multiple Owners-Proxy.....	4
Section 3.8 Quorum.....	4
Section 3.9 Voting.....	4
Section 3.10 Waiver of Meeting and Consent to Action.....	5
Section 3.11 Action by Written Ballot.....	5
ARTICLE 4. BOARD OF DIRECTORS.....	6
Section 4.1 Number and Qualification.....	6
Section 4.2 Election and Term of Office.....	6
Section 4.3 Removal of Members of the Board of Directors.....	6
Section 4.4 Vacancies.....	6
Section 4.5 Quorum of the Board of Directors.....	6
Section 4.6 Place and Notice of the Board of Directors Meetings.....	7
Section 4.7 Powers and Duties.....	7
Section 4.8 Managing Agent.....	7
Section 4.9 Compensation of the Members of the Board of Directors.....	7
Section 4.10 Executive Sessions.....	8
Section 4.11 Conflict of Interest.....	8
ARTICLE 5. OFFICERS AND THEIR DUTIES.....	8
Section 5.1 Enumeration of Officers.....	8

Section 5.2	Election of Officers.....	8
Section 5.3	Term.....	8
Section 5.4	Special Appointments.....	8
Section 5.5	Resignation and Removal.....	8
Section 5.6	Vacancies.....	8
Section 5.7	Multiple Offices.....	8
Section 5.8	Duties.....	8
Section 5.9	Execution of Instruments.....	9
ARTICLE 6. INDEMNIFICATION OF MEMBERS OF THE BOARD OF DIRECTORS AND OFFICERS .....		10
Section 6.1	Actions Other than by or in the Right of the Association.....	10
Section 6.2	Actions by or in the Right of the Association.....	10
Section 6.3	Successful on the Merits.....	10
Section 6.4	Determination Required.....	10
Section 6.5	Payment in Advance of Final Disposition.....	11
Section 6.6	No Limitation of Rights.....	11
Section 6.7	Notice to Owners .....	11
Section 6.8	Directors and Officers Insurance.....	11
ARTICLE 7. BYLAWS .....		11
Section 7.1	Amendments.....	11
Section 7.2	Compliance with the Act.....	12
Section 7.3	Conflict Between Documents.....	12
ARTICLE 8. COMMITTEES.....		12
ARTICLE 9. INFORMATION, BOOKS AND RECORDS .....		12
Section 9.1	Annual Resolution .....	12
Section 9.2	Repairs and Maintenance.....	12
Section 9.3	Financial Statements .....	12
Section 9.4	Budget.....	12
Section 9.5	Association Records.....	12
Section 9.6	Inspection of Association Records.....	13
ARTICLE 10. FISCAL YEAR .....		14
ARTICLE 11. RULES AND REGULATIONS.....		14
ARTICLE 12. MEMBERSHIP RIGHTS AND PRIVILEGES .....		14
Section 12.1	Rights and Privileges of Members.....	14
Section 12.2	Suspension of Rights.....	15
ARTICLE 13. INTERPRETATION .....		15
ARTICLE 14. ASSESSMENTS.....		15

**BYLAWS  
OF  
WATERMARK CONDO ASSOCIATION, INC.**

The name of the corporation shall be Watermark Condo Association, Inc., a Montana nonprofit mutual benefit corporation (the “**Association**”).

**ARTICLE 1. PURPOSES, ASSENT OF OWNERS, AND DEFINITIONS**

Section 1.1 Purposes. The Association is formed pursuant to the Montana Uniform Ownership Act, Chapter 23, Title 70, Montana Code Annotated (the “**Act**”) and the Montana Nonprofit Corporation Act, Chapter 2, Title 35, Montana Code Annotated (the “**Nonprofit Act**”). The primary purposes for which the Association is formed are (a) to provide for the operation, administration, use, and maintenance of certain common areas and other property more fully described in the Condominium Declaration for Watermark on Flathead Lake, recorded in the office of the Clerk and Recorder of Lake County, Montana, as amended or supplemented from time to time (the “**Declaration**”); (b) to preserve, protect, and enhance the values and amenities of such property; and (c) to promote the health, safety, and welfare of members of the Association.

Section 1.2 Assent. All present or future Owners, Occupants, or any other Persons using the facilities of the Project in any manner are subject to these Bylaws and any Rules and Regulations adopted by the Board of Directors pursuant to these Bylaws. Acquisition or rental of any Unit in the Project, or the mere act of occupancy of any Unit, shall constitute an acceptance and ratification of these Bylaws and an agreement to comply with said Rules and Regulations.

