

BYLAWS
OF
HERITAGE PARK HOMEOWNERS ASSOCIATION

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BYLAWS

OF

HERITAGE PARK HOMEOWNERS ASSOCIATION

ARTICLE I

NAME AND LOCATION

Section 1.01. Name and Location. The name of the corporation is HERITAGE PARK HOMEOWNERS ASSOCIATION (the “Association”), a Colorado non-profit corporation. The principal office of the corporation shall be located at _____, and the registered office of the corporation is located at _____, but meetings of Members and Directors may be held at such other places within and outside the State of Colorado as may be designated from time to time by the Board of Directors.

ARTICLE II

OBJECT AND DEFINITIONS

Section 2.01. Purposes. The specific purposes for which the Association is formed are:

- A. To provide for the operation, management, administration, maintenance, preservation, repair, care, upkeep, supervision, control, and disposition of the Common Area which is part of the real property located in Eagle County, Colorado (the “Property”) which has been submitted to the Declaration of Covenants, Conditions, Restrictions, and Easements for Heritage Park dated _____ 2006, and recorded at Reception No. _____;
- B. To regulate and control the relationships between the owners (the “Owners”) of lots (the “Lots”) in the Premises;
- C. To carry on all the functions and activities of the Association described in or contemplated by the Declaration; and
- D. Generally to promote the health, safety, and welfare interests of the Owners and users within Heritage Park and carry on any lawful activity in connection with the operation of Heritage Park and the Association.

Section 2.02. Assent. All present and future Owners, their families, present or future tenants, and their guests and invitees, and any other persons who might use the Common Area and other facilities of Heritage Park in any manner are subject to the regulations set forth in the Heritage Park Documents, including these Bylaws. The mere acquisition of a fee or leasehold interest in or the mere occupancy of any of the Lots of the Property shall constitute ratification and acceptance of these Bylaws and an agreement to comply herewith.

Section 2.03. Definitions. All definitions and defined terms set forth in the Declaration shall have the same meaning for these Bylaws as if set forth in their entirety herein.

ARTICLE III

MEMBERSHIP, VOTING, PROXIES AND QUORUM

Section 3.01. Membership and Voting Privileges. Any individual, corporation, partnership, association, trust, or other legal entity or combination of entities owning an undivided fee simple interest in a Lot shall automatically be a member of the Association. Such membership shall be continuous through the duration of such ownership. A membership shall terminate automatically, without any Association action, whenever such individual, organization, or group ceases to own a Lot, provided that if the ownership of a Lot ceases as a result of the sale or the disposition of the entire Premises free and clear of the Declaration, and as a result thereof, proceeds from sale or disposition are to be distributed and the Association dissolved, the members at the time of closing of such sale or other disposition shall continue to be members until dissolution of the Association. Termination of membership shall not relieve or release any former member from liability or obligation incurred by virtue of, or in any way connected with, the ownership of a Lot, nor shall it impair any rights or remedies which the Association or others may have against such former member arising out of, or in any way connected with, such ownership or membership.

Section 3.02. Classes of Membership and Voting Privileges. The Association shall have the following classes of membership:

1. **Class A.** Class A members shall be any individual, corporation, partnership, association, trust, or other legal entity or combination of entities owning an undivided fee simple interest in an Lot, with the exception of the Declarant. The Class A members shall have one (1) vote for each Lot, as shown on the Final Plat and as recorded in the office of the Clerk and Recorder of Eagle County, Colorado.
2. **Class B.** The Class B Member(s) shall be the Declarant (as such term is defined in the Declaration) and any successor of Declarant who takes title to all or part of the Property for the purpose of development and sale and who is designated as successor declarant in a recorded instrument executed by Declarant. Class B membership shall be transferred automatically to any assignee or successor of the Declarant and shall terminate if Declarant's status as such is terminated as provided in the Declaration. Class B Members shall be entitled to three (3) times the vote otherwise allocated to Class A Members for

each Lot owned by the Class B Member. The Class B membership shall terminate on either of the following dates, whichever occurs earlier:

- a. The conveyance of seventy-five percent (75%) of the Lots to an owner other than the Declarant; or
- b. The date on which Declarant voluntarily relinquishes its Class B membership, as evidenced by a notice recorded in the office of the Clerk and Recorder for Eagle County, Colorado.

Section 3.03. Proof of Membership. Any person or entity, on becoming an Owner of a Lot, shall furnish to the Manager or to the Secretary of the association a photocopy or a certified copy of the recorded instrument vesting that person or entity with an ownership interest, which instrument shall remain in the files of the Association. An Owner shall not be deemed to be a Member of the Association in good standing and shall not be entitled to vote at any annual or special meeting of Members unless this requirement is first met.

Section 3.04. Rights of Members. The rights of the members of each class, including voting rights, shall be as set forth herein, in the Bylaws of the Association, and in the Declaration.

