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# SHADOWROCK TOWNHOMES COMMUNITY MANUAL

Consisting of:

Bylaws

Initial Rules & Regulations

Assessment Collection Policy

Fining Policy

Handling of Conflicts of Interest

Conduct of Meetings

Inspection and Copying of Association Records

Reserve Fund Investment Policy

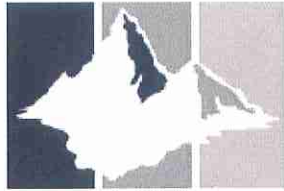
Procedures for the Adoption and Amendment

Dispute Resolution

Mold Policy

Certification & Acknowledgement

For Owners & Residents of  
Shadowrock Townhomes



Shadowrock

## SHADOWROCK TOWNHOMES COMMUNITY MANUAL

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## SHADOWROCK TOWNHOME ASSOCIATION, INC.

(a Colorado Nonprofit Corporation)

### 1. BYLAWS

#### ARTICLE 1 INTRODUCTION

- 1.1. **Property.** These Bylaws of Shadowrock Townhome Association, Inc. (the "Association"), provide for the governance of the residential townhome community known as Shadowrock Townhomes, established within the Blue Ridge Planned Unit Development, a Planned Unit Development located in Eagle County, Colorado, according to the Final Plat thereof, recorded on April 3, 2006 at Reception No. 200608134 in the Office of the Clerk and Recorder for Eagle County, Colorado (the "**Property**"), as more particularly described in that certain Townhome Declaration of Covenants, Conditions and Restrictions for Shadowrock Townhomes, recorded at Reception No. 200710597 in the Office of the Clerk and Recorder for Eagle County, Colorado (the "**Declaration**").
- 1.2. **Parties to Bylaws.** All present or future Owners of Lots and all other persons who use or occupy the Property in any manner are subject to these Bylaws, the Declaration, and the other Association Documents as defined in the Declaration. The mere acquisition or occupancy of a Lot or a Dwelling will signify that these Bylaws are accepted, ratified, and will be strictly followed.
- 1.3. **Definitions.** Words and phrases defined in the Declaration have the same meanings when used in these Bylaws. Article 1 of the Declaration is incorporated herein by reference.
- 1.4. **Nonprofit Purpose.** The Association is organized to be a nonprofit corporation, pursuant to the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.* ("CCIOA") and the Colorado Revised Nonprofit Corporation Act, C.R.S. § 7-121-101, *et seq.* (the "Act"). To the extent that any provisions of CCIOA conflict with applicable

provisions in the Act and/or any other laws of the State of Colorado which now exist or which are subsequently enacted, the provisions of CCIOA shall control.

- 1.5. **Principal Office.** The principal office of the Association shall be the address of the Association's Manager, as may be determined from time to time by the Board. The principal office of the Association shall be as determined by the Board, but meetings of Members and Directors may be held at such places within the State of Colorado as may from time to time be designated by the Board.
- 1.6. **Registered Office and Agent.** The Act requires that the Association have and continuously maintain in the State of Colorado a registered office and a registered agent who resides in the State of Colorado and whose business office is identical with such registered office. The registered office need not be the same as the principal office of the Association. The registered office and the registered agent are specified in the Articles of Incorporation of the Association, but may be changed by the Association at any time, without amendment to the Articles of Incorporation, by filing a statement as specified by law in the office of the Secretary of State of Colorado
- 1.7. **Declarant Control.** Notwithstanding anything to the contrary in these Bylaws, a number of provisions are modified by the Declarant's reservations in the Declaration during the Declarant Control Period, as defined in the Declaration, including the number, qualification, appointment, removal, and replacement of Directors.
- 1.8. **General Powers and Duties.** The Association, acting through the Board, has the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Property as may be required or permitted by the Articles of Incorporation, these Bylaws, the Declaration and other Association Documents, and C.R.S. § 38-33.3, as any of the foregoing may be amended or supplemented from time to time. The Association may do any and all things that are lawful and which are necessary, proper, or desirable in operating for the best interests of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Association Documents and Colorado law.
- 1.9. **Notice.** If provisions of CCIOA prescribe notice requirements for particular circumstances, those requirements govern. If the Articles or Bylaws prescribe notice requirements not inconsistent with CCIOA or other provisions of CCIOA, then the notice requirements contained in these Bylaws shall govern.
- 1.10. **Liability to Third Parties.** If appointed by the Declarant as pursuant to *Section 6.09* of the Declaration and these Bylaws, in the performance of their duties, the Officers and Directors of the Association, as hereinafter defined, are required to exercise the care required of fiduciaries of the Owners. If not appointed by the Declarant, no Director or Officer of the Association shall be personally liable for actions taken or omissions made in the performance of such their duties, except for wanton and willful acts or omissions.

Notwithstanding anything to the contrary in this Section, with regard to the investment of reserve funds of the Association, the Officers and Directors of the Association shall be subject to C.R.S. 38-33.3-303(2.5) and the requirements set forth therein.

## ARTICLE 2 BOARD OF DIRECTORS

During the Declarant Control Period, *Section 6.09* of the Declaration governs the number, qualification, and appointment of Directors. The initial Directors will be appointed by Declarant and need not be Owners. Directors appointed by Declarant may not be removed by the Owners and may be removed by Declarant only, with or without cause. Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee. Declarant shall give written notice of any removal to the Director and to the Association. Removal is effective when the notice is received by both the Director and the Association, unless the notice states a later date.

### 2.1. Authority; Term of Office.

2.1.1. Declarant Control Period. The affairs of the Association shall be governed by a Board of Directors. The initial Directors shall be three (3) in number and shall be those Directors named in the Articles of Incorporation. The number of Directors shall be fixed by the Board of Directors from time to time, by shall in any event, not be less than three (3). The initial Directors shall serve until their successors are appointed or elected and qualified. Except as is provided in the Declaration and in *Sections 2.1.2* below, Declarant shall have the absolute right to appoint and remove members of the Board of Directors until the expiration or termination of the Declarant Control Period.

2.1.2. Termination or Expiration of the Declarant Control Period. At such time as Declarant no longer has the right to appoint and remove all members of the Board of Directors as provided in *Section 6.09* of the Declaration, the Board of Directors will be increased to five (5) members. The President of the Association will thereupon call a meeting of the Members of the Association where the Members will elect one (1) Director for a three (3) year term, two (2) Directors for a two (2) year term, and two (2) Directors for a one (1) year term. Upon expiration of the term of a Director elected by the Members pursuant to this *Section 2.1.2*, his or her successor will be elected for a term of two (2) years. A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed.

### 2.2. Qualification. Other than Directors appointed by Declarant, the following qualifications apply to the election or appointment of persons to the Board.

2.2.1. Owners. Directors must be Members of the Association or spouses of Members.

- 2.2.2. **Entity Member.** If a Lot is owned by a legal entity, such as a partnership or corporation, any officer, partner, agent, or employee of that entity Member is eligible to serve as a Director and is deemed to be a Member for the purposes of this Section. If the relationship between the entity Member and the Director representing it terminates, that directorship will be deemed vacant.
- 2.2.3. **Delinquency.** No person may be elected or appointed as a Director if any assessment or fine against the person or his Lot is delinquent at the time of election or appointment, provided he has been given notice of the delinquency and a reasonable opportunity to cure the delinquency.
- 2.2.4. **Litigation.** No person may be elected or appointed as a Director if the person is a party adverse to the Association or the Board in pending litigation to which the Association or the Board is a party.
- 2.3. **Election.** Upon termination or expiration of the Declarant Control Period, Directors will be elected by the Members of the Association representing at least two-thirds ( $\frac{2}{3}$ ) of the votes present in person or by proxy at the meeting. The election of Directors will be conducted at the annual meeting of the Association or at any special meeting called for that purpose. Votes for contested positions on the Board shall be taken by secret ballot. The secret ballots shall be counted by a neutral third party or by a committee of volunteers. Such volunteers shall be Owners who are selected or appointed at an open meeting, in a fair manner, by the Board chair, or another person presiding during that portion of the meeting. The volunteers shall not be on the Board, and in the case of a contested election for a Board position, shall not be candidates. The results of the vote taken by secret ballot shall be reported without reference to names, addresses, or other identifying information of Owners participating in the vote. Because the election of Directors must be held by secret ballot, a Member participating in a meeting by telephonic or other permitted means pursuant to *Section 5.19* desiring to vote on the election of Directors must appoint a limited proxy for such purpose, and such appointed proxy must be present at the meeting to vote for such limited purpose.
- 2.4. **Nominations.** Members may be nominated for election to the Board of Directors in either of the following ways: (i) a Member who is not a Director and who desires to run for election to that position shall be deemed to have been nominated for election upon his filing with the Board of Directors a written petition of nomination; or (ii) a Director who is eligible to be re-elected shall be deemed to have been nominated for re-election to the position he holds by signifying his intention to seek re-election in a writing addressed to the Board of Directors.
- 2.5. **Resignation.** A Director may resign at any time by giving written notice of resignation to the Association. A resignation of a Director is effective when the notice is received by the Association unless the notice states a later effective date.

- 2.6. **Vacancies.** Vacancies on the Board caused by any reason, except the removal of a Director by a vote of the Association, are filled by a vote of the Majority of the remaining Directors, even though less than a quorum, at any meeting of the Board. Each Director so elected serves until the next meeting of the Association, at which time a successor will be elected to fill the remainder of the term
- 2.7. **Removal of Directors.** At such time as Declarant no longer has the right to appoint and remove all members of the Board of Directors as provided in *Section 6.09* of the Declaration, at any regular or special meeting of the Association duly called at which a quorum exists, any one or more of the Directors elected by the Members may be removed with or without cause by a vote of sixty-seven percent (67%) of the votes of such Members present and entitled to be cast at such meeting. Successors may then and there be elected by such members to fill the vacancies thus created. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting. The Board shall designate by resolution or motion when such regular or special meeting shall be held after such meeting is properly set or called in accordance with these Bylaws and Colorado law.
- 2.8. **Meetings of the Board.**
- 2.8.1. **Organizational Meeting of the Board.** Within ten (10) days after the annual meeting, the Directors will convene an organizational meeting for the purpose of electing officers. The time and place of the meeting will be fixed by the Board and announced to the Directors.
- 2.8.2. **Regular Meetings of the Board.** Regular meetings of the Board may be held at a time and place that the Board determines, from time to time, but at least one (1) such meeting must be held each calendar quarter. Notice of regular meetings of the Board will be given to each Director, personally or by telephone, written, or electronic communication, at least three (3) days prior to the date of the meeting.
- 2.8.3. **Special Meetings of the Board.** Special meetings of the Board may be called by the president or, if he is absent or refuses to act, by the secretary, or by any two (2) Directors. At least three (3) days notice will be given to each Director, personally or by telephone, written, or electronic communication, which notice must state the place, time, and purpose of the meeting.
- 2.8.4. **Emergency Meetings.** In case of emergency, the Board may convene a meeting after making a diligent attempt to notify each Director by any practical method.
- 2.8.5. **Conduct of Meetings.** The president presides over meetings of the Board and the secretary keeps, or causes to be kept, a record of resolutions adopted by the Board and a record of transactions and proceedings occurring at meetings.