Section 1.3 Adoption. These Bylaws are adopted by the Board of Directors.

Section 1.4 Definitions. Unless otherwise specified, capitalized terms used in these Bylaws shall have the same meanings in these Bylaws as such terms have in the Declaration.

**ARTICLE 2. MEMBERSHIP**

Section 2.1 Membership. Ownership of a Unit or Fractional Interest is required in order to qualify for membership in the Association. There shall be two (2) classes of members in the Association, consisting of the “Class A” and “Class B” Owners. In addition, there shall be one (1) Sub-Class of members in the Association, consisting of the Fractional Sub-Class. A “Class A” or “Class B” Owner may be a member of the Sub-Class, depending on the type of Unit(s) owned by such Owner.

Section 2.2 Responsibilities of Owners. Each membership is appurtenant to the fee simple title to a Unit or a Fractional Interest. Any Person, including Declarant, upon becoming an Owner, shall automatically become a member of the Association and be subject to these Bylaws. Membership shall terminate without any formal Association action whenever such Person ceases to own a Unit, but such termination shall not relieve or release any former Owner

from any liability or obligation incurred under these Bylaws, or in any way connected with the Association arising during the period of such ownership, and shall not impair any rights or remedies which the Board of Directors or others may have against such former Owner arising out of ownership of the Unit or Fractional Interest and membership in the Association and the covenants and obligations incident thereto. Following termination of the Project, the Association will consist of all Owners entitled to share in the distribution of proceeds of a sale of the Project pursuant to the Act..

Section 2.3 Membership Certificates. No certificates of stock shall be issued by the Association, but the Board of Directors may, if it so elects, issue membership cards to Owners. Such membership card shall be surrendered to the secretary of the Association whenever ownership of the Unit designated on the card is transferred and membership terminates.

Section 2.4 Voting Rights. “Class A” Owners shall be entitled to one (1) vote per Unit owned by each such Owner (regardless of Sub-Class of ownership) and the “Class B” Owner shall be entitled to five (5) votes per Unit owned by Declarant (regardless of Sub-Class of ownership). The “Class B” voting membership shall be converted to “Class A” voting membership upon the occurrence of the conditions set forth in Section 4.2 of the Declaration. Declarant shall be entitled to vote with respect to any Unit owned by it. Cumulative voting shall not be allowed in the election of the Board of Directors or for any other purpose. The Association shall not have a vote with respect to any Unit which may be owned by it. Percentages of Owners or of votes stated in the Condominium Documents shall be deemed to mean the stated percentage of the number of total votes required to be cast in order to satisfy quorum requirements or, if expressly required, the Total Voting Power as defined in the Declaration, or of the eligible votes within a Sub-Class. Sub-Class voting by Fractional Owners shall be allowed on issues specifically relating to or directly affecting only the Fractional Units or the Plan, and on which Owners are otherwise entitled to vote, as set forth in the Declaration. The votes of Owners within the Sub-Class shall be in proportion to the voting power of each such Owner relative to the aggregate votes in the Sub-Class.

Section 2.5 Designated Person and Registered Address.

(a) If title to a Unit or Fractional Interest is held by more than one individual, by a firm, corporation, partnership, association or other legal entity or any combination thereof, such individuals, entity, or entities shall, by written instrument executed by all such parties and delivered to the Association, appoint and authorize one (1) person to represent the Owner(s) of the Unit or Fractional Interest, as applicable (the “**Designated Representative**”). Such representative shall be a natural person who is an Owner, or a designated board member or officer of a corporate Owner, or a general partner of a partnership Owner, or a comparable representative of any other entity, and such representative shall have the authority to make decisions and take actions relating to the Unit or the Fractional Interest and to membership in the Association including, without limitation, the power to cast votes on behalf of the Owners as a member of the Association and serve on the Board of Directors if elected. The Designated Representative shall be the person to whom all notices and deliveries under the Condominium Documents are addressed.

There shall be a single registered mailing address associated with each Unit. The Owner, or the Designated Representative of the Owners, of a Unit shall furnish such registered address to the Association within ten (10) days after transfer of title to the Unit to such Owner or Owners. Such registration shall be in written form and signed by the individual Owner or the Designated Representative, as applicable. If no address is registered, then any notice shall be deemed duly given if delivered to the Unit if a copy of such notice is held and available for the Owner at the principal office of the Association.

### **ARTICLE 3. MEETINGS OF OWNERS**

Section 3.1 Place of Meeting. Meetings of the Owners shall be held at such place, within or without the State of Montana, as the Board of Directors may determine.

