

BY-LAWS
OF
MESA HOMEOWNERS ASSOCIATION

ARTICLE I

OBJECT AND DEFINITIONS

1.1 **Purpose.** The purpose for which this Association is formed is to govern the property located in Arapahoe County, Colorado, and more particularly described on Exhibit "A", attached hereto and incorporated herein by this reference, and any other property which the Association may own.

The above-referenced property has been submitted to a Declaration entitled Declaration of Covenants, Conditions, and Restrictions of Mesa (hereinafter referred to as the "Declaration").

1.2 **Assent.** All present or future owners, tenants, future tenants, or any other person using the facilities of the Properties in any manner are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the Lots of the Project or the mere act of occupancy of the Lots shall constitute ratification of these By-Laws.

1.3 **Definitions.** Unless otherwise specified, capitalized terms shall have the same meaning in these By-Laws as such terms have in the Declaration.

ARTICLE II

**MEMBERSHIP, VOTING, MAJORITY OF OWNERS,
QUORUM, PROXIES**

2.1 **Membership.** The total number of memberships shall not exceed the number of Lots. Upon becoming an Owner of a Lot, any person, including Declarant and Participating Builder, automatically shall become a member of this Association and shall be subject to the provisions of the Articles of Incorporation, the Declaration, and to these By-Laws. Such membership shall terminate without any Association action whenever such person ceases to own a Lot, but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in connection with the Association during the period of ownership and membership in this Association, nor shall such termination impair any rights or remedies which the Board of Directors of the Association or others may have against such former Owner and Member arising out of, or in any way connected with, such ownership and membership, and the covenants and obligations incident thereto. No certificates of stock shall be issued by the Association, but the

Board of Directors may, if it so elects, issue one membership card to the Owner(s) of a Lot. Such membership card shall be surrendered whenever ownership of the Lot designated thereon shall terminate.

2.2 Voting Rights; Declarant Control.

2.2.1 All Owners shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit.

2.2.2 During the Declarant Control Period, Declarant shall be entitled to exercise certain rights as provided in the Declaration, including but not limited to the right to appoint the members of the Board of Directors of the Association.

2.2.3 Notwithstanding the foregoing voting rights and during the Declarant Control Period only, the Owners other than Declarant shall be entitled to elect at least one (1) but not more than one-third (1/3) of the members of the Board of Directors, upon the happening of the following events:

2.2.3.1 At a meeting of the Association called for this purpose within sixty (60) days after the date on which Declarant has conveyed twenty-five percent (25%) of the Maximum Number of Lots to purchasers other than Declarant or a successor Declarant, the Owners other than Declarant shall be entitled to elect at least one (1) but not more than twenty-five percent (25%) of the members of the Board of Directors, whichever is greater.

2.2.3.2 At a meeting of the Association called for this purpose within sixty (60) days after the date on which Declarant has conveyed fifty percent (50%) of the Maximum Number of Lots to purchasers other than Declarant or a successor Declarant, the Owners other than Declarant shall be entitled to elect at least one (1) but not more than one-third (1/3) of the members of the Board of Directors, whichever is greater.

2.2.4 On or after the date on which the Declarant has conveyed twenty-five percent (25%) of the Maximum Number of Lots to purchasers other than Declarant, the Board of Directors may increase the number of Directors from three (3) to five (5) members; provided, however, that the increased number or members shall be used to determine the number of Directors for whom the Owners other than Declarant may vote pursuant to Section 2.2.3.

2.2.5 At a meeting called for this purpose which shall be held no later than the expiration of the Declarant Control Period, the Owners shall elect the Board of Directors of the Association, which shall be comprised of at least three (3) Members, at least a majority of whom shall be Owners other than Declarant or designated representatives of Owners other than Declarant.

2.2.6 Within sixty (60) days after the Owners other than Declarant elect a majority of the Board of Directors, Declarant shall deliver to the Association those items of property described in C.R.S. § 38-33.3-303(9) which are in existence and in Declarant's custody or control.

2.2.7 All Members shall be entitled to vote on all matters that may properly come before the Members, except as provided above. Cumulative voting is prohibited. No person or entity other than an Owner of a Lot may be a Member of the Association. Members shall have no preemptive rights to purchase other Lots or the memberships appurtenant thereto.

2.2.8 If title to a Lot is held by more than one person or by a firm, corporation, partnership, association, or other legal entity, or any combination thereof, such Owners shall execute a proxy appointing and authorizing one person or alternative persons to attend all annual and special meetings of Members, and thereat to cast whatever vote the Owner himself might cast if he were personally present. Such proxy shall be effective and remain in force unless voluntarily revoked, amended, or sooner terminated by operation of law. Within thirty (30) days after such revocation, amendment, or termination thereof, however, the Owner shall reappoint and authorize one person or alternate persons to attend all annual and special meetings as is provided in this paragraph.

2.2.9 A membership in the Association shall not be assigned, encumbered, or transferred in any manner except as an appurtenance to the transfer of title to the Lot to which the membership pertains; provided, however, the rights of membership may be assigned to the holder of a Mortgage on a Lot as further security for a loan secured by a lien on such Lot.