Section 3.05. Designation of Voting Member. If a Lot is owned by one (1) person, the record Owner shall have the right to cast any vote associated with the Lot. If a Lot is owned by more than one (1) person, the individual entitled to cast the vote for the Lot shall be as designated in a written statement made for such purpose, which statement shall be in a form acceptable to the Board of Directors, signed by all of the record Owners of the Lot(s), and filed with the Secretary of the Association. If a Lot is owned by a firm, corporation, partnership, association, trust, or other legal entity (an "Organizational Member"), or any combination of such parties, the individual entitled to cast the vote of the Lot shall be as designated in a written statement made for such purpose, which statement shall be in a form acceptable to the Board of Directors, duly executed on behalf of the Organizational Member, and filed with the Secretary of the Association. The person designated in any such written statement as the party entitled to cast the vote for a Lot shall be known as the "Voting Member". Except as hereinafter provided with respect to Lots owned by a husband and wife, if a Voting Member has not been designated for any Lot owned by more than one (1) person or by an Organizational Member, no vote may be cast with respect to such Lot and the vote of such Lot shall not be considered in determining the requirement for a quorum, the requirement for taking action or for any other purpose. any designation of a Voting Member shall remain in effect until superseded by a subsequent written statement made as provided above or until a change in ownership of the Lot concerned. Notwithstanding the foregoing, if a Lot is owned jointly by a husband and wife, the following provisions shall be applicable:

1. They may, but shall not be required to, designate a Voting Member.

2. If they do not designate a Voting Member and if both are present at a meeting, then they may vote jointly, but if they are unable to concur in their decision on any subject requiring a vote, they shall lose their right to vote on that subject at that meeting.
3. Where they do not designate a Voting Member and only one is present at a meeting, the person present may cast the Lot vote, just as though such person owned the Lot individually and without establishing the concurrence of the absent person.

In the event that a vote is cast by a Member or Voting Member on behalf of such Member's Lot without objection at the meeting at which such vote is cast by any other Owner or Organizational Member of such Lot, then such person shall be deemed for all purposes to be the duly and validly appointed delegate for all Owners or Organizational Members of the Lot, the Association and the Board shall be entitled to rely on the authority of such Owner or Voting Member to vote with respect to the Lot, and the vote cast by such person shall be the validly cast vote of all of the Owners or Organizational Members of such Lot and shall bind such other Owners and Organizational Members.

Section 3.06. Voting Rights of Members. All members shall be entitled to vote on all matters, as provided above or as otherwise provided in the Declaration, the Articles of Incorporation, or these Bylaws. No transfers of membership in the Association shall be made except as provided herein or in the Declaration and no such transfer shall be made upon the books of the Association within ten (10) days next proceeding the Annual Meeting of the Association.

Section 3.07. Suspension of Voting Rights. The Association may suspend the voting rights of a member for failure to comply with the rules and regulations of the Association or for failure to comply with any other obligations of an Owner of a Lot under the Declaration or these Bylaws.

ARTICLE IV

ASSOCIATION: MEETING ADMINISTRATION, QUORUM, VOTING, AND PROXIES

Section 4.01. General. The Owners of the Lots will constitute the Association, which will have the responsibility of administering the Premises through a Board of Directors as herein provided.

Section 4.02. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the association, and each subsequent regular annual meeting of the Members shall be held on a date and at a time set by the Board of Directors in each succeeding year. Directors shall be designated at each such Annual Meeting.

Section 4.03. Special Meeting. Special meetings of the Members may be called at any time by the President of the Association or by the Board of Directors, or upon written request of the

members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 4.04. Notice of Meetings. Written notice stating the place, day, and hour of each meeting of the members, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, or by personal delivery, to the registered mailing address of each member entitled to vote at such meeting. Such mailing or personal delivery shall occur at least ten (10) days but not more than sixty (60) days (or such shorter period of time as may be required by statute) before such meeting.

Section 4.05. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any member may at any time waive any notice required to be given under these Bylaws or by statute or otherwise, either before or after such meeting. Attendance at a meeting by a Members, whether in person or by proxy, shall be deemed waiver by such Member of notice of the time, date, and place of the meeting, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at the meeting unless object to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

Section 4.06. Adjourned Meetings. If the number of Association members necessary to constitute a quorum shall fail to attend in person or by proxy at the time and place of a meeting, the Chairman of the meeting, or a majority of the votes present in person or by proxy, may adjourn the meeting from that time until the necessary number of Association members shall be in attendance. No further notice or other announcement of the meeting shall be required and, at any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the original meeting.

Section 4.07. Quorum. Except as otherwise provided in these Bylaws or by the Articles of Incorporation or the Declaration, the presence in person or by proxy of Association Members possessing a sufficient voting interest to constitute one-fourth (1/4) of the votes of each class of membership shall constitute a quorum, and such members present in person or by proxy shall constitute the members entitled to vote upon any issue presented at a meeting at which a quorum is present. If a quorum exists, the action of a majority of the votes present shall be sufficient to make decisions binding on all owners, unless a different number or method of voting is expressly required by statute or by the Declaration, this Association's Articles of Incorporation, or these Bylaws. If, however, a quorum shall not be present or represented at the meeting, the Members entitled to vote at the meeting shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or be represented.