Section 3.2 Annual Meeting. The annual meeting of the Owners shall be held in May of every year commencing in 2009. The purpose of the annual meetings is to (i) propose and/or review the Budget; (ii) receive a report from the president of the Association on the activities and financial conditions of the Association; (iii) to elect the members of the Board of Directors; and (iv) to transact such other Association business as may properly come before the Owners at the meeting.

Section 3.3 Special Meetings. Calls for special meetings of the Owners may be made by the president of the Association or by written instrument signed by Owners representing not less than ten percent (10%) of the Total Voting Power in the Association.

Section 3.4 Notice of Meetings. Written notice of each meeting shall be delivered by certified mail to the registered address of each Owner entitled to be represented by a vote not fewer than thirty (30) nor more than sixty (60) days before the date of the meeting, by or at the direction of the president, or the secretary, or the Persons calling the meeting as provided under these Bylaws. Such notice shall state (i) basic meeting information such as the place, day, and hour of the meeting and (ii) the items on the agenda for the meeting, including the general nature of any proposed amendment to the Declaration or these Bylaws, any proposal to remove an officer or member of the Board of Directors, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. No action shall be adopted at a meeting except as stated in the notice. Attendance at any meeting by a member shall constitute a waiver of notice by that member, except where a member attends the meeting for the expressed purpose of objecting that the meeting was not lawfully called or convened.

Section 3.5 Adjourned Meetings. If any meeting of the Owners cannot be organized because a quorum, as defined below, is not present, the Owners who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is obtained.

Section 3.6 Proxies. Votes allocated to a Unit may be cast pursuant to a proxy duly executed by an Owner. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven (11) months after its date, unless it provides otherwise, but in no event later than three (3) years

after its date. A form of proxy may be distributed to each Owner to afford the Owner(s) of such Unit the opportunity to cast the vote allocated to such Unit in absentia at a meeting of Owners of the Association, provided that it meets the requirements for a written ballot set forth in Section 3.11 below and includes the name or names of the person(s) to whom the proxy is given and who expect to be in attendance in person at the meeting for the purpose of casting the vote to reflect the absent Owner's vote.

Section 3.7 Multiple Owners-Proxy. If title to a Unit is held by more than one Person, and if only one of such multiple Owners of a Unit is present at a meeting of the Association, such Owner is entitled to cast the vote allocated to that Unit. If more than one of the multiple Owners of a Unit are present, in person or by proxy, and there is no Designated Representative as required under Section 2.5, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Owners, which majority agreement may be assumed for all purposes if any one of the multiple Owners cast the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit. If such protest is made, the vote allocated to the Unit may only be cast by written instrument executed by all Owners who are present at the meeting. With respect to Fractional Units, the provisions of this Section 3.7 shall apply to multiple ownership of a Fractional Interest rather than a Unit, and references herein to Unit shall be deemed to mean Fractional Interest in that context.

Section 3.8 Quorum. Except as otherwise provided in these Bylaws, the presence at the beginning of the meeting in person or by proxy of the Owners possessing sufficient votes to constitute twenty percent (20%) of the Total Voting Power of all Owners shall constitute a quorum, and such Owners present in person or by proxy shall constitute the Owners entitled to vote upon any issue presented at a meeting at which a quorum is present. With respect to issues which may be decided by Owners in the Sub-Class voting as a Sub-Class, the presence at the beginning of the meeting in person or by proxy of Owners within the Sub-Class possessing sufficient votes to constitute twenty percent (20%) of the votes of all Owners in the Sub-Class shall constitute a quorum as to such matters concerning the Sub-Class, and such Owners within the Sub-Class present in person or by proxy shall constitute the Owners entitled to vote upon issues that may be decided by Owners voting as a Sub-Class presented at such meeting where a quorum of the Sub-Class is present.

Section 3.9 Voting. Except as otherwise required by the Declaration, the Act or by these Bylaws, (a) the votes of Owners who are present either in person or by proxy at any duly convened meeting of the Association at which a quorum has been established and who cast a simple majority of the total votes eligible to be voted by such present or represented Owners shall decide any question under consideration, and shall constitute the act of and be binding upon the Association; and (b) the votes of Owners in a Sub-Class who are present, either in person or by proxy, at any duly convened meeting of the Association at which a quorum of the Sub-Class has been established and who cast a simple majority of the total votes eligible to be voted by such present or represented Owners of the Sub-Class shall decide any question under consideration applicable to the Sub-Class and constitute the act of and be binding on the Sub-Class, and the Association, if applicable. Notwithstanding the foregoing, the following matters require approval or rejection by a percentage of the Total Voting Power in the Association or in a Sub-