2.2.10 A transfer of membership shall occur automatically upon the transfer of title to the Lot to which the membership pertains. The By-Laws of the Association may, however, contain reasonable provisions and requirements with respect to recording such transfers on the books and records of the Association.

2.2.11 The Association may suspend the voting rights of a Member for failure to comply with the Rules and Regulations or the By-Laws of the Association or with any other obligations of the

Owners of a Lot under the Declaration or agreement created thereunder.

2.3 Transfer. Except as otherwise expressly stated herein, any of the rights, interest, and obligations of the Association set forth or reserved herein may not be transferred or assigned to any other person or entity. No such transfer or assignment shall relieve the Association of any of the obligations set forth herein. No such transfer or assignment shall revoke or change any of the rights or obligations of any Owners as set forth herein.

2.4 Majority of Owners. As used in these By-Laws, the term "majority of Owners" shall mean and refer to Owners who in the aggregate are allocated at least a simple majority, i.e., more than fifty percent (50%), of the votes in the Association.

2.5 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of Owners to whom twenty percent (20%) of the votes in the Association are allocated shall constitute a quorum. An affirmative vote by the Owners, present physically or by proxy, representing a majority of the votes entitled to be cast by virtue of their presence in person or by proxy at a duly called meeting, shall be required to transact any business. The Members present at any duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum.

2.6 Proxies.

2.6.1 Votes may be cast in person or by proxy. Proxies shall be in writing and must be filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot or upon receipt by the Association of written notice of the death or incapacity of the Member who executed the proxy. No proxy shall be valid for a period longer than eleven (11) months after the date thereof.

2.6.2 Any form of proxy or written ballot distributed to the Members shall afford an opportunity on the proxy or form of written ballot to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy is solicited or by such written ballot, and shall provide, subject to reasonable specific conditions, that where the Member solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance therewith.

2.6.3 Every form of proxy or written ballot which provides an opportunity to specify approval or disapproval with respect to any proposal shall also contain an appropriate space marked "abstain," whereby a Member may indicate a desire to abstain from voting on the proposal. A proxy marked "abstain" by the Member with respect to a particular proposal shall not be voted either for or against such proposal.

2.6.4 In any election of Directors, any form of proxy or written ballot in which the Directors to be voted upon are named therein as candidates and which is marked by a Member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of Directors is withheld shall not be voted either for or against the election of a Director.

2.6.5 Failure to comply with this section shall not invalidate any corporate action taken, but may be the basis for challenging any proxy at a meeting and a court may compel compliance therewith at the suit of any Member.

2.7 Voting by Mail.

2.7.1 The Board of Directors may decide that voting of the Members shall be by mail with respect to any properly noticed matter or to any particular election of Directors or with respect to adoption of any proposed budget, or amendment to the Articles of Incorporation, or adoption of a proposed plan of merger, consolidation, or dissolution.

2.7.2 In case of the election of Directors by mail, the existing Board of Directors shall nominate candidates and shall advise the Secretary in writing of the names of nominated Directors sufficient to constitute a full Board of Directors, and of a date, which must be at least fifty (50) days after such advice is given, by which all votes are to be received. The Secretary, within five (5) days after such advice is given, shall give written notice of the number of Directors to be elected and of the names of the nominees to all Owners. The notice shall state that any such Owner may nominate an additional candidate or candidates, not to exceed the number of Directors to be elected, by notice in writing to the Secretary at the specified address of the principal office of the Association, to be received on or before a specified date fifteen (15) days from the date the notice is given by the Secretary. Within five (5) days after such specified date, the Secretary shall give written notice to all Owners, stating the number of Directors to be elected, stating the names of all persons nominated by the Board of Directors and by the Owners on or before the specified date, stating that each Owner may cast a vote by mail and stating the date established by the Board of Directors by which such votes must be received by the Secretary at the address of the principal

office of the Association, which shall be specified in the notice. Votes received after that date shall not be effective. All persons elected as Directors pursuant to such an election by mail by receipt of the number of votes required by applicable law shall take office effective on the date specified in the notice for receipt of such votes.

2.7.3 In the case of a vote by mail of the Members relating to any properly noticed matter or to any proposed amendment to the Articles of Incorporation or adopting a proposed plan of merger, consolidation, or dissolution, the Secretary shall give notice to all Owners, and shall further give notice to the First Mortgagees of Lots within the Project at the address supplied by the First Mortgagees to the Association, which notices shall include a proposed written resolution setting forth the description of the proposed action, and shall state that such persons are entitled to vote by mail for or against such proposal and stating a date not less than twenty (20) days after the date such notice shall have been given on or before which all votes must be received and stating that they must be sent to the specified address of the principal office of the Association. Votes received after that date shall not be effective. Except as otherwise provided in the Declaration, any proposal described in Section 4.6 of the Declaration shall be adopted if approved by the affirmative vote of the owners to whom sixty-seven percent (67%) of the votes of Members in the Association are allocated; provided, however, that the proposal shall not be considered unless sixty-seven percent (67%) of the First Mortgagees have given their consent as required in the Declaration.