Section 4.08. Voting by Mail. Voting by mail is permitted for election of Directors, amendment of the Articles of Incorporation, or adoption of a proposed plan of merger, consolidation, or dissolution, pursuant to the provisions of the Colorado Nonprofit

Corporation Act, as amended from time to time. In the case of a vote by mail, the Secretary shall give written notice to all Members, which notice shall include (i) a proposed written resolution setting forth a description of the proposed action; (ii) a statement that such persons are entitled to vote by mail for or against such proposal; (iii) a statement of a date not less than twenty (20) days after the date such notice shall have been given by which all votes must be received; and (iv) the specified address of the principal office of the corporation to which all votes must be sent. Votes received after that date shall not be effective. Delivery of a vote in writing to the principal office of the corporation shall be equivalent to receipt of a vote by mail at such address for the purpose of this Section.

Section 4.09. Proxies. At all meetings of Members, votes may be cast in person or by proxy, but no proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. All proxies shall be in writing and must be filed with the Secretary at or before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his unit.

Section 4.10. Majority of Owners. As used in these Bylaws, the term “majority” shall mean those votes, Owners, or other groups as the context may indicate totaling more than fifty percent (50%) of the total number.

Section 4.11. Cumulative Voting. Cumulative voting is prohibited.

Section 4.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring there.

Section 4.13. Action Without a Meeting. Any action that may be taken by the vote of members at a regular or special meeting may be taken without a meeting with the written consent of all of the members.

Section. 4.14. Record Date for Determining Membership. The Board of Directors shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any other information or material, or in order to make a determination of membership, for any purposes other than assessments. The Members existing on such record date shall be deemed Members for such notice, vote, meeting, furnishing of information or materials with respect to the same matter, and for any adjournment of the same meeting. A record date shall be not less than ten (10) days nor more than sixty (60) days prior to the date on which the particular action requiring determination of membership is proposed or expected to be taken or to occur. If no record date is established for a meeting, the date on which notice of such meeting is first given to any Members shall be deemed the record date for the meeting.

ARTICLE V

BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 5.01. Number and Qualification. The control and management of the affairs of the Association and the disposition of its funds and property shall be governed by a Board of Directors. Directors shall be members of the Association, or the delegates of Members appointed by proxy under Section 3.05 above, or representatives of the Declarant. Directors shall be a minimum age of 18, or as the Act may state from time to time. The Board of Directors shall consist of the three (3) or five (5) directors designated in the Articles of Incorporation and they shall act in such capacity until their successors are elected and qualified. The number of directors may be increased or decreased by amendment of these Bylaws; provided, however, that the number of directors shall not be reduced to fewer than three (3), nor increased to more than seven (7); and, provided further, that no decrease in the number of directors by amendment of these Bylaws shall have the effect of shortening the term of any incumbent directors. The initial Board of Directors shall consist of three (3) directors.

Directors shall be classified as follows:

- A. **Class A.** Class A members shall elect one (1) director; except during Declarant control as provided under Section 5.02 below.
- B. **Class B.** The Class B member shall appoint two (2) directors who shall be known as Declarant Directors. If the Class B membership is terminated, thereafter the Members shall elect the remaining two (2) directors.

Section 5.02. Directors During Declarant Control. As long as the Class B membership exists, the Board of Directors shall be selected by Declarant and shall serve at the sole discretion of Declarant, except as provided in Section 5.04 below. Declarant may surrender its right to select the Board of Directors prior to termination of the Class B membership. The Directors selected by Declarant need not be Members of the Association.

Section 5.03. Nominating Committee. Except with respect to Directors selected by Declarant, nominations for election to the Board of Directors shall be made by a Nominating Committee, consisting of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its sole discretion determine, but in no event less than the number of vacancies or terms to be filled by vote of the Members. Nominations shall be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualification to the Members and to solicit votes.

Section 5.04. Election of Directors. Directors shall be elected as follows:

- A. **During Class B Membership.** Declarant's unilateral right to appoint members of the Board of Directors as set forth in Section 5.02 above shall be modified by the right of the Class A Members to elect one (1) or more Class A Directors, as follows. Within thirty (30) days of the time that the number of Class A Members other than the Declarant is equal to or greater than twenty-five percent (25%) of the Association Members, the Association shall call a special meeting of Members at which the Class A Members shall elect at least one (1) and not less than twenty-five percent (25%) of the members of the Board of Directors of the Association. The Director so elected shall be subject to removal only as provided in these Bylaws, and not by Declarant acting alone, and shall be elected for a one (1) year term or until the next annual meeting of Members. A Class A Director to fill such position shall be elected at each annual meeting of Members thereafter. Within thirty (30) days of the time that the number of Class A Members other than Declarant is equal to or greater than fifty percent (50% of the Association Members, the Association shall call a special meeting of Members at which the Class A Members shall elect not less than thirty-three and one-third percent (33 1/3%) of the members of the Board of Directors. The Directors so selected shall be subject to removal only as provided in these Bylaws, and not by Declarant acting alone, and shall be elected for one (1) year terms or until the next annual meeting of Members. Two (2) Class A Directors to fill such positions shall be elected at each annual meeting of Members thereafter. Such Directors shall be elected at large.
- B. **Subsequent to Termination of Class B Membership.** At the first meeting of the Members following termination of the Class B membership, Declarant shall turn control of the Association over to the Members, and they shall elect all of the Board of Directors. Any terms of Class A Directors that have not expired shall terminate. At each annual meeting of Members thereafter, Directors shall be elected at large. The candidates receiving the most votes shall be elected to each vacant position (for example only, if three (3) Director positions are to be elected, the candidate receiving the most votes shall be elected to one director position, the candidate receiving the second most votes shall be elected to the second director position, and the candidate receiving the third most votes shall be elected to the third director position). Should two (2) or more candidates receive the same number of votes and it becomes necessary to determine who shall be elected to a director position, a run-off election shall be held between those candidates for the purposes of determining who shall be elected to the director position.
- C. **Term of Office.** At the first election of Directors following the termination of the Class B membership, the following terms shall be set for the Directors in order to establish a system of three (3) year terms in which at least one-third (1/3) of the Board is re-elected in each year.
1. The Director receiving the highest number of votes shall hold office for a term of three (3) years;
 2. The Director receiving the next highest number of votes shall hold office for a term of two (2) years;