Class, rather than by those present at a meeting where quorum requirements have been satisfied, as further specified in the Condominium Documents: (a) certain amendments of the Condominium Documents, (b) termination of the condominium regime, (c) conveyance or encumbrance of Common Elements, (d) extension of the term of the Declaration, excepting any automatic extensions thereof, (e) removal of any member of the Board of Directors or (f) the determination not to repair or replace any portion of the Project for which insurance coverage is required under the Declaration. At the discretion of the Board of Directors, or upon the request of thirty-three and one-third (33.3%) of the Owners who are present or represented by proxy at a meeting at which a quorum has been achieved, a vote upon any matter for which Owners are entitled to vote, regardless of whether identified in the notice of the meeting, may be conducted.

Section 3.10 Waiver of Meeting and Consent to Action. Whenever the vote of Owners at a meeting of the Association is required or permitted by any provision of these Bylaws to be taken in connection with any action of the Association (including, without limitation, an annual meeting or a vote on ratification of the Budget) the meeting and vote of Owners may be dispensed with and the action in question may be approved if (a) notice of the proposed action is given to all Owners eligible to vote, and (b) Owners representing not less than eighty percent (80%) of the Total Voting Power consent in writing to the action in question.

Section 3.11 Action by Written Ballot. Any action that may be taken at any annual or special meeting of Owners (including, without limitation, an annual meeting or ratification of the Budget) may be taken without a meeting and through voting by written (including electronic) correspondence, if the following requirements are met:

(a) a written ballot is distributed to every Owner entitled to vote on the matter, setting forth each proposed action and providing an opportunity to vote for or against each proposed action;

(b) the solicitation for votes by written ballot (i) indicates the number of responses needed to meet the quorum requirements for authorization or rejection of the proposed action (or, if the quorum provisions do not apply to the proposed action, as further set forth in Section 3.9 above, specifies the same); (ii) states the percentage of votes needed to authorize or reject each matter, other than election of the Board of Directors; and (iii) specifies the time by which a ballot must be received by the Association in order to be counted; and

(c) the number of votes cast by written ballot in favor or against the proposed action equals or exceeds the number of votes in favor or against that would be required to authorize or reject the action at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot.

A written ballot delivered to the Association pursuant to this Section 3.11, may not be revoked. Action taken under this Section 3.11 has the same effect as action taken at a meeting of Owners and may be described as such in any document.

## ARTICLE 4. BOARD OF DIRECTORS

Section 4.1 Number and Qualification. The affairs of the Association shall be governed by a Board of Directors, initially composed of three (3) natural person(s). At the first meeting of the Association the initial directors shall be elected to the Board of Directors by the Owners.

Section 4.2 Election and Term of Office. The terms of the members of the initial Board of Directors elected by the Owners shall be staggered so that one (1) or more members shall be elected to serve a one (1) year term, one or more members shall be elected to serve a two (2) year term, and one or more members shall be elected to serve a three (3) year term. At the expiration of the initial term of office for each respective member of the Board of Directors, his or her successor shall be elected to serve a term of three (3) years. Notwithstanding any provision in this Section 4.2 to the contrary, members of the Board of Directors may be elected by written consent or ballot pursuant to the conditions set forth in Sections 3.10 or 3.11 above. Each member of the Board of Directors shall hold office until the election and qualification of his or her successor, unless such a member is removed or otherwise vacates in accordance with these Bylaws. At any meeting at which on or more members of the Board of Directors is to be elected, the Owners may, by resolution, adopt specific procedures which are not inconsistent with these Bylaws or the Nonprofit Act for conducting the elections.

Section 4.3 Removal of Members of the Board of Directors. A regular or special meeting of Owners may be called for the purpose of considering the removal of any member of the Board of Directors. The Board of Directors shall designate by resolution or motion the date and time of such regular or special meeting after such meeting is properly set or called in accordance with these Bylaws. Any one (1) or more of the members of the Board of Directors may be removed with or without cause by an affirmative vote of sixty-seven percent (67%) of the voting power of the Owners present in person or represented by proxy and eligible to vote. Any member of the Board of Directors whose removal has been proposed shall be given an opportunity to be heard at the meeting. If the entire Board of Directors is removed at once, an election by the Owners present in person or represented by proxy and eligible to vote to fill the vacancies thus created shall be immediately held at the same meeting.

Section 4.4 Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of all of the remaining Board of Directors (though the remaining members may be less than a quorum of the Board of Directors). The term of the member of the Board of Directors so elected shall be coincident with the term of the replaced member of the Board of Directors.