2.7.4 Delivery of a vote in writing to the principal office of the Association shall be equivalent to receipt of a vote by mail at such address for the purposes of this Section 2.7.

ARTICLE III

ADMINISTRATION AND MEETINGS OF MEMBERS

3.1 Association Responsibilities. The Owners of the Lots will constitute the Association, who will have the responsibility of administering the Project through a Board of Directors.

3.2 Place of Meetings. Meetings of the Association shall be held at such place as the Board of Directors may determine.

3.3 Annual Meetings. The annual meeting of the Association shall be held at least once each year. At each annual meeting following the termination of the Declarant Control Period, Directors shall be elected by ballot of the Owners. The Owners may

also transact such other business of the Association as may properly come before them.

3.4 Special Meetings. The President shall call a special meeting of the Owners when so directed by resolution of the Board of Directors or upon presentation to the Secretary of a petition signed by twenty percent (20%) of the Owners. No business shall be transacted at a special meeting except as stated in the notice unless by consent of a majority of the Owners either in person or by proxy.

3.5 Notices. Except as otherwise provided in the Articles of Incorporation and the Declaration, notices of annual and special meetings shall be given by the President or Secretary of the Association by delivery or sent by first-class mail, postage prepaid, addressed to the registered addresses of the Owners at least ten (10) but not more than fifty (50) days prior to the date set for such meeting. Any such notice shall state the date, time and place of the meeting, and if the meeting is a special meeting, the purposes thereof. Waiver of notice, either in person or by proxy, and signed either before, at or after any meeting, shall be a valid substitute of service. The certificate of the President or Secretary that notice was duly given shall be prima facie evidence thereof. The notice of any meeting at which Directors are to be elected shall include the names of all those who are nominees at the time the notice is given to Owners. Notice shall also be given to the First Mortgagees on Lots at the address supplied by the First Mortgagee to the Association.

3.6 Adjourned Meeting. If any meeting of the Owners cannot be organized because a quorum has not attended, the owners who are present either in person or by proxy may adjourn the meeting to a time not less than forty-eight (48) hours and not more than thirty (30) days from the time the original meeting was called. The quorum required for voting at such rescheduled meeting shall be twenty percent (20%) of the Owners to whom twenty percent (20%) of the votes of Members in the Association are allocated. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed herein for regular meetings.

3.7 Order of Business. The order of business at all annual meetings of the Members shall be as follows:

- A. Roll call;
- B. Proof of notice of meeting or waiver of notice;
- C. Reading of Minutes of preceding meeting;
- D. Reports of Officers;

- E. Reports of Committees;
- F. Election of Directors;
- G. Unfinished business;
- H. New business.

The order of business at all special meetings of the Members shall be as stated in the notice of special meeting pursuant to Section 3.5 above.

ARTICLE IV

BOARD OF DIRECTORS (POWERS AND MEETINGS)

4.1 Number and Qualification. The affairs of this Association shall be governed by a Board of Directors composed of not less than three (3) or more than nine (9) persons selected from among the Owners or their designees. During the Declarant Control Period, partners, employees, officers, and/or directors of Declarant shall be considered Owners for purposes of membership on the Board of Directors. The initial Board shall consist of three (3) persons who shall act in such capacity and shall manage the affairs of the Association until their successors are elected. The number of Directors making up the Board may be changed upon approval of a majority of a quorum.

4.2 Election. At a special meeting of the Members of the Association at or before the expiration of the Declarant Control Period, called for this purpose, the Members shall elect the Board of Directors. The Board of Directors shall consist of not less than three (3) Members, at least a majority of whom shall be Owners other than Declarant or representatives of Owners other than Declarant. A Member shall be entitled to cast one vote for each Lot owned for each candidate for the Board of Directors, if the candidate's name has been placed in nomination prior to voting. No member shall be permitted to cumulate votes in any such election unless the Articles of Incorporation are amended to allow cumulative voting.

4.3 Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Project.

4.4 Other Powers and Duties. The Board of Directors shall be empowered to accomplish the following duties:

4.4.1 To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations, and all other provisions set forth in the Declaration, these By-Laws and the Articles of Incorporation.

4.4.2 To establish, make and enforce compliance with such reasonable Rules and Regulations as may be necessary for the operation, use, and occupancy of this Project, with the right to amend same from time to time, provided the Rules and Regulations are approved by the vote or written consent of a majority of the Members, and provided that (i) the Members may amend any such Rules and Regulations at any regular or special meeting of the Members or by the vote or written consent of a majority of the votes in the Association; (ii) such Rules and Regulations are reasonable, do not discriminate against Declarant, and are consistent with the Declaration, Articles of Incorporation and these By-Laws; and (iii) such Rules and Regulations shall not be effective until written notice thereof has been given by mailing a copy of the Rules and Regulations, postage prepaid, at least ten (10) days before the effective date to each Member addressed to the Member's address last appearing in the books of the Association. Such Rules and Regulations may include provisions regarding the limitation and control of all animals. Such Rules and Regulations may also include, without limitation, provisions regarding the leasing of Lots, including without limitation, the form of lease documents used, providing the Association with a copy of any such lease or leases, and such other related regulations deemed advisable or necessary by the Board of Directors.