3. The Director receiving the next highest number of votes shall hold office for a term of one (1) year; and
4. If more than three (3) director positions exist, the remaining elected directors shall hold office for a term of one (1) year.

At the expiration of the initial term of office of each respective Director, a successor shall be elected to serve three (3) years. Each Director shall hold office until such Director's successor shall have been elected by the Association and qualified.

Section 5.05. Voting Procedures for Directors. Elections for the first two (2) Directors elected by the Association will be conducted pursuant to Section 5.04(A) above, unless the Section is rendered inapplicable by earlier termination of Class B membership or surrender by Declarant of its right to select Directors. The first general election of the Board shall be conducted at the first meeting of Members following termination of the Class B membership. At that and subsequent elections, the Members of the Association may cast as many votes as they are entitled to exercise under the provisions of Section 3.02. Voting for Directors shall be by secret written ballot.

Section 5.06. Removal of Directors; Vacancies. Directors may be removed and vacancies on the Board may be filled as follows:

- A. **By the Members.** During the term of Class B membership with regard to Class A Directors, and following termination of the Class B membership with respect to any Director, such members of the Board of Directors may be removed by a majority of votes of the Class A Members, with or without cause, at any regular or special meeting of the Members duly called. The votes cast to remove a Director may only represent those members entitled to vote for a successor. A successor to any Director removed may then and there be elected to fill the vacancy created. A Director whose removal is proposed by the Members shall be given at least ten (10) days' notice of the date and purpose of the meeting, and shall be given an opportunity to be heard at the meeting.
- B. **By the Board.** Any Director who has three (3) consecutive unexcused absences from the Board meetings or who is delinquent in the payment of any Assessment for more than thirty (30) days may be removed by a majority vote of the Directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board. In the event of the death, disability, or resignation of a Director, the Board may declare a vacancy, and it may appoint a successor. Any Director appointed by the Board shall serve for the remainder of the term such successor was appointed to fill.

Section 5.07. Vacancies Due to an Increase in the Number of Directors. Any directorship to be filled by reason of an increase in the number of directors may be filled by an affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors. Any directorship to be filled by reason of any increase in the number of directors

may be filled by the Board of Directors for a term of office continuing only until the next election of directors.

Section 5.08. Compensation. No Director shall receive compensation for any service he or she may render to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of such Director's duties. No remuneration shall be paid to a Director for services performed by the Director for the Association in any other capacity, unless a resolution authorizing such remuneration shall have been adopted by the Board of Directors before the services are undertaken.

Section 5.08. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the Directors and placing such written approval on file with the Secretary of the Association. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE VI

MEETING OF DIRECTORS

Section 6.01. Regular Meetings. Regular meetings of the Board of Directors shall be held at such regular times as set by the Board of Directors, at such hour and place as may be fixed from time to time by resolution of the Board. At least one (1) regular meeting shall be held each quarter, but more frequently if agreed to by the Board of Directors. Should the meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day business which is not a legal holiday. Notice of regular meetings of the Board of Directors shall be given to each Director, personally, by U.S. mail, private courier service, telephone, telegraph, facsimile transmission, or electronic mail (i.e. "e-mail") at least ten (10) days prior to the day named for the meeting.

Section 6.02. Special Meetings. Special meetings of the Board of Directors may be called by the President of the Association, after not less than ten (10) days' notice to each director, given personally, by U.S. mail, private courier service, telephone, telegraph, facsimile transmission, or electronic mail (i.e. "e-mail") which notice shall state the time and place and purpose of the meeting. The President or Secretary shall call special meetings of the Board of Directors in like manner and on like notice upon the written request of at least any two (2) Directors.

Section 6.03. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular called and noticed if (i) a quorum is present, and (ii) either before, at, or any meeting of the Board of Directors, each Director not present signs a written waiver of notice. The waiver of notice or consent need not specify the purpose of the meeting. Attendance by any Director at any meeting of the Board of Directors shall be a waiver of notice by the Director of the time and place thereof if the Director does not protest before or

at the meeting's commencement about the lack of adequate notice. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 6.04. Quorum/Vote Required. Unless otherwise specified in the Declaration, at a meeting of the Board of Directors, a majority of the number of directors acting and qualified shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except as otherwise specifically required by law, this Association's Articles of Incorporation, the Declarations, or these Bylaws.