Section 4.5 Quorum of the Board of Directors. A majority of the number of members of the Board of Directors fixed from time to time by these Bylaws shall constitute a quorum for the transaction of business. Any act by a majority vote of the Board of Directors in attendance where a quorum is present shall be an act of the Board of Directors, subject to the Sub-Class requirements of the Declaration.

Section 4.6 Place and Notice of the Board of Directors Meetings. Any regular or special meetings of the Board of Directors may be held at such place within or without the State of Montana and upon such notice as the Board of Directors may prescribe. Any special meeting of the Board of Directors shall be preceded by at least two days' notice of the date, time and place of the meeting. The Board of Directors shall hold a regular meeting at least once each year and shall, in addition, meet as often as they deem necessary or desirable to perform their duties hereunder. Attendance of a member of the Board of Directors at any meeting shall constitute a waiver of notice of such meeting, except when a member of the Board of Directors attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Before, at, or after any meeting of the Board of Directors, any member of the Board of Directors may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the waiver of notice of such meeting. The Board of Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all members of the Board of Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors. All or some of the members of the Board of Directors may participate in a meeting by means of a conference telephone, electronic conferencing or similar communications equipment by which all Persons participating in the meeting can hear each other or read the words of each other at the same time. Such participation shall constitute presence in person at the meeting.

Section 4.7 Powers and Duties. The Board of Directors shall have, subject to the limitations contained in the Declaration and the Act, the powers and duties necessary, desirable, or appropriate for the administration of the affairs of the Association and for the operation and maintenance of the Project, including (but not limited to) the powers and duties stated in the Declaration.

Section 4.8 Managing Agent. The Board of Directors may employ for the Association a Managing Agent at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize; provided, however, that the Board of Directors in delegating such duties shall not be relieved of its responsibility under the Declaration.

Section 4.9 Compensation of the Members of the Board of Directors. Except as provided in this Section 4.9, members of the Board of Directors shall not be paid any compensation for their services performed as members of the Board of Directors unless a resolution authorizing such remuneration shall have been adopted by the members of the Association. Each member of the Board of Directors shall receive reimbursement for reasonable transportation, meals, lodging expenses and reasonable per diem payments, for attendance at any regular or special meeting of the Board of Directors or for other actual expenses incurred in connection with the performance of his or her duties of office as a member of the Board of Directors.

Section 4.10 Executive Sessions. Meetings of the Board of Directors may be held in executive session(s), without giving notice and without the requirement that they be open to Owners, to the extent permitted by the Nonprofit Act.

Section 4.11 Conflict of Interest. All conflicts of interest shall be handled in accordance with Section 35-2-418 of the Nonprofit Act.

## **ARTICLE 5. OFFICERS AND THEIR DUTIES**

Section 5.1 Enumeration of Officers. The officers of the Association shall be a president, vice president, secretary, and treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

Section 5.2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors and thereafter at the first meeting of the Board of Directors following each annual meeting of the Owners.

Section 5.3 Term. The officers shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless such officer shall sooner die, resign, or shall be removed or otherwise disqualified to serve.

Section 5.4 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may from time to time determine.

Section 5.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.6 Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 5.7 Multiple Offices. Any two (2) or more offices may be held by the same person.

Section 5.8 Duties. The duties of the officers are as follows:

(a) President. The president shall preside at all meetings of the Owners and of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign on behalf of the Association all leases, mortgages, deeds, notes and other written instruments; and shall exercise and discharge such other duties as may be required of the president by the Board of Directors. In addition, the president shall have all of the general powers and duties that are incident to the office of president of a nonprofit corporation organized

under the laws of the State of Montana, including but not limited to, the power to appoint committees from among the Owners from time to time as the president may decide is appropriate to assist in the conduct of the affairs of the Association. The president may fulfill the role of treasurer in the absence of the treasurer. The president may cause to be prepared and may execute amendments, attested by the secretary, to the Declaration (in accordance with the provisions of the Declaration) and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment, as applicable.

(b) Vice President. The vice president shall act in the place and stead of the president in the event of his or her absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of the vice president by the Board of Directors.

(c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Owners; keep the corporate stamp or seal of the Association, if any, and place it on all papers requiring said stamp or seal, if necessary; serve notice of meetings of the Board of Directors and of the Owners; keep appropriate current records showing the Owners and Designated Representatives together with their addresses; and shall perform such other duties as may be required of the secretary by the Board of Directors.