When not in conflict with law or the Restrictions, the then current edition of Robert's Rules of Order governs the conduct of the meetings of the Board.

2.8.6. Waiver of Notice. A Director may waive any notice of a meeting before or after the time and date of the meeting stated in the notice. Except as provided by this section, the waiver shall be in writing and signed by the Director entitled to the notice. Such waiver shall be delivered to the nonprofit corporation for filing with the corporate records, but such delivery and filing shall not be conditions of the effectiveness of the waiver. A Director's attendance at or participation in a meeting waives any required notice to that Director of the meeting unless at the beginning of the meeting or promptly upon the Director's later arrival, the Director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice or because it was not otherwise lawfully convened.

2.8.7. Quorum. At meetings of the Board, a Majority of Directors constitutes 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 are the acts of the Board. If less than a quorum is present at a meeting of the Board, the Majority of those present may adjourn the meeting from time to time. At any reconvened meeting at which a quorum is present, any business that may have been transacted at the meeting as originally called may be transacted without further notice. Directors may not participate by proxy at meetings of the Board.

2.8.8. Presence Means Assent.

- i. A Director who is present at a meeting of the Board when corporate action is taken is deemed to have assented to all action taken at the meeting unless:
  - 1) the Director objects at the beginning of the meeting, or promptly upon the Director's arrival, to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting;
  - 2) the Director contemporaneously requests that the Director's dissent or abstention as to any specific action taken be entered in the minutes of the meeting; or
  - 3) the Director causes written notice of the Director's dissent or abstention as to any specific action to be received by the presiding officer of the meeting before adjournment of the meeting or by the Association promptly after adjournment of the meeting.



- ii. The right of dissent or abstention pursuant to this Section as to a specific action is not available to a Director who votes in favor of the action taken.

2.8.9. Open Meetings. Regular and special meetings of the Board are open to Members of the Association, subject to the following provisions to the extent permitted or required by CCIOA or the Act:

- i. No audio or video recording of the meeting may be made, except by the Board or with the Board's prior express consent.

- ii. Members who are not Directors may not participate in Board deliberations under any circumstances, and may not participate in Board discussions unless the Board expressly so authorizes at the meeting.

- iii. At an appropriate time determined by the board, but before the board votes on an issue under discussion, owners or their designated representatives shall be permitted to speak regarding that issue. The Board may place reasonable time restrictions on persons speaking during the meeting. If more than one person desires to address an issue and there are opposing views, the Board shall provide for a reasonable number of persons to speak on each side of the issue.

- iv. The Board may adjourn any meeting and reconvene in executive session to discuss and vote on personnel matters, litigation in which the Association is or may become involved, investigatory proceedings, and orders of business of a similar or sensitive nature as specified in CCIOA. The nature of business to be considered in executive session will first be announced in open session. No rule or regulation of the Board or any committee thereof shall be adopted during executive session. The minutes of all meetings at which an executive session was held shall indicate that an executive session was held and the general subject matter of the executive session.

- v. The Board may prohibit attendance by any Member who disrupts meetings or interferes with the conduct of Board business.

- vi. The Board may but is not required to publish to Members the time, date, and place of Board meetings, but will provide the information if requested in writing by a Member on a meeting by meeting basis.

2.8.10. Telephone Meetings. Members of the Board or any committee of the Association may participate in and hold meetings of the Board or committee by means of conference telephone or through the use of any means of communication by which all persons participating in the meeting can hear each other. Participation in such meeting constitutes presence in person at the meeting, except where a

person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened

2.8.11. Action without a Meeting. Any action required or permitted to be taken by the Board at a meeting may be taken without a meeting, if all Directors individually or collectively consent in writing to such action. The written consent must be filed with the minutes of Board meetings. Action by written consent has the same force and effect as a unanimous vote. This Section does not apply to any actions that require meetings under the Act.

2.9. **Powers and Duties.** The Board has all the powers and duties necessary for the administration of the Association and for the operation and maintenance of the Property. The Board may do all acts and things except those which, by law or the Restrictions, are reserved to the Members and may not be delegated to the Board. Without prejudice to the general and specific powers and duties set forth in laws or the Restrictions, or powers and duties as may hereafter be imposed on the Board by resolution of the Association, the powers and duties of the Board include, but are not limited to, the following:

2.9.1. Appointment of Committees. The Board, by resolution, may from time to time designate standing or ad hoc committees to advise or assist the Board with its responsibilities. The resolution may establish the purposes and powers of the committee created, provide for the appointment of a chair and committee Members, and may provide for reports, termination, and other administrative matters deemed appropriate by the Board. Members of committees will be appointed from among the Owners and residents.

2.9.2. Manager. The Board may employ a Manager or Managing Agent for the Association, at a compensation established by the Board, to perform duties and services authorized by the Board. The Board may elect to delegate its powers relating to collection, deposit, transfer or disbursement of Association funds to a Manager or Managing Agent. If the Board delegates its powers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a Manager or Managing Agent, such other person or Manager or Managing Agent shall:

- i. Maintain adequate fidelity insurance coverage or a bond in an amount not less than fifty thousand dollars (\$50,000.00) or such higher amount as the Board may require.
- ii. Maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other persons or Manager or Managing Agent and maintain all reserve

accounts of each association so managed separate from operational accounts of the Association;

- iii. Prepare and present an annual accounting for Association funds and financial statement either by the Manager or the Managing Agent, or by a public or certified public accountant.

2.9.3. Other Powers and Duties. In general, the Board may perform all other acts permitted by law and the Declaration, to carry on the administration of the Association and to do all those things necessary and responsible in order to carry out the proper governance and operation of the Association.

- 2.10. Compensation. The Directors shall serve without compensation for such service. As determined by the Board, Directors may be reimbursed for any reasonable and necessary out-of-pocket expenses.

### **ARTICLE 3** **OFFICERS**

- 3.1. Designation. The principal officers of the Association are the president, the secretary, and the treasurer. The Board may appoint one (1) or more vice-presidents and other officers and assistant officers as it deems necessary. The president and secretary must be Directors. Other officers may, but need not, be Members or Directors. Any two (2) offices may be held by the same person, except the offices of president and secretary. If an officer is absent or unable to act, the Board may appoint a Director to perform the duties of that officer and to act in place of that officer, on an interim basis.
- 3.2. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.
- 3.3. Election of Officers. The officers are elected no less than annually by the Directors at the organizational meeting of the Board and hold office at the pleasure of the Board. Except for resignation or removal, officers hold office until their respective successors have been designated by the Board.
- 3.4. Removal and Resignation. A Majority of Directors may remove any officer, with or without cause, at any regular meeting of the Board or at any special meeting of the Board called for that purpose. A successor may be elected at any regular or special meeting of the Board called for that purpose. An officer may resign at any time by giving written notice to the Board. Unless the notice of resignation states otherwise, it is effective when received by the Board and does not require acceptance by the Board. If a resignation is made effective at a later date, the Board may permit the officer to remain in office until the effective date and may fill the pending vacancy before the effective

date with the provision that the successor does not take office until the effective date, or the Board may remove the officer at any time before the effective date and may fill the resulting vacancy. The resignation or removal of an officer who is also a Director does not constitute resignation or removal from the Board. The appointment of an officer does not itself create contract rights. An officer's removal does not affect the officer's contract rights, if any, with the nonprofit corporation. An officer's resignation does not affect the nonprofit corporation's contract rights, if any, with the officer.

3.5. **Vacancies.** A vacancy in any office may be filled by appointment of the Board, and each officer so appointed shall serve until the next meeting of the Association, at which time a successor will be elected to fill the remainder of the term

3.6. **Description of Principal Offices.**

3.6.1. **President.** As the chief executive officer of the Association, the president: (i) presides at all meetings of the Association and of the Board; (ii) oversees that orders and resolutions of the Board are carried out; (iii) signs all leases, mortgages, deeds, and other written instruments; (iv) co-signs all promissory notes of the Association; (v) prepares, execute, certify and record amendments to the Declaration on behalf of the Association; (vi) has general supervision, direction, and control of the business of the Association, subject to the control of the Board; and (vii) exercises and discharge such other duties as may be required of the President by the Board or otherwise.

3.6.2. **Vice-President.** If appointed, any vice-president shall: (i) act in the place and stead of the President in the event of his absence, inability, or refusal to act; and (ii) exercise and discharge such other duties as may be required of the vice-president by the Board.

3.6.3. **Secretary.** The secretary: (i) records the votes and keeps the minutes of all meetings of the Board and of the Association; (ii) has charge of such books, papers, and records as the Board may direct; (iii) maintains a record of the names and addresses of the Members for the mailing of notices; and (iv) in general, performs all duties incident to the office of secretary as required by the Board.

3.6.4. **Treasurer.** The treasurer: (i) receives and deposits in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; (ii) co-signs all promissory notes of the Association; (iii) sign all checks of the Association unless the Board specifically directs otherwise; (iv) keeps proper books of account; at the direction of the Board; (v) causes an annual audit of the Association books to be made by a public accountant at least once in every three fiscal years; (vi) prepares an annual budget and a statement of income and expenditures a copy of which is to be delivered to the Members of the Association and which is to be presented to the Members of the Association

and the regular annual meeting; and (vii) perform all the duties incident to the office of treasurer as required by the Board.

- 3.7. **Authorized Agents.** Except when the Restrictions require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Association. In the absence of Board designation, the president and/or the secretary are the only persons authorized to execute instruments on behalf of the Association.

#### **ARTICLE 4** **INDEMNIFICATION OF DIRECTORS AND OFFICERS**

- 4.1. **Indemnification under the Act.** To the extent permitted by the Act and governing law, and consistent with the Articles of Incorporation of the Association, the Association shall indemnify every Director, officer, employee and agent of the Association and every person who serves at the request of the Association as a manager, director, officer, employee, fiduciary or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, or other enterprise or employee benefit plan against any liability asserted against or incurred by such person in any such capacity or arising out of that person's capacity as such. The indemnification permitted under this Article shall not extend, in any event, to any act or omission occurring prior to the date of incorporation of the Association.
- 4.2. **Settlement.** 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 such actions or omissions in the performance of such person's duties for the Association. The foregoing rights shall not be exclusive of other rights to which such Director or officer or other person may be entitled. All liability, loss, damage, cost, and expense arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as a Common Expense.