Section 6.05. Adjournments. The Board of Directors may adjourn any meeting from time to time or for such other time as may be prudent or necessary in the interest of the Association, provided that no meeting may be adjourned for a period longer than thirty (30) days.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 7.01. General. The Board of Directors shall have the power and duties necessary for the administration of the affairs of the Association. The Board of Directors may do all such acts and things as are not by law or by the Articles of Incorporation, these Bylaws, or the Declaration directed to be exercised and done by the Members. The powers of the Board of Directors shall include, but not be limited to, all of the rights and duties of the Board of Directors as set forth elsewhere in these Bylaws and this Association's Articles of Incorporation and in the Declaration, and shall also include the power to promulgate such rules and regulations pertaining to such rights and duties as may be deemed proper and which are consistent with the foregoing. The Board of Directors may delegate such duties as appear in the best interest of the Association and to the extent permitted by law.

Section 7.02. Additional Powers, Duties, and Responsibilities. Without limiting the generality of its powers and duties set forth in Section 7.01 above, the Board of Directors shall have the authority and the responsibility, acting through the Association's officers, of the powers and duties as follows:

- A. To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations, and all other provisions set forth in the Declaration and in the Colorado Common Interest Ownership Act (the "Act").
- B. To adopt, publish, amend from time to time, and enforce compliance with such reasonable rules and regulations as may be necessary for the operation, use, and occupancy of Heritage Park, including, but not limited to, the Common and Limited Common areas included within Heritage Park, subject to the provisions of the Declaration. Such rules and regulations may provide for charges for the use of the

Common and Limited Common areas to be used by nonmembers when, in the sole discretion of the Association's officers, such use is reasonable and appropriate. Such rules and regulations may provide for the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof. Such rules and regulations may be amended from time to time by a majority vote of the Board of Directors. A copy of such rules and regulations shall be delivered to or mailed to each Member promptly after adoption.

- C. To operate and maintain in good order, condition, and repair the entire Common and Limited Common areas, and all items of personal property, if any, used in the enjoyment of the Common and Limited Common areas. No approval of the Members is required for expenditures for these purposes, except as otherwise required by the Declaration or these Bylaws.
- D. To obtain and maintain insurance of all insurable property contained in the Common Area and to maintain casualty and other insurance, all as required by the Declaration.
- E. To fix, determine, assess, levy, and collect the prorated periodic and special assessments (as more specifically described in the Declaration) to be paid by each of the Members to meet the gross expenses of Heritage Park; other fees, charges, or amounts for which Members are liable; to create a contingency reserve therefor based upon a good faith estimate of the costs of the maintenance, and repair of the Common and Limited Common areas; and to pay the cost of utilities and other services to be provided by or through the Association, the cost of insurance required by the Declaration, proposed capital expenditures, and the Association's administrative and operating costs.

Periodic assessments on all Lots shall be made on such basis as the Board of Directors may determine in its sole discretion. Special assessments may be levied by the Board of Directors in its sole discretion whenever it is necessary or advisable to do so (i) to meet increased operating, administrative, or maintenance costs, or (ii) because of emergencies; provided, however, that any special assessments shall be subject to the approval of sixty-five percent (65%) of the votes of each class of Members attending a meeting for the purpose of approving such Assessments if the aggregate special Assessment exceeds ten percent (10%) of the gross annual budget for the Association for that year or ten thousand dollars (\$10,000.00), whichever is greater. Special Assessments for capital expenses arising from damage or destruction of the Common Area or Limited Common Area are subject to the provisions of the Declaration concerning damage or destruction. Each periodic or other assessment shall itemize in detail the various costs and expenses for which the Assessment is being made.

- F. To fix, determine, levy, and collect per diem or weekly fees for maid, supply, and other costs and services associated with the occupancy of the Lots (all set forth in greater detail in the Declaration).

- G. To levy and collect default Assessments for violation of the Heritage Park documents or because the Associate has incurred an expense on behalf of a Member under the Heritage Park Documents.
- H. To collect promptly all delinquent Assessments by suit or otherwise, and to enjoin or seek damages from a Member as is provided in the Declaration and these Bylaws; and to exercise other remedies for delinquent Assessments as set forth in the Declaration.
- I. To protect and defend the Premises from loss and damage, by suit or otherwise.
- J. To borrow funds in order to pay for any expenditure or outlay authorized by these Bylaws and the Declaration, and to authorize the appropriate officers to execute all such instruments evidencing such indebtedness as the Board of Directors may deem necessary and advisable; provided, however, the Board shall not borrow more than fifty thousand dollars (\$50,000.00) or cause the Association to be indebted for more than fifty thousand dollars (\$50,000.00) at any one time without the prior approval of at least sixty-seven percent (67%) of the votes of both classes of membership.
- K. To enter into contracts within the scope of its duties and powers.
- L. To establish one (1) or more bank or other deposit accounts for the operating account of the Association and for all separate funds which are required or may be deemed advisable by the Board of Directors.
- M. To cause to be kept and maintained full and accurate books and records showing all of the receipts, expenses, or disbursements of the Association; and to permit examination thereof by Members or their Mortgagees at convenient weekday business hours.
- N. To maintain a complete record of all the acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members, or at any special meeting when such statement is requested in writing by fifty percent (50%) of the Members who are entitled to vote.
- O. To prepare and deliver annually to each Member a statement showing all receipts, expenses, or disbursements since the last such statement.
- P. To designate, remove, and supervise officers, employees, and agents of the Association necessary for the operation, maintenance, repair, and replacement of the Premises.
- Q. To suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations.