(d) Treasurer. The treasurer shall receive and may endorse on behalf of the Association, for collection only, all checks, notes, and other obligations and shall deposit the same and all monies in appropriate bank accounts of the Association. The treasurer shall disburse such funds as directed by resolution of the Board of Directors; keep proper books of account; at the direction of the Board of Directors, cause an audit of the Association books to be made; and prepare the annual Budget and a statement of income and expenditures to be presented to the Owners at the regular annual meeting of Owners, and deliver a copy of each to the Owners. Except for reserve funds described below, the treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others. Reserve funds of the Association shall be deposited in such segregated accounts or other investments as the Board of Directors decides in accordance with the Rules and Regulations. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or order, by the Treasurer or another officer provided that the Board of Directors may adopt resolutions imposing limitations on the manner of withdrawal or requiring more than one signatory for certain types of withdrawals.

Section 5.9 Execution of Instruments. All agreements, contracts, deeds, leases, checks, notes and other instruments of the Association may be executed by any person or persons as may be designated by resolution of the Board of Directors, including the Managing Agent. Any officer may prepare, execute, certify and record duly adopted amendments to the Declaration on behalf of the Association. If appropriate, the Managing Agent or any officer of the Association may file an election under Section 528 of the Internal Revenue Code in any given year for the Association.

## **ARTICLE 6. INDEMNIFICATION OF MEMBERS OF THE BOARD OF DIRECTORS AND OFFICERS**

Section 6.1 Actions Other than by or in the Right of the Association. The Association shall indemnify any Person who was or is a party, or is threatened to be made a party to any pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that such Person is or was a member of the Board of Directors or officer, who is or was serving at the request of the Association in such capacity, against expenses (including expert witness fees, attorneys' fees and costs) judgments, fines, amounts paid in settlement actually and reasonably incurred by such Person in connection with such action, suit or proceeding, if such Person acted in good faith and in a manner that he or she reasonably believed to be in the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Determination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the Person did not act in good faith and in a manner such Person reasonably believed to be in the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe his or her conduct was unlawful.

Section 6.2 Actions by or in the Right of the Association. The Association shall indemnify any Person who was or is a party or who is threatened to be made a party to any pending or completed action or suit by or in the right of the Association to procure judgment in its favor by reason of the fact that such Person is or was a member of the Board of Directors or officer or is or was serving at the request of the Association in such capacity, against expenses (including expert witness fees, attorneys' fees and costs) actually and reasonably incurred by such Person in connection with the defense or settlement of such action or suit if such Person acted in good faith and in a manner that he or she reasonably believed to be in the best interests of the Association; but no indemnification shall be made in respect of any claim, issue or matter as to which such Person has been adjudged to be liable for negligence, recklessness, or willful misconduct in the performance of his or her duty to the Association unless, and to the extent that, the court in which such action or suit was brought determines upon application that (despite the adjudication of liability), in view of all circumstances of the case, such Person is fairly and reasonably entitled to indemnification for such expenses.

Section 6.3 Successful on the Merits. To the extent that a member of the Board of Directors or officer of the Association has been wholly successful on the merits in defense of any action, suit or proceeding referred to in Section 6.1 or Section 6.2 of this Article 6. , or in defense of any claim, issue or matter therein, such Person shall be indemnified against expenses (including expert witness fees, attorneys' fees and costs) actually and reasonably incurred by him or her in connection therewith.

Section 6.4 Determination Required. Any indemnification under Sections 6.1 or 6.2 of this Article 6. (unless ordered by a court) and as distinguished from Section 6.3 of this Article 6. , shall be made by the Association only as authorized by the specific case upon a determination that indemnification of such Person is proper in the circumstances, because such Person has met

the applicable standard of conduct set forth in Sections 6.1 or 6.2 above. Such determination shall be made by the Board of Directors by majority vote of those members of the Board of Directors who were not parties to such action, suit or proceeding or, if a majority of disinterested members of the Board of Directors so directs, by independent legal counsel or by members entitled to vote thereon. Such determination shall be reasonable, based on substantial evidence of record, and supported by a written opinion. The Board of Directors shall provide a copy of its written opinion to the Person seeking indemnification upon request.

Section 6.5 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses incurred by a former or current member of the Board of Directors or officer who is a party to a proceeding in advance of final disposition of the proceeding if: (i) such Person furnishes to the Association a written affirmation, executed personally or on such Person's behalf, of his or her good faith belief that he or she has met the standard of conduct described in Sections 6.1 or 6.2 of this Article 6. ; (ii) such Person furnishes to the Association a written agreement, executed personally or on such Person's behalf, to repay the advance if it is ultimately determined that he or she did not meet the required standard of conduct; and (iii) a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article. The undertaking required in this paragraph shall be an unlimited general obligation of the Board of Directors but need not be accepted by a particular Board member or officer or may be accepted without reference to financial ability to make repayment.