4.4.3 To keep, or cause to be kept, in good order, condition, and repair all of the Common Area, Common Area Improvements and Lots, as applicable, and all items of common personal property, if any.

4.4.4 To insure and keep insured all of the insurable Common Area Improvements. Further, to obtain and maintain comprehensive liability insurance covering the Common Areas required by Article IX of the Declaration. To insure, and keep insured, all of the material fixtures, equipment and property acquired by the Association for the benefit of the Association and the Owners of the Lots and their First Mortgagees.

4.4.5 To fix, determine, levy, and collect the annual, special, or other assessments and installments thereof to be paid by each of the Owners towards the gross expenses of the entire premises; and by the majority vote of the Board to adjust, decrease, or increase the amount of the assessments or installments thereof. The Board of Directors, or its agent, may establish any reasonable system for collection periodically of Common Expenses, in advance or arrears as deemed desirable. Assessments made shall be based upon the estimated cash requirements deemed to be such aggregate sum as the Board shall, from time to time, determine to be paid by all of the Owners. Estimated expenses include the cost of maintenance and operation of the Common Area, Common Area Improvements, cost of maintenance of any property for which the



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Association has a use license and a maintenance agreement, expenses of management, taxes and special assessments unless separately assessed, insurance premiums for insurance coverage as deemed desirable or necessary by the Board, landscaping and care of Common Areas, common lighting, repairs and renovations, wages, common water utility charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Board of Directors under or by reason of the Declaration and these By-Laws, payment of any deficit remaining from a previous assessment period, the creation of a reasonable contingency or capital reserve fund, as well as other costs and expenses relating to the Common Areas and for the purpose and powers of the Association. All annual or other assessments or installments thereof shall be mailed to the registered mailing address of each Owner not later than fifteen (15) days prior to the date the assessment is payable.

4.4.6 To collect delinquent assessments or installments thereof by suit, foreclosure, or otherwise and to enjoin or seek damages from an Owner, as is provided in the Declaration and these By-Laws.

4.4.7 To protect and defend the entire premises from loss and damage by suit or otherwise.

4.4.8 To borrow funds and to execute all such instruments evidencing such indebtedness.

4.4.9 To enter into contracts within the scope of their duties and powers.

4.4.10 To establish bank accounts for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors.

4.4.11 To keep and maintain full and accurate books and records showing all of the receipts, expenses or disbursements and to permit examination thereof by the owners or their Mortgagees at convenient weekday business hours.

4.4.12 To prepare and deliver annually to each Owner a statement showing, in at least summary form, all receipts, expenses or disbursements since the last such statement.

4.4.13 To meet at least semi-annually.

4.4.14 To designate and remove personnel necessary for the management, maintenance, operation, repair, and replacement of the Common Areas and Common Area Improvements and performance of other duties and functions of the Association.

4.4.15 After notice and opportunity for hearing by the Board, to (i) suspend an Owner's rights as a Member of the Association, including his voting rights and right to use of any recreational facilities on the Common Area, for any period during which any fine against such Member or any assessment against such Member's Lot remains unpaid; (ii) impose monetary penalties as provided in the Declaration for any infraction of the Rules and Regulations or any violation of or failure to comply with the provisions of the Declaration or these By-Laws, provided the Member shall have been warned in writing of a previous infraction within the preceding one (1) year; and (iii) suspend an Owner's rights as a Member of the Association for a period not to exceed thirty (30) days for any infraction of the Rules and Regulations.

4.4.16 On fourteen (14) days notice sent to the Association by certified mail, first-class postage prepaid, and for receipt of a reasonable fee of at least Twenty-Five Dollars (\$25.00) from the requesting party (except First Mortgagees, who shall be exempt from such fee), to furnish a certificate of the Owner's account setting forth the amount of any unpaid amounts or other charges due and owing from such Owner or allocated to such Owner's Lot.

4.4.17 To delegate to committees, officers, employees and other agents of the Association reasonable powers to carry out the powers and duties of the Board; provided, however, that the Board shall not delegate the power to impose discipline against Members or to levy fines against Members.

4.4.18 To enter any Lot (but excluding the Residence thereon), at reasonable hours, upon forty-eight (48) hours' advance notice and with as little inconvenience to the Owners as possible, in connection with any work or thing required or permitted to be performed or done by the Association by these By-Laws, the Declaration, or the Rules and Regulations. In the event of emergency threatening injury to persons or property, or reasonable cause to believe there is such an emergency, the right of entry shall be immediate and may be exercised without notice, whether or not the Owner is present. The Association shall repair any damage caused by such entry.