- R. To cause any and all access roads, parking areas, and driveways in and to Heritage Park and across the Property to be maintained, except as otherwise provided under the Declaration.
- S. To cause the maintenance of the lawn, trees, shrubs, and other vegetation, and the irrigation system located on the Common Area for the benefit of the Members.
- T. To delegate to the Manager or any other person or entity such of the Association's duties or responsibilities as may be more conveniently or efficiently performed by another than by the Association, and to agree to assess to the Members a reasonable fee for such services, except that the duties set forth in subparagraphs (E), (F), (G), (J), and (K) of this Section 7.02 shall not be so delegated.
- U. To assist the Design Review Committee in the performance of their functions.

Section 7.03. Manager.

- A. The Board of Directors may employ a manager, Managing Agent(s), independent contractor, or such other employees as they deem necessary at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Manager and Managing Agent may exercise such powers and perform such duties and services as the Board of Directors shall authorize, subject to the Boards' supervision, except those powers set forth in subparagraphs (E), (F), (G), (J), (K), and (T) of Section 7.02 of this Article. Declarant, or an affiliate or employee of Declarant, may be employed as Manager. Such a delegation shall not, however, relieve the Board of Directors of its responsibilities under the Declaration.
- B. No management contract may have a term in excess of three (3) years and must permit termination by either party without cause and without payment of a termination fee on ninety (90) days' or less written notice.

Section 7.04. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- A. Accrual accounting, as defined by generally accepted accounting principles, shall be employed.
- B. Accounting and controls should conform with established AICPA guidelines and principles. A segregation of accounting duties should be maintained, and disbursements by check shall require two (2) signatures. Cash disbursement shall be limited to amounts of \$25.00 or less.
- C. Cash accounts of the Association shall not be commingled with any other accounts.
- D. No remuneration shall be accepted by the Board of Directors or the Manager 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 (except that such persons may be employees of Declarant during the period of Class B membership); anything of value received shall benefit the Association.

- E. Any financial or other interest that the Manager or a member of the Board of Directors may have in any firm (other than Declarant) providing goods or services to the Association shall be disclosed promptly to the Board of Directors.
- F. Commencing at the end of the calendar quarter in which the first Lot is sold and closed and continuing on a quarterly basis, financial reports shall be prepared for the Board of Directors containing:
 - 1. An income statement reflecting all income and expense activity for the preceding three (3) months on an accrual basis;
 - 2. An account activity statement reflecting all receipt and disbursement activity for the preceding three (3) months on an accrual basis; and
 - 3. A delinquency report listing all Members who have been delinquent during the preceding three (3) month period in paying the monthly installments of Assessments and who remain delinquent at the time of the report, and describing the status of any action to collect such installments which remain delinquent.
- G. A balance sheet as of the last day of the Association's fiscal year and an operating statement for said fiscal year shall be distributed to the Members. At the written request of a Member or First Mortgagee, such statement shall be audited at the requesting party's expense. Any such audited statement shall be delivered to any Member requesting the report and to the Association upon payment of a reasonable fee for copying.
- H. An account status report reflecting the status of all accounts in an "actual" versus "approved" budget format with a budget report reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent (10%) of a major budget category (as distinct from a specific line item in an expanded chart of accounts) shall be prepared for the Board periodically and available to all Members on an annual basis.

Section 7.05. Hearing Procedure. The Board shall not impose a fine, suspend voting, or suspend any rights of a Member or other occupant for violations of rules and regulations or of the provisions of the Heritage Park Documents unless and until the following procedure is followed:

- A. **Demand.** Written demand to cease and desist from the alleged violation shall be served upon the alleged violator specifying:
 - 1. The alleged violation;

2. The action required to abate the violation and
 3. A time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any additional similar violation may result in the imposition of a sanction after notice and hearing, if the violation is not continuing.
- B. **Notice.** At any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same rule is subsequently violated, the Board or its delegate shall service the violator with written notice of a hearing to be held by the Board. The notice shall contain:
1. The nature of the alleged violation;
 2. The time and place of the hearing, which time shall not be less than ten (10) days from the giving of the notice;
 3. An invitation to attend the hearing and produce any statement, evidence, and witness on the Member's behalf; and
 4. The proposed sanctions to be imposed.
- C. **Hearing.** The hearing shall be held pursuant to this notice affording the Member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if the officer, Director, or agent who delivered such notice enters a copy of the notice into the minutes of the meeting, together with a statement of the date and manner of delivery of such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. Written and oral evidence may be presented. The presenting party shall provide copies of any written evidence to the other party or parties. The decision of the Board shall be final.
- D. **Appeal.** The Board may, in its sole discretion, appoint a Hearing Committee to hear the matter. In such event, the above procedure will apply except that either party may appeal the decision of the Hearing Committee to the Board by written notice to the Hearing Committee, the other party and the Board. The Board shall consider the minutes of the hearing and report the decision of the Board within a reasonable period of time not exceeding ninety (90) days after receipt of the notice. The decision of the Board shall be final.