#### **ARTICLE 5** **MEETINGS OF THE ASSOCIATION**

- 5.1. **Membership and Voting Rights.** Membership and voting rights in the Association are set forth in *Article 6* of the Declaration.
- 5.2. **Annual Meeting.** The first annual meeting the Association Members shall be held within one year after the date of the adoption of these Bylaws. Thereafter, an annual meeting of the Association will be held once during each twelve (12) month period on a date and at a time determined by the Board. At each annual meeting, the Members will elect Directors in accordance with these Bylaws upon expiration and termination of the

Declarant Control Period. The Members may also transact such other business of the Association as may properly come before them.

- 5.3. **Special Meetings.** It is the duty of the president to call a special meeting of the Association if directed to do so by a Majority of the Board or by a petition signed by Members representing at least twenty percent (20%) of the Lots in the Property stating the purpose or purposes for which the meeting is to be held. The meeting must be held within thirty (30) days after the Board resolution or receipt of petition. The notice of any special meeting must state the time, place, and purpose of the meeting. No business, except the purpose stated in the notice of the meeting, may be transacted at a special meeting.
- 5.4. **Place of Meetings.** Meetings of the Association may be held at the Property or at a suitable place convenient to the Members, as determined by the Board.
- 5.5. **Notice of Meetings.** At the direction of the Board, President or other persons calling a meeting as provided under these Bylaws, written notice of meetings of the Association will be given to each Member at least ten (10) days, or if notice is mailed by other than first class or registered mail, no fewer than thirty (30) days, but not more than fifty (50) days prior to the meeting. Notices of meetings will state the date, time, and place the meeting is to be held. Notices will identify the type of meeting as annual or special, and will state the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the Board including, but not limited to, the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove an officer or member of the executive board. Notices should be sent to the address of each Lot or to the address given by such Member to the Association for the purpose of service of notices as provided in the Declaration. The notice of any meeting of the unit owners shall be physically posted in a conspicuous place, to the extent that such posting is feasible and practicable, in addition to any electronic posting or electronic mail notices that may be given pursuant to CCIOA. If such electronic means are available, the Association shall provide notice of all regular and special meetings of Owners by electronic mail to all Owners who so request and who furnish the Association with valid electronic mail addresses. Electronic notice of a special meeting shall be given as soon as possible but at least twenty-four (24) hours before the meeting.
- 5.6. **Waiver of Notice.** A Member may waive any required notice, whether before or after the date or time stated in the notice as the date or time when any action will occur or has occurred. The waiver shall be in writing, be signed by the Member entitled to the notice, and be delivered to the Association for inclusion in the minutes or filing with the corporate records, but such delivery and filing shall not be conditions of the effectiveness of the waiver. A Member's attendance at a meeting:

- i. Waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice; and
- ii. Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented

5.7. **Ineligibility.** The Board may determine that no Member may vote at meetings of the Association if the Member's financial account with the Association is in arrears forty-five (45) days before the date of a meeting of the Association at which Members will vote, provided each ineligible Member is given notice of the arrearage and an opportunity to become eligible pursuant to a fair and reasonable procedure and carried out in good faith as provided in this Section. The Board may specify the manner, place, and time for payment for purposes of restoring eligibility. A determination of Members entitled to vote at a meeting of the Association is effective for any adjournment of the meeting, provided the date of the adjourned meeting is not more than forty-five (45) days after the original meeting.

5.7.1. **Fair and Reasonable.** For purposes of this *Section 5.7*, a procedure is fair and reasonable when the Member receives written notice of ineligibility not less than fifteen (15) days prior to the vote and the reasons therefore and provides the Member with an opportunity to be heard, orally or in writing, not less than five (5) days before the effective date of the ineligibility by a person or persons authorized to decide that the proposed ineligibility not take place or some other procedure which may be considered fair and reasonable by taking into consideration all of the relevant facts and circumstances.

5.7.2. **First Class Mail.** For purposes of this Section, any written notice given by mail must be given by first-class or certified mail sent to the last address of the Member shown on the Association's records.

5.7.3. **Challenge.** Any proceeding challenging a determination that a Member is ineligible to vote pursuant to this Section, including a proceeding in which defective notice is alleged, must be commenced within one year after the effective date of the determination of ineligibility.

5.8. **Quorum.** At any meeting of the Association, the presence in person or by proxy of Members representing at least twenty percent (20%) of the Lots in the Property constitutes a quorum. At any meeting of the members of the Association at which a quorum is present at the beginning of the meeting, a quorum shall be deemed to exist throughout such meeting until it is adjourned.

- 5.9. **Adjournment.** If a quorum is not present at any meeting of the Association for which proper notice was given, Members representing at least a Majority of the votes present at the meeting, although not constituting a quorum, may vote to adjourn the meeting from time to time until a quorum is obtained. In addition, at any meeting of the Association, a Majority of the Members present at that meeting, either in person or by proxy, may adjourn the meeting to another time and place for any purpose.
- 5.10. **Votes.** The vote of Members representing at least a Majority of the votes cast at any meeting at which a quorum is present binds all Members for all purposes, except when a higher percentage is required by these Bylaws, the Declaration, or by law. Cumulative voting is prohibited.
- 5.10.1. **Co-Owned Lots.** If a Lot is owned by more than one Member, the vote appurtenant to that Lot shall be cast as follows. If only one of the multiple Owners of a Lot is present at a meeting of the Association, that person may cast the vote allocated to that Lot. If more than one of the multiple Owners is present, the vote allocated to that Lot may be cast only in accordance with the Owners' unanimous agreement. Multiple Owners are in unanimous agreement if one of the multiple Owners casts the vote allocated to a Lot and none of the other Owners makes prompt protest to the person presiding over the meeting.
- 5.10.2. **Corporation-Owned Lots.** If a Lot is owned by a corporation, the vote appurtenant to that Lot may be cast by any officer of the corporation in the absence of the corporation's written appointment of a specific person to exercise its vote. The vote of a partnership may be cast by any general partner in the absence of the partners' written appointment of a specific person. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of a corporation or partnership is qualified to vote.
- 5.10.3. **Association-Owned Lots.** Votes allocated to a Lot owned by the Association may be counted towards a quorum and for all ballots and votes except the election or removal of Directors. The vote appurtenant to a Lot owned by the Association is exercised by the Board.
- 5.11. **Proxies.** Votes may be cast in person or by written proxy. To be valid, each proxy must: (i) be signed and dated by a Member or his attorney-in-fact; (ii) identify the Lot to which the vote is appurtenant; (iii) name the person or title (such as "presiding officer") in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the meeting for which the proxy is given; (v) not purport to be revocable without notice; and (vi) be delivered to the secretary, to the person presiding over the Association meeting for which the proxy is designated, or to a person or company designated by the Board. Unless the proxy specifies a shorter or longer time, it terminates eleven (11) months after the date of its execution. Perpetual or self-renewing proxies are permitted, provided they are revocable. To revoke a proxy, the granting



Member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled is valid when the meeting reconvenes. A proxy may be delivered by fax. However, a proxy received by fax may not be counted to make or break a tie-vote unless: (i) the proxy has been acknowledged or sworn to by the Member, before and certified by an officer authorized to take acknowledgments and oaths; or (ii) the Association also receives the original proxy within five (5) days after the vote.

5.12. **Conduct of Meetings.** The president, or any person designated by the Board, presides over meetings of the Association. The secretary keeps, or causes to be kept, the minutes of the meeting which should record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. The then current edition of Robert's Rules of Order governs the conduct of meetings of the Association when not in conflict with the Restrictions. Votes should be tallied by Members appointed by the person presiding over the meeting, except as provided in *Section 2.3*.

5.13. **Order Of Business.** Unless the notice of meeting states otherwise, or the assembly adopts a different agenda at the meeting, the order of business at meetings of the Association is as follows:

- Determine votes present by roll call or check-in procedure
- Announcement of quorum
- Proof of notice of meeting
- Approval of minutes of preceding meeting
- Reports of Officers (if any)
- Reports of Committees (if any)
- Election of Directors (when required)
- Unfinished or old business
- New business
- Adjournment

5.14. **Action without Meeting.** Any action required or permitted to be taken at a Members' meeting may be taken without a meeting if members entitled to vote thereon unanimously agree and consent to such action in writing subject to the following:

5.14.1. **Time.** No action taken pursuant to this Section shall be effective unless writings describing and consenting to the action, signed by Members sufficient under this Section to take the action and not otherwise revoked, are received by the Association within sixty (60) days after the date the earliest dated writing describing and consenting to the action is received by the Association. Any such writing may be received by the Association by electronically transmitted

facsimile or other form of wire or wireless communication providing the Association with a complete copy thereof, including a copy of the signature thereto. Action taken pursuant to this Section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings describing and consenting to the action state a different effective date.

5.14.2. Revocation. Any Member who has signed a writing describing and consenting to action taken pursuant to this Section may revoke such consent by a writing signed and dated by the Member describing the action and stating that the Member's prior consent thereto is revoked, if such writing is received by the Association before the last writing necessary to effect the action is received by the Association.

5.14.3. Record Date. The record date for determining members entitled to take action without a meeting or entitled to be given notice of action so taken is the date a writing upon which the action is taken pursuant to this Section is first received by the Association. Action taken under this Section has the same effect as action taken at a meeting of Members and may be described as such in any document.

5.15. Action by Written Ballot. Any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter subject to the following:  
5.15.1. Contents. A written ballot shall:

- i. State each proposed action; and
- ii. Provide an opportunity to vote for or against each proposed action.

5.15.2. Approval. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

5.15.3. Solicitations. All solicitations for votes by written ballot shall:

- i. Indicate the number of responses needed to meet the quorum requirements;
- ii. State the percentage of approvals necessary to approve each matter other than election of Directors;
- iii. State the time by which a ballot must be received by the Association in order to be counted; and

- iv. Be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

5.15.4. Irrevocable. A written ballot may not be revoked.

5.15.5. Effect. Action taken under this Section has the same effect as action taken at a meeting of members and may be described as such in any document.

5.16. Telephone Meetings. Members of the Association may participate in and hold meetings of the Association by means of conference telephone or through the use of any means of communication by which all persons participating in the meeting can hear each other. Participation in the meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

5.17. Members List. After fixing a record date for a notice of a meeting or for determining the members entitled to take action by written ballot, the Association shall prepare an alphabetical list of the names of all its Members who entitled to notice of, and to vote at, the meeting or by written ballot in accordance with the provisions of the Act.