4.4.19 Sell, transfer and convey the property of the Association with the prior written approval of (i) sixty-seven percent (67%) of the First Mortgagees of Lots who have registered pursuant to Section 16.7 of the Declaration (based upon one (1) vote for each First Mortgage owned or held) given as provided in Section 16.8 of the Declaration and (ii) the Owners to which eighty percent (80%) of the votes in the Association are allocated.

4.4.20 To compromise, settle, release and otherwise adjust claims, demands, causes of action and liabilities on behalf of the Association and Owners, as the case may be, provided any such claim, demand, cause of action or liability arises out of or relates to a condition or defect to the development, design, construction, condition, repair or maintenance of or damage or injury to or defect in the Common Area or part thereof, and make and receive all payment or other consideration necessary therefor or in connection therewith. For such purposes, the Board shall be, and hereby is, irrevocably appointed attorney-in-fact to act on behalf of all Owners upon such terms and conditions and for such consideration as may be approved by a majority of the Board.

4.4.21 To enter into licenses for the use and benefit of the Members, joint use agreements, maintenance agreements, and such other contracts as determined by the Board of Directors to be in the interests of the Association with authorities or utilities including, but not limited to Public Service Company of Colorado and Arapahoe County, Colorado.

4.4.22 In general to carry on the administration of this Association and to do all those things necessary and reasonable in order to carry out the communal aspect of this Project.

4.5 Management.

4.5.1 The Board of Directors may employ for the Association a Management Contractor referred to in the Declaration, at a compensation established by the Board, to perform such duties and services as the Board shall authorize, but such employment shall not relieve the Board of Directors of any responsibility herein or pursuant to the Declaration.

4.5.2 During the period when the Declarant is in control of the Association, any management contracts entered into by the Association with respect to such professional management of the Project, and any contracts that such professional management shall enter into on behalf of the Association, shall be for a term not to exceed one (1) year and must contain a provision allowing either party to cancel the contract, with or without cause, and without a payment of termination fee or penalty, upon thirty (30) days prior written notice. Any Management Contractor shall be an independent contractor and neither a Management Contractor, nor any of its employees, shall be considered as employees of the Association.

4.5.3 The Management Contractor shall maintain at its sole cost and expense, fidelity insurance coverage or a bond against dishonest acts on the part of any of its employees responsible for handling funds belonging to or administered by the Association, in an amount equal to the greater of \$50,000.00 and

one and one-half (1.5) times the Association's estimated annual operating expenses and reserves. Prior to commencing work under any contract, the Management Contractor shall provide the Association with evidence of such fidelity insurance or bond satisfactory to the Association. The Association shall have the right to require the Management Contractor to carry such fidelity insurance coverage or bond underwritten by an insurer meeting the standards set forth in Article IX of the Declaration.

4.5.4 The Management Contractor shall maintain all funds and accounts of the Association separate from the funds and accounts of all other associations managed by the Management Contractor, and shall maintain all funds of the Association designated as reserves in accounts separate and apart from the operational accounts. Each account maintained for the Association shall be carried in the name of the Association and shall, whenever possible, be an interest-bearing account free from ordinary bank charge.

4.5.5 The Management Contractor shall account to the Board of Directors on not less than an annual basis for all funds belonging to or administered by the Association which are collected, deposited, transferred, or disbursed by the Management Contractor on behalf of the Association at any time during the Association's fiscal year.

4.6 Vacancies. Vacancies in the Board of Directors which occur during the Declarant Control Period shall be filled by appointment by Declarant. Vacancies in the Board of Director, which occur following the election described in Section 4.2, caused by any reason, other than the removal of a Director by a vote of the Association, shall be filled by remaining members or member of the Board of Directors. If there is no remaining member of the Board, then an election shall be had by a mail vote or special meeting as provided in Sections 2.7 and 3.4 respectively, and in such event a special meeting may be called by any Member.

4.7 Removal of Director. Directors who are not appointed by Declarant may be removed with or without cause by a vote of Owners of Lots to which at least a simple majority, i.e., more than fifty percent (50%), of the votes in the Association are allocated.

4.8 Appointment of Directors by Declarant. Subject to the voting rights set forth in Section 2.2 (insofar as those voting rights permit the Owners other than Declarant to elect at least one (1) but not more than one-third (1/3) of the Members of the Board of Directors during the Declarant Control Period), during the Declarant Control Period the Declarant shall have the right to appoint all members of the Board of Directors. All Directors

appointed by Declarant shall resign prior to the meeting of Members described in Section 4.2.

4.9 Organization Meeting. The first meeting of a newly elected Board of Directors shall be held within two (2) weeks after the annual meeting, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting.

4.10 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time, by a majority of the Directors, but at least two such meetings shall be held during each fiscal year and one such meeting shall be held within two (2) weeks after the annual meeting of Owners.

4.11 Waiver of Notice. Before, at or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

4.12 Quorum. At all meetings of the Board of Directors, a majority thereof shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. At any meeting of the Board of Directors, if there be less than a quorum present, the majority of those present may adjourn the meeting from time to time and set the time for reconvening. If a quorum of Directors reconvenes after such an adjournment, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.13 Fidelity Bonds. The Board of Directors may require that all officers, Directors, Management Contractors, volunteers and employees of the Association handling or responsible for Association funds furnish adequate fidelity bonds. The premiums on such bonds (except for Management Contractor's) shall be paid by the Association as a Common Expense. Any such bond shall be in an amount of not less than \$50,000.00 or one hundred fifty percent (150%) of the annual budget, whichever is greater.