Section 6.6 No Limitation of Rights. The indemnification provided by this Article 6. shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the members or disinterested members of the Board of Directors, or otherwise, nor by any rights which are granted pursuant to the Act and the Nonprofit Act.

Section 6.7 Notice to Owners. In the event the Association indemnifies any Person under this Article 6 in connection with a proceeding by or in the right of the Association, the Association shall report the indemnification in writing to the Owners sent with the notice of the next annual or special meeting of the Owners.

Section 6.8 Directors and Officers Insurance. As and to the extent provided in the Declaration, the Association shall purchase and maintain insurance on behalf of any Person who is or was a member of the Board of Directors or an officer of the Association against any liability asserted against him or her and incurred by such Person in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify such Person against such liability under provisions of this Article.

## **ARTICLE 7. BYLAWS**

Section 7.1 Amendments. These Bylaws may be amended only at any regular meeting of the Owners or at any special meeting called for the purpose of amending the Bylaws, by the affirmative vote of not less than seventy-five percent (75%) of the Total Voting Power and any

such amendment shall not be effective until a copy of these Bylaws, as amended, certified by the presiding officers and secretary of the Association, is recorded.

Section 7.2 Compliance with the Act. These Bylaws are intended to comply with the requirements of the Act and the Nonprofit Act. If any of these Bylaws conflict with the provisions of the Act or the Nonprofit Act, the provisions of the Act or the Nonprofit Act, as applicable, will govern the Association.

Section 7.3 Conflict Between Documents. In the case of any conflict between or among the Condominium Documents, the Declaration controls over the Articles of Incorporation, these Bylaws and the Rules and Regulations. The Articles of Incorporation control over these Bylaws and the Rules and Regulations. These Bylaws control over the Rules and Regulations.

## **ARTICLE 8. COMMITTEES**

The Board of Directors may appoint such committees as deemed appropriate which, to the extent provided for in the resolution appointing the committee and allowed by law, shall have the powers of the Board of Directors in the management and affairs and business of the Association, as described in the Declaration.

## **ARTICLE 9. INFORMATION, BOOKS AND RECORDS**

Section 9.1 Annual Resolution. The Board of Directors shall adopt annually a resolution reflecting the current year plan for repair, maintenance and upkeep of the Common Elements and other property owned by, or provided for the use of, the Association. The president of the Association shall implement such plan and the treasurer of the Association shall pay for the Common Expenses from Association funds collected.

Section 9.2 Repairs and Maintenance. Repairs of the Common Elements shall be performed on an “as needed” basis and Board of Directors is authorized to initiate all repairs which are reasonably determined to be necessary thereto. Expenses for repair shall be paid by the treasurer of the Association from funds received from Assessments. In order to implement maintenance resolutions and repairs, the president of the Association shall employ any personnel reasonably necessary to property effect said maintenance and repair.

Section 9.3 Financial Statements. Within ninety (90) days after the end of each fiscal year, the Board of Directors shall distribute to each Owner and, upon written request, any Mortgagee, a copy of the annual financial statement of the Association consisting of a balance sheet and income and expense statement for the preceding fiscal year.

Section 9.4 Budget. As more particularly described in the Declaration, the Board of Directors shall draft and approve an annual budget for the Association each year. The budget may be amended by a majority vote of the Board of Directors. If no budget is adopted, the last existing budget shall continue until amended by the Board of Directors.

Section 9.5 Association Records.

(a) The Board of Directors shall keep detailed records of the actions of the Board of Directors as required by the Act, including minutes of the meetings of the Board of Directors, minutes of the meetings of the Owners, a record of all actions taken by committees of the Board of Directors and appropriate accounting records.

(b) The Association shall maintain at its principal office, or other location from which materials may be recovered within two (2) business days, the following records:

- (i) the Articles of Incorporation and all amendments thereto;
- (ii) these Bylaws and all amendments thereto;
- (iii) resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of Owners or any Sub-Class;
- (iv) the minutes of all meetings of Owners and the records of all actions approved by the Owners for the preceding three (3) years;
- (v) all financial statements required to be made available to Owners for the preceding three (3) years as required by Section 35-2-911 of the Nonprofit Act;
- (vi) a list of the names and business or home addresses of the current members of the Board of Directors and of the officers of the Association; and
- (vii) a copy of the Association's most recent annual report delivered to the Montana Secretary of State.