These procedures shall not be necessary in order to impose any sanction or penalty for nonpayment of a delinquent Assessment. Unless the Design Guidelines require otherwise, the Design Review Committee shall employ the above procedures before ordering modification or removal of any Improvements erected without its proper consent. Members

shall follow the above procedures in contesting a decision of the Design Review Committee except that instead of employing Paragraph A above, the aggrieved Member shall proceed to Paragraph B, and the Member shall give the Design Review Committee and the Board notice of the decision appealed from, including a copy of the decision. The Board shall then give the notice of hearing consistent with Section 7.05(B)(1), (2), and (3) above, and the Board shall consider appeals regarding such matters in the manner set forth above.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 8.01. General. The officers of this Association shall be a President and one (1) or more Vice Presidents, and such other officers as the Board may from time to time by resolution create, all of who shall at all times be Members of the Board of Directors. A Secretary and a Treasurer shall also be designated, but the Secretary and Treasurer need not be members of the Board of Directors nor members of the Association. The officers shall be appointed by an affirmative vote of a majority of the Board of Directors.

One person may hold any two offices, except that no person may simultaneously hold the offices of President and Secretary.

In all cases where the duties of any officer, agent, or employee are not prescribed by the Bylaws or by the Board of Directors, such officer, employee, or agent shall follow the orders and instructions of the President of the Association.

Section 8.02. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each Annual Meeting of the Members.

Section 8.03. Term. The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year or until his or her successor is duly elected and qualified, unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 8.04. Special Appointments. The Board of Directors may appoint such other officers, assistant officers, committees, and agents, including assistant secretaries and assistant treasurers, as the Board of Directors may from time to time consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board of Directors.

Section 8.05. Removal and Resignation.

1. **Removal.** Any officer may be removed from office with or without cause by an affirmative vote of a majority of the members of the Board of Directors. His or her successor shall be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

2. **Resignation.** 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. . His or her successor shall be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

Section 8.06. 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 replaced.

Section 8.07. Compensation. No compensation shall be paid to officers for their services as officers unless a resolution authorizing such remuneration shall have been adopted by the Board of Directors before the services are undertaken.

Section 8.08. Duties. The duties of officers are as follows:

- A. **President.** The president shall be a member of the Board of Directors and shall be the chief executive officer of the Association. The president, unless the Managing Agent is so directed, shall preside at all meetings of the Board of Directors and shall see that orders and resolutions of the Board of Directors are carried out. The president shall have the general and active control of the affairs and business of the Association and general supervision of its officers, employees, and agents. The president shall sign all leases, mortgages, deeds, and other written instruments and shall co-sign all checks and promissory notes.
- B. **Vice Presidents.** The Vice Presidents shall assist the President and shall perform such duties as may be assigned to them by the president or by the Board of Directors. In the absence of the president, the vice president designated by the Board of Directors or (if there be no such designation) designated in writing by the president, shall have the powers and perform the duties of the president. If no such designation shall be made, all vice presidents may exercise such powers and perform such duties.
- C. **Secretary.** The Secretary, unless the Managing Agent is so directed, shall:
 1. Record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members.
 2. See that all notices are duly given in accordance with the provisions of these Bylaws, the Declaration, and as required by law.
 3. Be custodian of the corporate records and of the corporate seal of the Association and affix the seal to all documents when authorized by the Board of Directors.

4. Keep at the registered office of the Association or principal place of business within or outside Colorado, records the names and addresses of all Members of the Association, the designation of Lot owned by each Member, and, if such Lot is mortgaged, the name and address of the Mortgagee.
5. In general, perform all duties incident to the office of secretary and such other duties as from time to time may be required by the President or the Board of Directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the Secretary.

D. **Treasurer.** The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association, and shall deposit the same in accordance with the instructions of the Board of Directors. The treasurer, unless the Managing Agent is so directed, shall:

1. Receive and deposit in appropriate bank accounts all monies of the Association, shall disburse such funds as directed by resolution of the Board of Directors, and shall keep proper books of all accounts.
2. Sign all checks.
3. If directed by a resolution of the Board of Directors, cause an annual review of the Association books to be made by a public accountant at the completion of each fiscal year.
4. Prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular Annual Meeting, and deliver a copy of each to the members.
5. If so required by the Board of Directors, provide the Association a bond in such sums and with sureties as shall be satisfactory to the Board of Directors, conditioned upon the faithful performance of the treasurer's duties and for the restoration to the Association of all books, papers, vouchers, money, and other property of whatever kind in his or her possession or under his or her control belonging to the Association.
6. Have such other powers and perform such other duties as may be from time to time prescribed by the Board of Directors or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