## ARTICLE 6 RULES

6.1. Rules. The Declarant has adopted initial rules and regulations for: (i) the administration of the Association and the Restrictions; (ii) the maintenance, management, operation, use, conservation, and beautification of the Property; and (iii) the health, comfort, and general welfare of the residents; provided, however, that such rules may not be in conflict with law or the Restrictions. The Declarant may adopt and record in the property records a Community Manual which collectively includes the rules and regulations, these Bylaws and/or any other policies or procedures governing the Association, as such may be amended from time to time. The Board will, at all times, maintain the then current and complete rules in a written form which can be copied and distributed to the Members. The Board has the right to amend, from time to time, the rules and regulations; provided, however, that until the expiration or termination of the Development and Sale Period, all amendments to the rules and regulations must be approved in advance and in writing by Declarant. Any amendment to the rules and regulations or other policies or procedures shall be considered a valid amendment of same and shall supersede any prior provision contained within any recorded Community Manual.

6.2. Adoption and Amendment. Any rule may be adopted, amended, or terminated by the Board, provided that the rule and the requisite Board (and Declarant, if applicable)

approval are properly recorded as a resolution in the minutes of the meeting of the Board.

- 6.3. **Distribution.** On request from any Member or resident, the Board will provide a current and complete copy of rules. Additionally, the Board will, from time to time, distribute copies of the current and complete rules to Owners and, if the Board so chooses, to non-Member residents.

## **ARTICLE 7** **ENFORCEMENT**

- 7.1. **Remedies.** The violation of any provision of the Restrictions gives the Board the following rights, in addition to any other rights set forth in the Restrictions:

7.1.1. **Fines.** To impose reasonable fines, if notice and an opportunity to be heard are given.

7.1.2. **Self-Help.** After notice and an opportunity to be heard are given, except in case of an emergency, to enter the Lot or Common Area in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition (except for additions or alterations of a permanent nature that may exist in that Lot) that is contrary to the intent and meaning of the provisions of the Restrictions. The Board may not be deemed liable for any manner of trespass by this action.

7.1.3. **Courts.** To enjoin, abate, or remedy, by appropriate legal proceedings, the continuance of any breach.

- 7.2. **Notice and Hearing.** Before imposing a fine or exercising self-help abatement, the Board must give the Owner a written violation notice and an opportunity to be heard.

7.2.1. **Notice of Violation.** The Board's written violation notice will contain the following: (i) the date the violation notice is prepared or mailed; (ii) a description of the violation; (iii) a reference to the rule or provision of the Restrictions that is being violated; (iv) a description of the action required to cure the violation; (v) the amount of the fine to be levied and/or the abatement action to be taken; (vi) the date the fine begins accruing or abatement action becomes possible; and (vi) a statement that not later than the 30th day after the date of the violation notice, the Owner may request a hearing before the Board to contest the fine or the abatement action.

7.2.2. **Notice to Resident.** In addition to giving the written violation notice to the Owner, the Board may also give a copy of the notice to the non-Owner resident, if the Board deems it appropriate.

- 7.2.3. Request for Hearing. To request a hearing before the Board, an Owner must submit a written request to the Board within thirty (30) days after the date of the violation notice. Within ten (10) days after receiving the Owner's request for a hearing, the Board will give the Owner notice of the date, time, and place of the hearing. The hearing will be scheduled for a date within forty-five (45) days from the date the Board receives the Owner's request, and should be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend.
- 7.2.4. Pending Hearing. Pending the hearing, the Board may continue to exercise the Association's other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of the fine or the abatement action described in the notice.
- 7.2.5. Hearing. The hearing will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner may attend the hearing in person, or may be represented by another person or written communication. No audio or video recording of the hearing may be made.
- 7.2.6. Minutes of Hearing. The minutes of the hearing must contain a statement of the results of the hearing and the amount of fine, if any, imposed, or abatement action, if any, authorized. A copy of the violation notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the hearing, the notice requirement will be deemed satisfied.
- 7.3. Imposition of Fine. Within thirty (30) days after levying the fine or authorizing the abatement, the Board must give the Owner notice of the levied fine or abatement action. If the fine or action is announced at the hearing at which the Owner is actually present, the notice requirement will be satisfied. Otherwise, the notice must be in writing.
- 7.3.1. Amount. The Board may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Board may establish a schedule of fines for certain types of violations. The amount and cumulative total of a fine must be reasonable in comparison to the violation. If the Board allows fines to accumulate, it may establish a maximum amount for a particular fine, at which point the total fine will be capped.
- 7.3.2. Type of Fine. If the violation is ongoing or continuous, the fine may be levied on a periodic basis (such as daily, weekly, or monthly). If the violation is not ongoing, but is instead sporadic or periodic, the fine may be levied on a per occurrence basis.
- 7.3.3. Other Fine-Related. The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard. The

Association may not charge interest on unpaid fines. The Association may not foreclose its assessment lien on a debt consisting solely of fines. The Board may adopt a collection policy that applies Owners' payments to unpaid fines before retiring other types of assessments.

- 7.4. **Additional Enforcement Rights.** Notwithstanding the notice and hearing requirement, the Board may take immediate and appropriate action, without giving the notices required in this Article, against violations of the Restrictions which, in the Board's opinion, are: (i) self-evident, such as vehicles parked illegally or in violation of posted signs; (ii) threatening to life or property; or (iii) repeat violations of the same provision by the same Owner to whom prior notices and demands have been given for the same violation. Further, the provisions of this Article do not apply to specific remedies provided in the Restrictions for certain violations, such as nonpayment of assessments.

## ARTICLE 8 OBLIGATIONS OF THE OWNERS

- 8.1. **Notice of Sale.** Any Owner intending to sell or convey his Lot or any interest therein must give written notice to the Board of his intention, together with: (i) the address or legal description of the Lot being conveyed; (ii) the name and address of the intended purchaser; (iii) the name, address, and phone number of the title company or attorney designated to close the transaction; (iv) names and phone numbers of real estate agents, if any, representing seller and purchaser; and (v) scheduled date of closing. An Owner will furnish this information to the Board at least ten (10) business days before the scheduled date of closing or conveyance. The requirements of this Section may be satisfied by giving the Association a copy of an accepted resale contract in connection with the Owner's request to the Association for any resale certificate.
- 8.2. **Proof of Ownership.** On request by the Association from time to time, any person who purports to be an Owner or the agent of an Owner must furnish to the Board evidence of ownership of the Lot. A copy of the recorded deed is the customary evidence. This requirement may be satisfied by receipt of a Board-approved form that is completed and acknowledged by a title company or attorney at time of conveyance of the Lot or any interest therein. The Association may refuse to recognize a person as a Member unless the requested documentation is provided.
- 8.3. **Owners' Information.** Within thirty (30) days after acquiring an ownership interest in a Lot, the Owner must provide the Association with the Owner's mailing address, telephone number, and driver's license number, if any; the name and telephone number of any resident other than the Owner; and the name, address, and telephone number of any person managing the Lot as agent of the Lot Owner. An Owner must notify the Association within thirty (30) days after he has notice of a change in any information required by this Section, and must provide the information on request by the Association from time to time.

- 8.4. **Mailing Address.** The Owner or the several co-Owners of a Lot must register and maintain one mailing address to be used by the Association for mailing of notices, demands, and all other communications. If an Owner fails to maintain a current mailing address with the Association, the address of the Owner's Lot is deemed to be his mailing address.
- 8.5. **Registration of Mortgagees.** Within thirty (30) days after granting a lien against his Lot, the Owner must provide the Association with the name and address of the holder of the lien and the loan number. The Owner must notify the Association within thirty (30) days after he has notice of a change in the information required by this Section. Also, the Owner will provide the information on request by the Association from time to time.
- 8.6. **Assessments.** All Owners are obligated to pay assessments imposed by the Association to meet the common expenses as defined in the Declaration. A Member is deemed to be in good standing and entitled to vote at any meeting of the Association if he is current in the assessments made or levied against him and his Lot.
- 8.7. **Compliance with Documents.** Each Owner will comply with the provisions and terms of the Restrictions, and any amendments thereto. Further, each Owner will always endeavor to observe and promote the cooperative purposes for which the Property was established.
- 8.8. **Use of the Common Area.** Each Owner shall use the Common Area in accordance with the purpose for which it is intended without hindering or encroaching upon the lawful rights of the other Owners.

**ARTICLE 9**  
**BOOKS, RECORDS AND STATEMENT OF ACCOUNT**

- 9.1. **Corporate Records.** The following records must be maintained by the Association:
- 9.1.1. **Financial Records.** The Association shall keep financial records sufficiently detailed to enable to Association to comply with C.R.S. § 38-33.3-316(8) concerning statements of unpaid assessments.
- 9.1.2. **Permanent Records.** The Association shall keep as permanent records minutes of all meetings of its Members and Board of Directors, a record of all actions taken by the Members or Board without a meeting, a record of all actions taken by a committee of the Board in place of the Board of Directors on behalf of the Association, and a record of all waivers of notices of meetings of Members and of the Board or any committee of the Board.
- 9.1.3. **Accounting Records.** The Association shall maintain appropriate accounting records.

9.1.4. Owner's List. The Association or its agent shall maintain a record of all Owners in a form that permits preparation of a list of the names and addresses of all Owners, showing the number of votes each Owner is entitled to vote.

9.1.5. Written Form. The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

9.1.6. Additional Records. The Association shall keep a copy of each of the following records at its principal office:

- i. The Declaration;
- ii. Any other covenants, conditions or restrictions;
- iii. The Articles of Incorporation;
- iv. The Bylaws;
- v. Resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations, and obligations of any Owners or any class or category of Owners;
- vi. The minutes of all Owners' meetings, and records of all action taken by Owners without a meeting, for the past three years;
- vii. All written communications within the past three years to Owners generally as Owners;
- viii. A list of the names and business or home addresses of the current Directors and officers;
- ix. A copy of the most recent annual report; and
- x. All financial audits or reviews conducted pursuant to C.R.S. § 38-33.3-303(4)(b) during the immediately preceding three years.

9.2. **Inspection of Corporate Records by Members**. Except as otherwise provided herein, all financial and other records shall be made reasonably available for examination and copying by any Owner and such Owner's authorized agents and subject to the following:

9.2.1. Reasonably Available. As used herein, "reasonably available" means available during normal business hours, upon notice of five (5) business days, or at the next regularly scheduled meeting if such meeting occurs within thirty (30) days after the request, to the extent that:



- i. The request is made in good faith and for a proper purpose;
  - ii. The request describes with reasonable particularity the records sought and the purpose of the request; and
  - iii. The records are relevant to the purpose of the request.
- 9.2.2. Fee. The Association may charge a fee, which may be collected in advance but which shall not exceed the Association's actual costs per page, for copies of any Association records.
- 9.2.3. Membership Lists. Without consent of the Board, a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to an Owner's interest as an Owner. In addition without the consent of the Board, a membership list or any part thereof may not be:
- i. Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the Association;
  - ii. Used for any commercial purpose; or
  - iii. Sold to or purchased by any person.
- 9.3. Statement of Account. Upon written request to the Association's registered agent, delivered personally or by certified mail, first-class postage prepaid, return receipt, an Owner or Owner's designee or Mortgagee or its designee shall be furnished a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The Association shall deliver such statement personally or by certified mail certified mail, first-class postage prepaid, return receipt to the inquiring party within fourteen (14) calendar days after receipt of the request.