4.14 Director's Fees. Each Director may receive transportation and other reasonably related expenses for attendance at any regular or special meeting of the Board of Directors, and such expenses shall be deemed Common Expenses.

4.15 Director's Term. The term of a Director shall be as set forth in the Articles of Incorporation.

ARTICLE V

OFFICERS

5.1 Designation. The Officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors.

5.2 Election of Officers. The Officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board. The office of Vice-President need not be filled.

5.3 Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, with or without cause, and his or her successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

5.4 President. The President shall be the chief executive officer of the Association and shall be elected from among the members of the Board of Directors. The President shall preside at all meetings of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of the President of a nonprofit corporation, including but not limited to, the power to execute instruments and documents on behalf of the Association, including but not limited to amendments to the Declaration, appoint committees from among the Owners or Members as the President may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

5.5 Vice-President. A Vice-President shall have all the powers and authority, and perform all of the functions and duties of the President, in the absence of the President, or in the event of the President's inability for any reason to exercise such powers and functions or perform such duties.

5.6 Secretary. The Secretary shall keep the minutes of meetings of the Board of Directors and minutes of meetings of the Association. The Secretary shall have charge of such books and papers as the Board of Directors may direct, and shall in general perform all the duties incident to the office of Secretary, including but not limited to attesting to the President's execution of instruments and documents on behalf of the Association, including but not limited to amendments to the Declaration. The

Secretary shall compile, and keep current at the principal office of the Association, a complete list of Members and their registered mailing addresses. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours.

5.7 Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate financial records and books of account of the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, in such depositories as may from time to time be designated by the Board of Directors. The Treasurer may also serve as Secretary in the event the Secretary and Assistant Secretary (if any) are absent.

5.8 Assistant Secretary. The Board of Directors may appoint one or more Assistant Secretaries to perform all the duties of the Secretary in the absence of the Secretary.

5.9 Assistant Treasurer. The Board of Directors may appoint one or more Assistant Treasurers to perform all of the duties of the Treasurer in the absence of the Treasurer.

ARTICLE VI

INDEMNIFICATION OF OFFICERS AND DIRECTORS

6.1 Non-Liability. A Director of the Board shall not be liable to the Members if he performs the duties of a Director, including the duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner such Director believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. In performing the duties of a Director, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared and presented by:

6.1.1 One or more officers or employees of the Association whom the Director believes to be reliable and competent in the matters presented;

6.1.2 Counsel, independent accountants, management company personnel, or other persons as to matters which the Director believes to be within such person's professional or expert competence; or

6.1.3 A committee of the Board on which the Director does not serve, as to matters within its designated authority, which committee the Director believes to merit confidence; so long as, in any such case, the Director acts in good faith, after reasonable inquiry, when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

6.2 Indemnification.

6.2.1 The Association shall indemnify every Director, Officer, agent or employee, and any former Director, Officer, agent, or employee against loss, cost, and expense, including counsel fees reasonably incurred in connection with any action, suit, or proceeding to which such person may be made a party by reason of being, or having been such Director, Officer, agent or employee of the Association, except as to matters as to which such person shall be finally adjudged to be liable for gross negligence, willful misconduct or fraud.

6.2.2 No indemnification shall be provided for acts constituting gross negligence, fraud, or willful misconduct.

6.2.3 No Management Contractor, who is an independent contractor, or any other independent contractor shall be protected by these indemnification provisions nor by any insurance policies obtained by the Association in relation thereto, but any such protection is the sole and separate responsibility of any Management Contractor who is an independent contractor, or any other independent contractor, as one of their expenses of doing business.

6.2.4 In the event of a settlement, the settlement shall be approved by any insurance carrier providing coverage, and paid for out of any available insurance proceeds; provided, however, that the lack of insurance coverage or proceeds shall not abrogate the Association's duty to indemnify present and former Officers, Directors, agents and employees to the fullest extent permitted by law.

ARTICLE VII

OBLIGATIONS OF THE OWNERS

7.1 Assessments. Except as otherwise provided hereinabove and in the Declaration, all Owners shall be obligated to pay the annual assessments or any installments thereof imposed by the Association to meet the Common Expenses, and payment of any installments thereof shall be made not later than on the fifteenth day following the due date. A Member shall be deemed to be in good

standing and entitled to attend any annual or any special meeting of Members, within the meaning of these By-Laws, if, and only if, the Member shall have fully paid all assessments and installments thereof made or levied against such Owner and the Lot owned by such Owner.

7.2 Maintenance and Repair.

7.2.1 Except as may be provided in the Declaration, every Owner must perform promptly at such Owner's expense all maintenance and repair work within such Owner's Lot and Dwelling Unit, which if omitted, would affect the Project in its entirety or any part belonging to another Owner.