ARTICLE IX

COMMITTEES

Section 9.01. Committees. The Board shall appoint a Nominating Committee as provided in these Bylaws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 10.01. Indemnification. The Association shall indemnify every Director and officer, or former Director or officer, and their respective successors, personal representatives, heirs, executors, and administrators against all loss, costs and expenses, including counsel fees, reasonably incurred by such person in connection with any action, suit, or proceeding to which such person may be made a party by reason of such person's being or having been a Director or officer of the Association, except as to matters as to which such person shall be finally adjudged in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of such person's duty to the Association. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of such person's duty as such Director or officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such Director or officer may be entitled. All liability, loss, damage, cost, and expense incurred or suffered by the Association by reason of or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as common expenses; provided, however, that nothing contained in this Article shall be deemed to obligate the Association to indemnify any member or Owner of a Lot, who is or has been a Director or officer of the Association, with respect to any duties or obligations assumed or liabilities incurred by him or her under any, or by virtue of the, Declaration as a member or Owner of a Lot covered thereby. The Board of Directors may at the Association's expense purchase Director/Officer's Errors and Omissions Insurance from insurers as the Board of Directors deems appropriate.

ARTICLE XI

AMENDMENTS

Section 11.01. Articles of Incorporation. Amendments may be made to this Association's Articles of Incorporation in the manner provided by law by vote of the membership of the Association at any annual meeting or special meeting of the membership, provided that the notice of such meeting states that such amendment is to be considered.

Section 11.02. Bylaws.

- A. **Amendment by the Members.** These Bylaws may be supplemented, amended, or repealed by a majority vote of the Members of the Association present in person or by proxy and constituting a quorum at any regular or special meeting of the Members of the Association called for that purpose. Amendments may be proposed by the Board of Directors, or by petition signed by at least fifty-one percent (51%) of the voting strength of the Members of the Association. A statement of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment shall be voted upon.
- B. **Amendment by the Directors.** These Bylaws may be supplemented, amended, or repealed by the affirmative vote of a majority of the Board of Directors present in person or by proxy and constituting a quorum at any regular or special meeting of the Board of Directors. A statement of any proposed amendment shall accompany the notice of any regular or special meeting of the Board of Directors at which such proposed amendment shall be voted upon. Notwithstanding the foregoing, if the Members shall make, amend, or repeal any bylaw, the Directors shall not thereafter amend the same in such manner as to defeat or impair the object of the Members in taking such action.

Section 11.03. Limitation on Amendments. No amendment of these Bylaws shall be contrary to or inconsistent of any provision of this Association's Articles of Incorporation, and no amendment of this Association's Articles of Incorporation or these Bylaws shall be contrary to or inconsistent with any provision of the Declaration or the Act.

Section 11.04. Conflict. In the case of any conflict between the Act, the Association's Articles of Incorporation, and these Bylaws; then the Act, the Articles, the Declaration, and these Bylaws shall control, in that order.

ARTICLES XII

MISCELLANEOUS

Section 12.01. Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member or first mortgagee. The Declaration, the Articles of Incorporation, the Bylaws and current Rules and Regulations of the Association shall be available for inspection by any member or first mortgagee at the principal office of the Association, where copies may be purchased.

Section 12.02. Corporate Seal.

1. The Board of Directors shall provide a suitable corporate seal containing the name of the Association and the words "Seal, Colorado", which seal shall be in the custody and control of the Secretary.

2. If and when so directed by the Board of Directors, a duplicate seal may be kept and used by such officer, management, or other person as the Board of Directors shall name.

Section 12.03. Conveyances and Encumbrances. Properly authorized conveyances or encumbrances of Association property shall be by instrument executed by the President and attested by the Secretary, the treasurer, an assistant secretary, or assistant treasurer, or executed by such other person or persons to whom such authority may be delegated by the Board of Directors.

Section 12.04. 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.

Section 12.05. Right of Entry. The Manager and Managing Agent, if any, and any person authorized by the Board of Directors shall have the right to enter each Lot in case of any emergency originating in or threatening such Lot whether or not the Owner or occupant is present at the time. Such authorized persons shall also have the right to enter each Lot to perform maintenance and repair work as prescribed by these Bylaws and the Declaration.

Section 12.06. Services. Attached hereto as Schedule A is a list of services provided by the Association, paid for out of the regular periodic assessment.

APPROVED AND ADOPTED this _____ day of _____ 2006, by
the undersigned as the initial Board of Directors of HERITAGE PARK HOMEOWNERS
ASSOCIATION.

SCHEDULE A

(Attached to, and made a part of, the Bylaws of the Heritage Park Homeowners Association)

LIST OF SERVICES PROVIDED BY THE ASSOCIATION, PAID FOR OUT OF THE REGULAR PERIODIC ASSESSMENT.

The following services and charges for the Common Areas shall be included as regular items of the budget and shall be paid for out of the regular periodic assessment:

DRAFT:

- 1. Water and sewer.***
- 2. Snow removal.***
- 3. Electricity.***
- 4. Fire, life, and safety.***
- 5. Property taxes and assessments.***
- 6. Insurance.***
- 7. Reserve for Common Area replacements and additions.***
- 8. Legal, accounting, administration, and postage.***
- 9. Management fee.***