**ARTICLE 10**  
**NOTICES**

- 10.1. Co-Owners. If a Lot is owned by more than one person, notice to one co-Owner is deemed notice to all co-Owners.
- 10.2. Delivery of Notices. Unless otherwise provided herein, any written notice required or permitted by these Bylaws may be given personally, by mail, by fax, by electronic posting on a web site or otherwise or by any other method permitted by CCIOA. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the Member at the address shown on the Association's records. If transmitted by fax, the

notice is deemed delivered on successful transmission of the facsimile. If transmitted by electronic mail, the notice is deemed delivered on successful transmission of the electronic mail.

## **ARTICLE 11** **DECLARANT PROVISIONS**

- 11.1. **Conflict.** The provisions of this Article control over any provision to the contrary elsewhere in these Bylaws.
- 11.2. **Board of Directors.** During the Development and Sale Period, *Section 6.09* of the Declaration governs the number, qualification, and appointment of Directors. The initial Directors will be appointed by Declarant and need not be Owners or residents. Directors appointed by Declarant may not be removed by the Owners and may be removed by Declarant only. Declarant has the right to fill vacancies on the Board by a Declarant appointee.

## **ARTICLE 12** **AMENDMENTS TO BYLAWS**

- 12.1. **Authority.** These Bylaws may be amended by a majority vote of the Board of Directors.
- 12.2. **Mortgagee Protection.** In addition to the notices and consents required by these Bylaws, certain actions and amendments require notice to or approval by Eligible Mortgage Holders, pursuant to the Mortgagee Protection article of the Declaration. If applicable, the Association must give the required notices to and obtain the required approvals from Eligible Mortgage Holders.
- 12.3. **Effective.** To be effective, each amendment must be in writing, reference the names of the Property and the Association, and be executed by a majority of the Board of Directors. Further, if these Bylaws are publicly recorded, the amendment must recite the recording data for the Bylaws, and be recorded in the Office of the Clerk and Recorder for Eagle County, Colorado.
- 12.4. **Declarant Protection.** During the Development and Sale Period, no amendment of these Bylaws may affect the Declarant's rights herein without the Declarant's written and acknowledged consent. Specifically, this Section and the article titled "Declarant Provisions" may not be amended without the prior written approval of the Declarant. The Declarant's written consent must be part of the amendment instrument.

## **ARTICLE 13** **GENERAL PROVISIONS**

- 13.1. **Conflicting Provisions.** If any provision of these Bylaws conflicts with any provision of the laws of the State of Colorado, the conflicting Bylaws provision is null and void, but

all other provisions of these Bylaws remain in full force and effect. In the case of any conflict between the certificate of formation of the Association and these Bylaws, the certificate of formation controls. In the case of any conflict between the Declaration and these Bylaws, the Declaration controls.

- 13.2. **Severability.** Whenever possible, each provision of these Bylaws will be interpreted in a manner as to be effective and valid. Invalidation of any provision of these Bylaws, by judgment or court order, does not affect any other provision which remains in full force and effect.
- 13.3. **Construction.** The effect of a general statement is not limited by the enumerations of specific matters similar to the general. The captions of articles and sections are inserted only for convenience and may not be construed as defining or modifying the text to which they refer. The singular is construed to mean the plural, when applicable, and the use of masculine or neuter pronouns includes the feminine.
- 13.4. **Fiscal Year.** The fiscal year of the Association will be set by resolution of the Board, and is subject to change from time to time as the Board determines. In the absence of a resolution by the Board, the fiscal year is the calendar year.
- 13.5. **Waiver.** No restriction, condition, obligation, or covenant contained in these Bylaws may be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.
- 13.6. **Indemnification.** To the fullest extent permitted by applicable law, the Association will indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that such person is or was a Director, officer, committee member, employee, servant, or agent of the Association against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by such person in connection with such action, lawsuit or proceeding if it is found and determined by the Board or a court that such person: (i) acted in good faith and in a manner which such person reasonably believed to be in, or not opposed to, the best interests of the Association; or (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit, or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful.
- 13.7. **Preparer.** These Bylaws were prepared by Robert D. Burton, Esq., Armbrust & Brown, L.L.P., 100 Congress Ave., Suite 1300, Austin, Texas 78701.



## 2. INITIAL RULES & REGULATIONS - SHADOWROCK TOWNHOMES

These INITIAL RULES & REGULATIONS are established by BLUE RIDGE INVESTMENTS, L.P., a Texas limited partnership, Declarant of Shadowrock Townhomes, for the benefit of the Shadowrock Townhome Association, Inc., a Colorado non-profit corporation (the "**Association**"). These Community Rules are the "**Rules**" defined in Article 1 of the Townhome Declaration of Covenants, Conditions and Restrictions for Shadowrock Townhomes, recorded or to be recorded in the Real Property Records of Eagle County, Colorado (the "**Declaration**").

These Rules are in addition to the provisions of the Declaration and Bylaws. By owning or occupying a townhome, each Owner and Resident agrees to abide by these Rules and to comply with the obligations of Owners and Residents under the Declaration and Bylaws of the Association.

Words and phrases defined in the Declaration have the same meaning when used in these Rules. In the event of a conflict between Documents, the hierarchy of authority is as follows: Declaration (highest), Bylaws, and these Rules (lowest). The Association's board of directors is empowered to interpret, enforce, amend, and repeal these Rules.

### A. COMPLIANCE

A-1. Compliance. Each Owner will comply with the provisions of these Rules, the other Documents, and policies adopted by the Board to supplement these Rules, as any of these may be revised from time to time. Each Owner, additionally, is responsible for compliance with the Documents by the Residents of his townhome, and his or their respective relatives, invitees, tenants, agents, employees, or contractors. If a Rule requires or prohibits conduct by an "**Owner**" or "**Resident**," each of those terms are deemed to include the other, and applies to all persons for whom an Owner or Resident is responsible. Again, the Owner is ultimately responsible for compliance by all persons using or related to his townhome. An Owner should contact the Association if he has a question about these Rules. The Association has the right to enforce these Rules against any person on the Property.

**DRAFTER'S DICTUM**

*Users of this document should periodically review statutes and court rulings that may modify or nullify provisions of this document or its enforcement, or may create rights or duties not anticipated by this document.*

- A-2. Additional Rules. Each Resident must comply with any rules and signs posted from time to time on the Property by the Association. Posted rules are incorporated in these Rules by reference. Each Resident must comply with notices communicated by the Association, from time to time, in the nature of seasonal or temporary rules, or notice of a change affecting use of the Property. Temporary rules are incorporated in these Rules by reference.
- A-3. Waiver. Circumstances may warrant waiver or variance of these Rules. To obtain a waiver, an Owner must make written application to the Board. The Board's approval of a variance must be in writing, and may be conditioned.
- A-4. Limits. These Rules represent standards of conduct and maintenance in a high density community. It is understood that individuals may have different interpretations of and tolerances for these Rules. On lifestyle-related rules, such as the "Community Etiquette" rules below, the Association may refrain from acting on a perceived violation unless the Board determines the violation to be significant or a community-wide problem. The Association may not be compelled by one Resident to enforce these Rules against another Resident. Residents are expected to deal directly and peaceably with each other about their differences.
- A-5. Filing Complaints. Because the Association is not staffed to monitor the Property for Rules violations, the Association relies on Residents to identify and report violations of these Rules and the Documents, and to monitor compliance with these Rules by violators. The Association also relies on Residents to help keep each other informed about the Rules. Recognizing that a Resident may be reluctant to confront another Resident about a violation, the Association will work with Residents to enforce the Rules. Generally, a complaint must be in writing and must be signed by a Resident or Owner who is willing to be identified as the complainant. The Association may refuse to enforce a violation (1) that cannot be easily and independently verified, (2) for which it did not receive a signed written complaint, (3) for which the complainant will not cooperate with monitoring the violation and compliance, and (4) which the Board does not consider to be significant or community-wide.

**B. OBLIGATIONS OF OWNERS AND RESIDENTS**

- B-1. Damage. An Owner is responsible for any loss or damage he causes to his townhome, other townhomes, the personal property of other Residents or their guests, or to the Common Area.

- B-2. Association Does Not Insure. A person assumes full risk and sole responsibility for placing his personal property in or on the Property. Each Resident is solely responsible for insuring his personal property in the townhome and on the Property, including his furnishings and vehicles. THE ASSOCIATION STRONGLY RECOMMENDS THAT ALL OWNERS AND RESIDENTS PURCHASE AND MAINTAIN INSURANCE ON THEIR PERSONAL BELONGINGS.
- B-3. Risk Management. An Owner may not permit anything to be done or kept in his townhome or the Common Area that is illegal or that may result in the cancellation of insurance on the Property.
- B-4. Reimbursement for Enforcement. An Owner must promptly reimburse the Association for any expense incurred by the Association to enforce the Documents against the Owner, his townhome, or persons for whom the Owner is responsible.
- B-5. Reimbursement for Damage. An Owner must promptly reimburse the Association for the cost of damage to the Property caused by the negligent or willful conduct of the Owner or persons for whom the Owner is responsible.
- B-6. No Garage Sales. Without the Board's prior written permission, no person may conduct at the Property a sale or activity that is advertised or attractive to the public, such as garage sales, car sales, or estate sales. This section does not apply to marketing the sale or rental of a townhome, unless combined with a prohibited activity.
- B-7. Supervision of Minors. For their own well-being and protection, persons who are legally incompetent or younger than 18 years must be under the general control and supervision of their parents or guardians at all times while on the Property. Persons who are below the chronological or mental age of 13 years must at all times be in the actual company of a person at least 13 years old who is responsible for their well being. A person under 13 years may not be left unattended in a townhome at any time. After nightfall, unless accompanied by a parent or guardian, persons under 18 years may not be on the Common Area.

### C. OCCUPANCY STANDARDS

- C-1. Numbers. The maximum number of persons who may occupy a townhome is one more than the number of bedrooms in the townhome. Two persons per bedroom, however, may occupy a townhome if the occupants qualify for familial status protection under the Fair Housing Act. Occupancy of a townhome, for purposes of these Rules, means occupancy in excess of 30 continuous days or 60 days in any 12-month period.
- C-2. Leases. Each lease must be in writing. At the Association's request, an Owner must give the Board a copy of each lease and lease renewal. A townhome may not be leased for

hotel or transient purposes. Less than the entire townhome may not be leased.