(c) The Board of Directors shall keep detailed accurate records in chronological order of the receipts and expenditures affecting the Common Elements, itemizing the maintenance and repair Common Expenses of the Common Elements and any other Common Expenses incurred. All such records, together with any vouchers authorizing payments and receipt for such payments, shall be available for examination by any Owner at the Association's principal offices during normal business hours of the Association's manager.

#### Section 9.6 Inspection of Association Records.

(a) Except as otherwise provided in these Bylaws or in the Act, upon not less than five (5) days written notice to the Association an Owner is entitled to inspect and copy, at a reasonable time and location specified by the Association, any of the records of the Association described in Section 9.5 above. Notwithstanding the foregoing, excerpts from any records required to be maintained under Section 9.5(a) that are not otherwise subject to inspection hereunder, accounting records of the Association, and the Membership List (as defined below) shall only be made available to an Owner if that Owner's request: (a) is made in Good Faith and for a Proper Purpose, (b) describes with reasonable particularity the purpose for which the Owner desires to inspect and/or copy such Association records; and (c) demonstrates that such Association records are directly connected to the described Proper Purpose. A "**Proper**

**Purpose**” is a purpose reasonably related to the demanding Owner’s interest as a member of the Association (i.e. proxy solicitations). **“Good Faith”** means a demand which the Association determines to be specific, honest, and toward the protection or furtherance of a proper purpose that does not interfere with other Owners’ rights of privacy. For purposes of illustration and not limitation, any demand made to gratify an Owner’s curiosity, to harass or annoy the Association, staff or other Owners, to share the records with a competitor of the Association, or for a speculative or commercial purpose shall be deemed not to be made in Good Faith or for a Proper Purpose.

(b) All records made available to Owners as provided above shall also be made available for copying at the expense of the Person examining the records, during normal business hours and after reasonable notice.

### **ARTICLE 10. FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

### **ARTICLE 11. RULES AND REGULATIONS**

The Board of Directors shall have the right to establish, amend, and enforce, from time to time, such Rules and Regulations as the Board of Directors may deem necessary and appropriate for the management, preservation, safety, control, and orderly operation of the Project for the benefit of all Owners and Occupants, and for facilitating the greatest and most convenient availability and use of the Units and Common Elements by Owners and Occupants. Such Rules and Regulations may include (without limitation) a system of late charges and/or interest for untimely payment of Assessments, fees for review by the Association of matters required under the Declaration, and fees and fines for noncompliance with the Rules and Regulations and other obligations set forth in the Declaration and these Bylaws. Such Rules and Regulations may, to the extent not in conflict with the provisions of the Declaration, the Articles of Incorporation and these Bylaws, impose reasonable restrictions upon the use and occupancy of any portion of the Project as the Board of Directors, in its sole and absolute discretion, deems necessary and appropriate. Each Owner agrees that all such Owner’s ownership rights shall be in all respects subject to the Rules and Regulations, and each Owner agrees to obey such Rules and Regulations as the same may lawfully be amended from time to time, and to ensure that the same are faithfully observed by Occupants of such Owner’s Unit. Each Person who comes within the Project shall be subject to the Rules and Regulations for the duration of his presence therein.

### **ARTICLE 12. MEMBERSHIP RIGHTS AND PRIVILEGES**

Section 12.1 Rights and Privileges of Members. No member shall have the right, without the prior approval of the Board of Directors, to exercise any of the powers or to perform any of the acts delegated to the Board of Directors by these Bylaws or the Declaration. Each member shall have all of the rights and privileges, including but not limited to property rights and

easement rights of access over and use and enjoyment of the Common Elements, granted to the members by the Declaration, subject to such limitations as may be imposed in accordance therewith.

Section 12.2 Suspension of Rights. The Association shall have the right to suspend the rights and privileges of an Owner as a member of the Association for the period during which any Assessment owed by such Owner remains unpaid and delinquent, all as further described in the Declaration.

### **ARTICLE 13. INTERPRETATION**

The provisions of these Bylaws shall be liberally construed to effect the purpose of ensuring that the Project shall at all times be operated and maintained in a manner so as to optimize and maximize its enjoyment and utilization by each Owner and Occupant.

### **ARTICLE 14. ASSESSMENTS**

As provided in the Declaration, the Board of Directors may authorize and collect Assessments from all Owners, including but not limited to filing liens for unpaid Assessments.

**[insert signature blocks of initial directors]**