7.2.2 Except as may be provided in the Declaration, all the repairs and costs associated with a Lot or Dwelling Unit shall be the individual Owner's expense.

7.2.3 An Owner shall be obligated to reimburse the Association, or another Owner, upon receipt of a statement for any expenditures incurred by the Association, or another Owner, or both in repairing, replacing, or restoring any Common Area Improvement, damaged as a result of the negligent or other tortious conduct of such Owner, a member of his or her family, his or her agent, employee, invitee, licensee or tenant.

7.3 Mechanic's Lien. Each Owner agrees to indemnify, and to hold each of the other Owners and the Association harmless, from any and all claims of any mechanic's lien filed against other Lots and appurtenances and the Common Area for labor, materials, services or other products incorporated in the Owner's Dwelling Unit.

7.4 General.

7.4.1 Each Owner shall comply strictly with the provisions of the Declaration.

7.4.2 Each Owner shall always endeavor to observe and promote the cooperative purposes for which the Project was established.

7.5 Use of Dwelling Units.

7.5.1 Dwelling Units shall be utilized for only those purposes permitted in the Declaration.

7.5.2 No Owner, tenant, or lessee shall use radios, phonographs, television sets, amplifiers, and any other instruments

or devices in such manner as may disturb, or which may tend to disturb, other occupants of Dwelling Units.

7.5.3 The Board of Directors shall have the power as set forth in the Declaration to establish, make and enforce compliance with such additional Rules and Regulations as may be necessary for the operation, use, and occupancy of this Project, with the right to amend same from time to time.

7.5.4 Owners shall be subject to such other restrictions as are set forth in the Declaration.

7.6 Use of Common Area. Each Owner shall use the Common Area in accordance with the purpose for which they were intended, without hindering or encroaching upon the lawful rights of the other Owners. The Rules and Regulations may specifically give details on the use of the Common Area amenities.

7.7 Destruction or Obsolescence. Each Owner shall, upon becoming an Owner of a Lot or as requested by the Association thereafter, be deemed to have executed a power of attorney in favor of the Association, irrevocably appointing the Association attorney-in-fact to maintain, repair, and improve the Common Area.

ARTICLE VIII

BY-LAWS

8.1 Amendments. These By-laws may be amended by the Board of Directors at a duly constituted Board meeting called for such purpose; or at a meeting of Owners called for such purpose, by Owners representing interests of a majority of the Members, and the written approval of the First Mortgagees or the Veterans Administration or the Department of Housing and Urban Development, if such approvals are required by the Articles of Incorporation or the Declaration. The notice of such Board or Association meeting shall contain a summary of the proposed changes or a copy of such proposed changes. No amendment shall serve to shorten the term of any Director. The prior approval of at least a simple majority, i.e., more than fifty percent (50%) of the First Mortgagees shall be required for any material amendments to these By-Laws. Approval of First Mortgagees may be accomplished as provided in Section 16.7 and Section 16.8 of the Declaration. "Material" shall mean and be defined by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation Contract Supplement and Selling Guides.

8.2 Conflict. In the case of any conflict between the Articles of Incorporation and these By-laws, the Articles shall control; in case of any conflict between the Declaration and these

By-laws, the Declaration shall control; and in the case of any conflict between the Articles and the Declaration, the Declaration shall control.

ARTICLE IX

MORTGAGES

9.1 Notice to Association. An Owner who mortgages his, her, its or their Dwelling Unit shall notify the Board of Directors through the Management Contractor, if any, or the President of the Board of Directors, giving the name and address of such Owner's Mortgagee. The Association shall maintain such information in a book or list entitled "Mortgagees of Lots".

9.2 Notice of Unpaid Assessments. The Association shall, at the request of a Mortgagee of a Lot, report any unpaid assessments due from the Owner of such Lot.

9.3 Attendance at Meetings. A First Mortgagee shall have the right to attend any meeting of the Members.

ARTICLE X

EVIDENCE OF OWNERSHIP AND REGISTRATION OF MAIL ADDRESS

10.1 Proof of Ownership. Any person, on becoming an Owner of a Lot, shall furnish to the Management Contractor or Board of Directors a photocopy (or, if requested by the Board, a certified copy) of the recorded instrument vesting that person or entity with an interest or ownership, which instruments shall remain in the files of the Association. A Member shall not be deemed to be in good standing nor shall he, she, it or they be entitled to vote at any annual or special meeting unless this requirement is first met.

10.2 Registration of Mailing Address. The Owners of each Lot shall have one registered mailing address for use by the Association for mailing statements, notices, demands and all other communications; and such registered address shall be the only mailing address of a person or persons, firm, corporation, partnership, association, or other legal entity, or any combination thereof, to be used by the Association. Such registered address of an Owner or Owners shall be furnished by such Owners to the Secretary within five (5) days after transfer of title; such registration shall be in written form and signed by all of the owners of the Lot or by such persons as are authorized by law to represent the interest of (all of) the Owners thereof. Registered addresses may be changed in similar fashion. If no such address is registered, or if all of the Owners cannot agree, then the address of the Owners shall be the address of the Lot.