- C-3. Minors. No person under the age of 18 years may occupy a townhome unless he lives with a Resident who is his parent, legal guardian, or a designee of his parent or legal guardian. Upon request by the Association, an Owner will provide satisfactory proof of the ages and relationships among the occupants of his townhome.
- C-4. Danger. As permitted by the federal Fair Housing Act Rules, no townhome may be occupied by a person who constitutes a direct threat to the health or safety of other persons, or whose occupancy would result in substantial physical damage to the property of others.

#### **D. FIRE AND SAFETY**

- D-1. Safety. Each Owner or Resident is solely responsible for his own safety and for the safety, well-being, and supervision of his guests and any person on the Property to whom the Owner or Resident has a duty of care, control, or custody.
- D-2. Fires. Except for barbecue fires as permitted by these Rules, there may not be any exterior fires on the Property.
- D-3. Barbecue. If permitted in accordance with applicable laws and ordinances, Residents may keep and use barbeque grills that comply with applicable laws and ordinances, subject to the limitations contained in this Section. The Board reserves the right to prohibit or restrict the existence and/or use of all or certain outdoor cooking grills if, in the Board's discretion, a grill constitutes a fire hazard or is unattractive or oversized for the area in which it is kept. On permitted grills, (a) open fires must be supervised at all times; (b) portable gas tanks are prohibited – grills must be properly connected to the outdoor gas hook-ups provided for each townhome; (c) no flames may be higher than the cooking surface; and (d) a grill may not be used near combustible materials.
- D-4. Intrusion Monitoring. Although the townhome may be wired for intrusion monitoring service, the Association is not the service provider to the townhome, and has no responsibility or liability for the availability for quality of the service, or for the maintenance, repair, or replacement of the wires, conduits, equipment, or other fittings relating to the contract service. As stated in the Declaration, the Association may serve as a conduit for the service fees and payments from the Owner to the provider.
- D-5. Safety Equipment. No person may use, tamper with, or modify the fire and safety equipment, if any, such as alarms, extinguishers, monitors, and self-closing gates or doors. This Section may not be construed to require the installation or use of such equipment.
- D-6. Fire Sprinklers. Shadowrock Townhomes is constructed with an automatic fire sprinkler

system for the townhomes. Each Owner and Resident is responsible for preserving the integrity of his townhome's portion of the building's fire sprinkler system, as follows:

- a. Do not paint any part of the fire sprinkler system, including the sprinkler head.
- b. Do not hang anything from any part of the fire sprinkler system, including the sprinkler head.
- c. Do not stack items close to fire sprinkler heads. Tops of storage or furniture should be at least 18 inches below fire sprinkler heads.
- d. Promptly report malfunctions of, leaks from, or damage to any part of a sprinkler system.
- e. Leave control valves in the open position.
- f. If the townhome is remodeled by adding, removing, or relocating walls, doors, or partitions, the Owner, at the Owner's expense, must have the townhome's sprinkler system inspected by a fire sprinkler contractor or a registered fire protection engineer for compliance with city fire codes.
- g. If requested by the Association, provide access to your townhome for periodic maintenance or inspection of the sprinkler system.
- h. The Owner is solely responsible for damage to his townhome or any other property caused by his townhome's sprinkler system that discharges due to a person's tampering, intentional act, or violation of these rules.

D-7. Security. The Association may, but is not be obligated to, maintain or support certain activities within the Property designed to make the Property less attractive to intruders than it otherwise might be. The Association, its directors, committees, Members, agents, and employees will not in any way be considered an insurer or guarantor of security within the Property, and may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. Each Owner, Resident, guest, and invitee on the Property assumes all risk for loss or damage to his person, to his townhome, to the contents of his townhome, and to any other of his property an the Property. The Association expressly disclaims and disavows any and all representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any security systems, equipment, or measures recommended, installed, or undertaken within the Property.

#### **E. GENERAL USE AND MAINTENANCE OF TOWNHOME**



- E-1. Residential Use. Each townhome must be used solely for residential use, and may not be used for commercial or business purposes, except as permitted in the Declaration. This restriction does not prohibit a Resident from using his townhome for personal, business, or professional pursuits, provided that: (a) the non-residential use is incidental to the townhome's residential use; (b) the use conforms to applicable laws and ordinances; (c) there is no external evidence of the non-residential use; (d) the non-residential use does not entail visits to the townhome by the public, employees, suppliers, or clients; and (e) the non-residential use does not interfere with the use and enjoyment of neighboring townhomes.
- E-2. Annoyance. A Resident may not use his townhome in a way that: (a) annoys Residents of neighboring townhomes; (b) reduces the desirability of the Property as a Residential community; (c) endangers the health or safety of other Residents; or (d) violates any law or any provision of the Documents.
- E-3. Maintenance. An Owner, at his expense, will maintain his townhome and keep it in good repair.
- E-4. Balcony & Porch Maintenance. A Resident will maintain the porch, balcony, and deck portions of his townhome in a clean manner. A Resident will take care that the cleaning of his porch, balcony, and deck does not annoy or inconvenience other Residents. A porch, balcony, or deck may not be enclosed or used for storage purposes. If the Board determines that a porch, balcony, or deck is unsightly, the Board may give the Owner notice of the problem and a reasonable time period in which to correct it, after which the Board may take corrective action at the Owner's expense.
- E-5. Wood Floors. The purpose of this Section is to inform Owners about the wood floor coverings in some townhomes as originally constructed. Over time, the following aspects of wood will give each floor its unique character, warmth, and charm.
- Variation. The variations inherent in each plank of wood make it impossible to produce a floor with identical planks.
  - Moisture. Wood floors are purposefully installed with gaps between planks to accommodate the contraction and expansion of wood with changes in humidity. Because wood is capable of warping if exposed to moisture, potted plants should not be placed directly on the wood and liquid spills should be promptly removed.
  - Scuffs. Somewhat less resilient than other flooring materials, wood is susceptible to marring, such as from shoes, animal claws or nails, and furniture movement.
  - Color. As a natural substance, wood is capable of being discolored by sources such as sunlight, uneven use, cleaning substances, and protective coatings.

- E-6. Glass. Each Owner, at his expense, must promptly repair and replace any broken or cracked glass in his townhome's windows and doors, regardless of the source of the damage. Replacement glass must conform to the standard for the Property.
- E-7. Utility Equipment. Each Owner, at his expense, will maintain, repair, and replace the water heating and air heating and cooling equipment/system serving his townhome.
- E-8. Combustibles. A Resident may not store or maintain, anywhere on the Property – including within a townhome – explosives or materials capable of spontaneous combustion.
- E-9. Report Malfunctions. A Resident will immediately report to the Board his discovery of any leak, break, or malfunction in any portion of the Property which the Association has a duty to maintain. A Resident who fails to promptly report a problem may be deemed negligent, in which case the Owner may be liable for any additional damage caused by the delay.
- E-10. Emergencies. In case of continuous water overflow, a Resident should immediately turn off water and TURN THE SHUT-OFF VALVES BEHIND THE TOILET OR UNDER THE SINK.
- E-11. Cable. A Resident who subscribes directly to cable service is solely responsible for maintaining that subscription and the appurtenant equipment. A Resident who obtains cable service through the Association is responsible for the proper use, maintenance, and return of cable connections or equipment. No additional exterior cable lines may be connected to the townhome except in the cable conduit maintained by the Association. No holes or protrusions may be made in any exterior surface of the Property. Wires may not be draped, hung, or strung on the building or the grounds, the Owner of the townhome to which cable service is provided is responsible to the Association for any damage to the Property caused by the cable installer or servicer.
- E-12. Utilities. A Resident will try to conserve the use of utilities furnished through the Association, including water consumption within his townhome.
- E-13. Frozen Water Pipes. Some townhomes are constructed with water lines in exterior walls. It is the duty of every Owner and Resident of such a townhome to protect the water lines from freezing during winter months. Between September 1 and June 1 of any year, no townhome with water lines in exterior walls may be left unheated. During periods of anticipated below freezing temperatures, water lines in exterior walls should be allowed to drip continuously, and cabinets enclosing plumbing lines should be left ajar. Dishwashers on exterior walls should not be used during and immediately after periods of extreme cold. Failure by an Owner or Resident to monitor the local weather and take appropriate precautions may be deemed negligence.

## F. GENERAL USE & MAINTENANCE OF COMMON AREA

- F-1. Intended Use. Every area and facility in the Property may be used only for its intended and obvious use. For example, streets, walkways, sidewalks, and driveways are used exclusively for purposes of access, not for social congregation or recreation.
- F-2. Grounds. Unless the Board designates otherwise, Residents may not use or abuse the landscaped areas, lawns, beds, and plant materials on the Common Area.
- F-3. Abandoned Items. No item or object of any type may be stored, placed, or maintained anywhere on the Common Area, except by the Board or with the Board's prior written consent. Items of personal property found on the Common Area are deemed abandoned and may be disposed of by the Board.

## G. COMMUNITY ETIQUETTE

- G-1. Courtesy. Each Resident will endeavor to use his townhome and the Common Area in a manner calculated to respect the rights and privileges of other Residents.
- G-2. Annoyance. A Resident will avoid doing or permitting anything to be done that will annoy, harass, embarrass, or inconvenience other Residents or their guests, or the Association's employees and agents.
- G-3. Noise and Odors. Each Resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb Residents of other townhomes. The following are expressly prohibited: (1) installing speakers, subwoofers, or other noise or vibration emitting equipment in or on a party wall (a wall between 2 townhomes); (2) creating any protrusion in a party wall (a wall between 2 townhomes), through which sound may more easily transfer; (3) mounting a speaker in a ceiling at a point that is less than 5 feet from a party wall; and (4) loud vocalizations and boisterous conduct on the Common Area.

### **NOT SOUNDPROOFED**

The townhomes are not soundproofed, and some noise transmission between adjoining townhomes is possible. Reasonable people may disagree about "customary" noise levels and what constitutes a "disturbance." Persons who are hypersensitive to noise may be required to tolerate a degree of noise transmission.

- G-4. Parties. In planning private social functions at the Property, a Resident should be aware of the potential consequences on the Property's parking resources and on the sensibilities of other Residents. A Resident intending to use his townhome for a party or other activity that may be expected to produce a higher-than-customary level or duration of noise or other disturbance will make a diligent effort to give Residents of

adjoining townhomes timely prior notice of the event, as a courtesy. If the event is expected to attract 20 or more guests to the Property, the Resident will also give the Board timely prior written notice of the event.

- G-5. Reception Interference. Each Resident will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, or electronic reception on the Property.

#### **H. ARCHITECTURAL CONTROL; WORK UPON UNITS AND COMMON AREA**

- H-1. Exteriors. Without the written approval of the ACC, an Owner or Resident may NOT change, remodel, decorate, destroy, or improve any exterior surface or component of the Property, nor do anything to change the outside appearance of the Property, including without limitation the entry door, front porch, windows, garage doors, and driveway appurtenant to the townhome.
- H-2. Protrusions. An Owner or Resident may not cause anything to protrude or project through the boundaries of the townhome, such as the foundation, roof, party wall between townhomes, or an exterior wall of a townhome. Examples of installations that may entail protruding wires or conduits include, without limitation, exterior horns, lights, speakers, or aerials.
- H-3. Balconies & Porches. Because balconies, decks, and front porches are distinctive architectural features of the Property, an Owner or Resident may not change the appearance or condition of the balcony or porch portion of his townhome in any manner, without the prior authorization of the ACC. Prohibited activities include the following:
- a. Painting or staining any part of the balcony or porch.
  - b. Installing a cover of any kind over the open slat top of the balcony.
  - c. Enclosing or covering of the balcony or porch in any manner.
  - d. Hanging items from the trellis, arbor, walls, roof, or railing, or failing to remove hanging items that the ACC has determined to be unattractive, such as wind chimes, windsocks, birdfeeders, rope lights, and hanging baskets.
  - e. Maintaining anything on the balcony or porch that the ACC determines to be unattractive, such as umbrellas, items of storage, bicycles, and oversize or inappropriate furniture.
  - f. Barbeque grills may not be kept - even temporarily - on front porches.
- H-4. Hot Tubs. Subject to the approval of the ACC, one outdoor hot tub, spa and/or jacuzzi

(collectively referred to as "Hot Tub") shall be permitted in or on the back yard portion of an Owner's Lot provided that such Hot Tub seats six (6) adults or less or in any event is no greater in size than 7'3" by 7'3." Any sprinkler or mist system, fountain, or any other plumbed or liquid-based device may not be installed in a townhome, on a Lot or on any Common Area. This prohibition does not apply to replacements of customary kitchen and bathroom appliances and fixtures. This prohibition expressly applies to roofs, decks, and balconies.

- H-5. Satellite Dishes. A Resident who desires satellite television service must strictly comply with the applicable requirements set forth in the Declaration. No holes or protrusions may be made in any exterior surface of the Property. Wires may not be draped, hung, or strong an the building or the grounds. The Owner of the townhome to which satellite service is provided is responsible to the Association for any damage to the Property caused by the satellite dish installer or servicer. Contact the Association before shopping for an exterior satellite dish or antenna to determine if such equipment is permitted for a particular townhome and, if so, where it may be located. Owners should get Association's written authorization before any installation.

The Association may, but is not obligated to, install one or more satellite dishes upon the roof of a building, to serve the townhomes within such building. In lieu of installing a common satellite dish, the Association may, but is not obligated to, permit Owners to install a satellite dish upon the roof of such Owner's building, subject to such additional rules and regulations as the Association may promulgate from time to time concerning the installation of satellite dishes upon the building roofs. Each Owner is advised to contact the Association to determine whether the Association has elected to permit the Owners and Residents to install satellite dishes upon the building roofs, and if so, to discuss what additional rules will apply.

In the event that the Association elects to permit Owners and Residents to install satellite dishes upon the building roofs, installation shall be conducted at the Owner's or Resident's sole cost and expense by an installer or servicer approved by the Association.

- H-6. Work Upon Common Area and Townhomes. Notwithstanding any provision in the Declaration or these Rules to the contrary, no Owner or Resident shall perform or permit to be performed any work to any portion of his: (i) townhome, which work may require access to, over or through the Common Area or other townhomes or (ii) the Common Areas, without the prior consent of the Board of Directors except in case of an emergency. All such work may only be performed by a person who shall deliver to the Board of Directors prior to commencement of such work, in form satisfactory to the Board of Directors:
- a. releases of the Board of Directors and the Association for all claims that such Person may assert in connection with such work;

- b. indemnities of the Board of Directors and the Association, holding each and all of them harmless from and against any claims asserted for loss or damage to persons or property, including, but not limited to, Common Area or other townhomes;
- c. certificates of insurance, including liability and workmen's compensation coverage, in amounts and with companies reasonably acceptable to the Board of Directors; and
- d. all other information and protections which the Board of Directors may reasonably require.

H-7. Glass. The Property is designed to have a single uniform glass appearance for windows and lighting. Therefore, the color, tint, screening, and condition of all glass panes must conform to the building standard. An Owner or Resident may not install film or tint glass that changes the appearance of the glass. Mullions originally installed in the windows to create a "pane" effect may not be removed except temporarily for cleaning or repair.

H-8. Window Treatments. An Owner MAY install window treatments inside his townhome, provided:

- a. The window treatment, including drapes, blinds, shades, or shutters, must appear to be (1) clear, (2) white, (3) near-white light neutral, or (4) light wood tone when viewed from outside the townhome.
- b. The use of bed sheets, tablecloths, or other obviously non-drapery fabrics is expressly prohibited, even on a temporary basis.
- c. Aluminum foil, reflective window treatments, window tinting, and window decals or stickers are expressly prohibited.
- d. Window treatments must be maintained in good condition, and must be removed or replaced if they become stained, torn, damaged, or otherwise unsightly in the opinion of the Board.

H-9. Prohibited Acts. In addition to the foregoing, a person may not:

- a. Post signs, notices, or advertisements on the Common Area or in a townhome if the sign is visible from outside the townhome.
- b. Place or hang an object in, on, from, or above any window, interior window sill, deck, balcony or patio that, in the sole opinion of the Board, detracts from the appearance of the Property. Prohibited objects include planters and planter boxes, flower pots, window boxes, birdfeeders, windsocks, mobiles, wind

chimes, and other outside accessories.

- c. Hang, shake, or otherwise display linens, clothing, towels, rugs, shoes, mops, bedding, or other similar items from windows, doors, balconies, patios, or passageways.
- d. Have bicycles or similar sporting equipment on balconies or decks.
- e. Place decorations on exterior walls, doors, and fences, or on the Common Area.
- f. Enclose or cover a balcony, porch, or deck.
- g. Install storm or screen doors and windows, including solar screen.

H-10. Board Approval. To obtain the ACC's written consent for an alteration or modification, an Owner must comply with the architectural control requirements of the Declaration. An applicant may not rely on verbal assurances of an Association manager, director, or officer. If approval is obtained, the Owner must maintain the approved item in a good and attractive condition. For example, if the ACC approves a potted plant, the pot must be removed if the plant dies or becomes unsightly.

## **I. VEHICLE RESTRICTIONS**

- I-1. Permitted Vehicles. To be permitted on the Property, a vehicle must be operable, and must display a current license tag and inspection sticker. For purposes of these Rules, vehicles include automobiles, motorcycles, motorized bikes, passenger trucks, small vans, and similar passenger vehicles. The following are not permitted on the Property without the Board's consent: trailers, boats, recreational vehicles, buses, large commercial trucks, industrial vehicles. Motorcycles, motorbikes, or other motorized vehicles may not be operated on the Property except to provide transportation to and from a townhome.
- I-2. Washing/Repairs. Washing, repairs, restoration, or maintenance (including oil changes) of vehicles is prohibited on driveways, the private streets, and in offstreet parking areas, except for emergency repairs, and then only to the extent necessary to enable movement of the vehicle to a repair facility.
- I-3. Proper Placement. No vehicle, including motorcycles, may be driven, parked, or placed anywhere on the Property except in designated areas. Each vehicle must be parked straight-in (not angled or sideways), so that it does not occupy more than one parking space. Motorcycles may not be chained to buildings, fences, or any other part of the Property, unless designated for that purpose.
- I-4. Nuisances. Each vehicle must be muffled and must be maintained and operated to minimize noise, odor, and oil emissions. The use of car horns on the Property is

discouraged. No vehicle may be kept on the Property if the Board deems it to be unsightly, inoperable, inappropriate, or otherwise violative of these Rules.

- I-5. Private Firelanes/Obstructions. All streets within the Property are private firelanes and utility easements on which parking of vehicles is prohibited at all times. No vehicle may be parked in a manner that impedes or prevents ready access to the Property, driveways, or parking spaces. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard. No vehicle may be parked, even temporarily, in spaces reserved for others, in firelanes, or in any area designated as "No Parking."
- I-6. Garages. Because of the shortage of visitor parking within the Property, it is imperative that each Resident maintain his townhome's vehicle parking areas as such. A Resident with a car must use his garage for the routine parking of at least one operable vehicle. No garage may be enclosed or used for any purpose that prevents the parking of the maximum number of vehicles for which it was constructed. Garage doors must be kept closed at all times, except when entering or exiting. Driveways may not be used for any purpose other than entry and exit to the garage.
- I-7. Visitor Spaces. The use of unassigned and visitor parking spaces, if any, must be rotated, may not be used for storage of vehicles, and may not be used consistently by the same driver or vehicle. The Board may designate some of the unassigned offstreet parking spaces, if any, as "visitor spaces" for use, exclusively, by guests of Residents.
- I-8. Violations. A vehicle in violation of these Rules may be stickered, wheel-locked, towed, or otherwise removed from the Property by the Board, at the expense of the vehicle's Owner. The Association expressly disclaims any liability for damage to vehicles on which the Association exercises these remedies for Rules violations.

## **J. TRASH DISPOSAL**

- J-1. General Duty. Resident will endeavor to keep the Property clean and will dispose of all refuse in receptacles designated specifically by the Association or by the city for that purpose. Residents may NOT litter Common Area.
- J-2. Hazards. Residents may NOT store trash inside or outside his townhome in a manner that may permit the spread of fire, odors, or seepage, or encouragement of vermin. Before discarding coals, ashes, logs, or other materials used in barbecue grills or fireplaces, Resident will ensure that the debris is thoroughly cold.
- J-3. Excess Trash. Residents will place trash entirely within the designated receptacle, and may place trash outside, next to, or on top of the receptacle. If a receptacle is full, Residents should locate another receptacle to hold his trash. Boxes and large objects should be crushed or broken down before placed in a receptacle. Receptacles are to be



closed at all times when not in use. Residents must arrange privately for removal of discarded furnishings or any unusually large volume of debris.