10.3 Completed Requirement. The requirements contained in this Article shall be first met before an Owner of a Lot shall be deemed in good standing and entitled to vote at any annual or special meeting of Members.

ARTICLE XI

RESTRICTIONS

11.1 Nonprofit Corporation. This Association is not organized for profit. No Member, member of the Board of Directors, or person from whom the Association may receive any property or funds, shall receive or shall be lawfully entitled to receive any pecuniary profit from the operations thereof; and in no event shall any part of the funds or assets of the Association be paid as salary or compensation to, or distributed to, or inure to the benefit of, any Member of the Board of Directors. The foregoing, however, shall neither prevent nor restrict the following: (1) reasonable compensation may be paid to any Member or Director while acting as an agent or employee of the Association for services rendered in affecting one or more of the purposes of the Association, and (2) any member or Director may, from time to time, be reimbursed for his or her actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

ARTICLE XII

SEAL

The corporate seal shall consist of an impression substantially in the form of two concentric circles with the name of the Association and the word "Colorado" between the circles, and the word "Seal" in the center.

ARTICLE XIII

FISCAL YEAR

The fiscal year of the Association shall be as determined from time to time by the Board of Directors.

IN WITNESS WHEREOF, the undersigned have executed these By-Laws this 10th day of March, 1998.

BOARD OF DIRECTORS:

Elizabeth Alexander

K. E. Fred

Chad Hurley

The undersigned Secretary of Mesa Homeowners Association, a Colorado non-profit corporation, does hereby certify that the above and foregoing By-Laws were duly adopted by the Board of Directors as the By-laws of the Corporation on the 10th day of March, 1998, and that they now constitute the By-Laws of the Corporation.

DATED this 10th day of March, 1998.

K. E. Fred
Secretary

**LIMITED AMENDMENT
TO
BYLAWS
OF
MESA HOMEOWNERS ASSOCIATION**

THIS LIMITED AMENDMENT TO THE BYLAWS is made on the date hereinafter set forth by Mesa Homeowners Association (the "Association"), a Colorado nonprofit corporation.

RECITALS:

A. Article VIII, Section 8.1 of the Bylaws of Mesa Homeowners Association, as adopted on March 10, 1998, provides for amendment of the Bylaws by the Board of Directors at a duly constituted Board meeting called for such purpose.

B. By their signatures below, the President and Secretary of the Association certify that the herein amendment of the Bylaws was adopted by the Board of Directors at a duly constituted Board meeting called for such purpose.

C. The Bylaws provide in Article II, Section 2.5, that except as otherwise provided in the Bylaws, the presence in person or by proxy of Owners to whom twenty percent (20%) of the votes in the Association are allocated shall constitute a quorum for meetings of the Members.

D. The Bylaws provide in Article III, Section 3.6, that if any meeting of the Owners cannot be organized because a quorum has not attended, the quorum requirement for a rescheduled meeting shall be twenty percent (20%) of the Owners to whom twenty percent (20%) of the votes of Members in the Association are allocated.

E. The Bylaws provide in Article IV, Section 4.15, that the term of a Director shall be as set forth in the Articles of Incorporation. The Articles of Incorporation provide at Article VI, Section 6.3, that the term of office of Directors shall be determined by the Bylaws.

F. The Board of Directors has determined that it is in the best interests of the Association to decrease the percentage of Owners required to constitute a quorum for a meeting of the Members and to determine the term of a Director as provided in the Articles of Incorporation.

NOW, THEREFORE:

1. The first sentence of Article II, Section 2.5 of the Bylaws is deleted in its entirety and replaced by the following sentence:

Except as otherwise provided in these By-Laws, the presence in person or by proxy of Owners to whom five percent (5%) of the votes of the Association are allocated shall constitute a quorum.

2. The second sentence of Article III, Section 3.6 is deleted in its entirety.
3. The single sentence of Article IV, Section 4.15 is deleted in its entirety and replaced with by the following sentence:

The term of a Director shall be three (3) years.

4. This amendment is limited to the deletion and replacement of the first sentence of Article II, Section 2.5, the deletion of the second sentence of Article III, Section 3.6, and the deletion and replacement of the only sentence of Article IV, Section 4.15. All other provisions contained in the Bylaws remain in full force and effect unless otherwise amended by a separate amendment.

IN WITNESS WHEREOF, the undersigned, being the President and the Secretary of Mesa Homeowners Association, hereby certify that at a Board meeting duly called for the purpose on _____ the amendment herein was adopted by a vote of the Board of Directors.

Dated this 3 Day of January, 2008

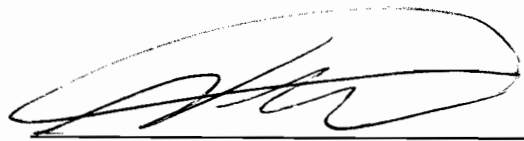
MESA HOMEOWNERS ASSOCIATION

By:



President

By:



Secretary