#### K. PETS

- K-1. Permitted Pets. A Resident may not keep or permit on the Property a pet or animal of any kind, except as permitted by these Rules and the Documents. Subject to these Rules, a Resident may keep in his townhome customary domesticated house pets, such as domesticated dogs, cats, caged birds, and aquarium fish, provided there are not more than two cats, or two dogs, or one cat and one dog.
- K-2. Prohibited Animals. No Resident may keep a dangerous or exotic animal, pit bull terrier, trained attack dog, or any other animal deemed by the Board to be a potential threat to the well-being of people or other animals. No animal or house pet may be kept, bred, or maintained for any commercial purpose or for food.
- K-3. Indoors/Outdoors. A permitted pet must be maintained inside the townhome, and may not be kept on a porch, balcony, or deck. No pet is allowed on the Common Area unless carried or leashed. No pet may be leashed to a stationary object on the Common Area.
- K-4. Disturbance. Pets must be kept in a manner that does not disturb another Resident's rest or peaceful enjoyment of his townhome or the Common Area. No pet may be permitted to bark, howl, whine, screech, or make other loud noises for extended or repeated periods of time.
- K-5. Damage. Each Resident is responsible for any property damage, injury, or disturbance his pet may cause or inflict. A Resident who keeps a pet on the Property is deemed to indemnify and agrees to hold harmless the Board, the Association, and other Owners and Residents, from any loss, claim, or liability of any kind or character whatever resulting from any action of his pet or arising by reason of keeping or maintaining the pet on the Property.
- K-6. Pooper Scooper. No Resident may permit his pet to relieve itself on the Property, except in areas designated by the Board for this purpose. Each Resident is responsible for the removal of his pet's wastes from the Common Area. The Board may levy a fine against a Unit and its Owner each time feces are discovered on the Common Area and attributed to an animal in the custody of that townhome's Resident.
- K-7. Removal. If a Resident or his pet violates these Rules, or if a pet creates a noise, odor, or other disturbance or nuisance, the Resident or person having control of the animal may be given a written notice by the Board to correct the problem. If the problem is not corrected within the time specified in the notice (not less than 10 days), the Resident, upon written notice from the Board, may be required to remove the animal. Each Resident agrees to permanently remove his violating animal from the Property within 10

days after receipt of a removal notice from the Board.

#### L. MISCELLANEOUS

- L-1. Right to Hearing. An Owner may request in writing a hearing by the Board regarding an alleged breach of these Rules by the Owner or any person for whom the Owner is responsible. The Board will schedule a hearing within 30 days after receiving the Owner's written request. At the hearing, the Board will consider the facts and circumstances surrounding the alleged violation. The Owner may attend the hearing in person, or may be represented by another person or written communication.
- L-2. Mailing Address. An Owner who receives mail at any address other than the address of his townhome must maintain with the Association his current mailing address. Notifications of change of name or change of address should be clearly marked as such. All notices required to be sent to Owners by the Documents may be sent to an Owner's most recent address as shown on the records of the Association. If an Owner fails to provide a forwarding address, the address of that Owner's townhome is deemed effective for purposes of delivery.
- L-3. Revision. These Rules are subject to being revised, replaced, or supplemented, and Owners and Residents are urged to contact the Association to verify the rules currently in effect on any matter of interest. These Rules will remain effective until 10 days after an Owner of each townhome has been given a notice of the amendment or revocation of these Rules.
- L-4. Other Rights. These Rules are in addition to and in no way whatsoever detract from the rights of the Association under the other Documents and the laws of the State of Colorado.



### **3. ASSESSMENT COLLECTION POLICY – SHADOWROCK TOWNHOMES**

Shadowrock Townhomes is subject to the Townhome Declaration of Covenants, Conditions and Restrictions for Shadowrock Townhomes, recorded or to be recorded in the Official Public Records of Eagle County, Colorado, as it may be amended (the “**Declaration**”). Words and phrases defined in the Declaration have the same meaning when used in this assessment collection policy.

The operation of Shadowrock Townhomes is vested in the Shadowrock Townhome Association, Inc. (the “**Association**”), acting through its board of directors (the “**Board**”). The Association is empowered to enforce the covenants of the Declaration, including the obligation of Owners to pay assessments.

To establish equitable policies and procedures for the collection of delinquent assessments, the following policies are adopted for the benefit of the Association.

#### **SECTION 1. DELINQUENCIES, LATE CHARGES & INTEREST**

- 1-A. Due Date. An Owner will timely and fully pay Regular Assessments and Special Assessments. Regular Assessments are due and payable on the first calendar day of each month.
- 1-B. Delinquent. Any Assessment that is not fully paid when due is delinquent. When the account of a Member becomes delinquent, it remains delinquent until paid in full – including collection costs and late fees.
- 1-C. Late Fees & Interest. If the Association does not receive full payment of a Regular Assessment by 5:00 p.m. on the fifth calendar day of the month, the Association may levy a late fee of \$25 per month and/or interest of ten percent (10%) per annum from the first day of delinquency until the delinquency is paid in full. After the initial month of delinquency, a late fee of \$25 may be on the first day of each month the account is delinquent until the account is current.
- 1-D. Liability for Collection Costs. The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, court costs, filing fees, and other reasonable costs and attorney’s fees incurred by the Association in collecting the delinquency.

**DRAFTER'S DICTUM**

*Users of this document should periodically review statutes and court rulings that may modify or nullify provisions of this document or its enforcement, or may create rights or duties not anticipated by this document.*

- 1-E. Insufficient Funds. The Association may levy a charge of \$25 for any check returned to the Association marked "not sufficient funds" or the equivalent.
  
- 1-F. Waiver. Properly levied collection costs, late fees, and interest may not be waived by the Board, unless a majority of the directors determines that extraordinary circumstances warrant an adjustment to the account, in which case the adjustment must be described in detail in the minutes of the Board's meeting. Because of the potential for inadvertently effecting a waiver of the policies contained in this policy, the Board will exercise caution in granting adjustments to an Owner's account.

**SECTION 2. INSTALLMENTS & ACCELERATION**

If a Special Assessment is payable in installments, and if an Owner defaults in the payment of any installment, the Association may declare the entire assessment in default and accelerate the due date on all remaining installments of that Assessment. A Special Assessment payable in installments may be accelerated only after the Association gives the Owner at least fifteen (15) days prior notice of the default and the Association's intent to accelerate the unpaid balance if the default is not timely cured. Following acceleration of the indebtedness, the Association has no duty to reinstate the installment program upon partial payment by the Owner.

**SECTION 3. PAYMENTS**

- 3-A. Application of Payments. After the Association notifies the Owner of a delinquency and the Owner's liability for late fees or interest, and collection costs, any payment received by the Association may be applied in the following order, starting with the oldest charge in each category, until that category is fully paid, regardless of the amount of payment, notations on checks, and the date the obligations arose:

- |   |                                    |
|---|------------------------------------|
| (1) Collection costs and attorneys fees | (6) Delinquent Regular Assessments |
| (2) Fines                               | (7) Current Special Assessments    |
| (3) Reimbursable expenses               | (8) Current Regular Assessments    |
| (4) Late charges & interest             |                                    |
| (5) Delinquent Special Assessments      |                                    |

- 3-B. Form of Payment. The Association may require that payment of delinquent assessments be made only in the form of cash, cashier's check, or certified funds.
- 3-C. Partial and Conditioned Payment. The Association may refuse to accept partial payment (i.e., less than the full amount due and payable) and payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Member's account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payer. A payment that is not refunded to the payer within thirty (30) days after being deposited by the Association may be deemed accepted as to payment, but not as to words of limitation or instruction accompanying the payment. The acceptance by the Association of partial payment of delinquent assessments does not waive the Association's right to pursue or to continue pursuing its remedies for payment in full of all outstanding obligations.
- 3-D. Notice of Payment. If the Association receives full payment of the delinquency after recording a notice of lien, the Association will cause a release of notice of lien to be publicly recorded, a copy of which will be sent to the Owner. The Association may require the Owner to prepay the cost of preparing and recording the release.
- 3-E. Correction of Credit Report. If the Association receives full payment of the delinquency after reporting the defaulting Owner to a credit reporting service, the Association will report receipt of payment to the credit reporting service.

#### **SECTION 4. LIABILITY FOR COLLECTION COSTS**

The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, filing fees, and other reasonable costs and attorney's fees incurred in the collection of the delinquency, which amounts are secured by a lien against the Owner's townhome.

#### **SECTION 5. COLLECTION PROCEDURES**

- 5-A. Delegation of Collection Procedures. From time to time, the Association may delegate some or all of the collection procedures, as the Board in its sole discretion deems appropriate, to the Association's managing agent, an attorney, or a debt collector.
- 5-B. Delinquency Notices. If the Association has not received full payment of an assessment by the due date, the Association may send one or more written notices of nonpayment to the defaulting Owner, by hand delivery, first class mail, and/or by certified mail, stating the amount delinquent. The Association's delinquency-related correspondence may state that if full payment is not timely received, the Association may pursue any or all of the Association's remedies, at the sole cost and expense of the defaulting Owner.

- 5-C. Collection by Attorney. After giving the Owner notice of the delinquency, the Association may refer the delinquent account to an attorney for collection. In that event, the defaulting Owner will be liable to the Association for its legal fees and expenses.
- 5-D. Verification of Owner Information. The Association may obtain a title report to determine the names of the Owners and the identity of other lienholders, including the mortgage company.
- 5-E. Notification of Mortgage Lender. The Association may notify the mortgage lender of the default obligations.
- 5-F. Notification of Credit Bureau. The Association may report the defaulting Owner to one or more credit reporting services.
- 5-G. Notice of Lien. The Association may cause a notice of the Association's assessment lien against the Owner's townhome to be publicly recorded. In that event, a copy of the notice will be sent to the defaulting Owner, and may be sent to his mortgage holder.
- 5-H. Foreclosure of Lien -- Nonjudicially. The Board may instruct an attorney, officer, or agent of the Association to notify the defaulting Owner of the Association's intent to foreclose its assessment lien, to post the property for public auction, and to conduct a public auction of the Unit on the steps of the county courthouse in accordance with State law and the Association's documents. The Board may not foreclose a lien consisting solely of fines or securing money for which the Association has obtained a personal money judgment.
- 5-I. Foreclosure of Lien -- Judicially. The Association may file suit against the Owner for judicial foreclosure of the Association's assessment lien, This action may be combined with a claim against the Owner's personal liability, for recovery of a money judgment.
- 5-J. Suit for Owner's Personal Liability. Whether or not the Association forecloses the Association's assessment lien, the Board may file suit for a personal judgment against the defaulting Owner, and may execute on the judgment.
- 5-K. Possession Following Foreclosure. If the Association purchases the townhome at public auction, the Board may immediately institute actions to recover possession.
- 5-L. Collection Agency. The Board may employ or assign the debt to one or more collection agencies.
- 5-M. Cancellation of Debt. If the Board deems the debt to be uncollectible, the Board may elect to cancel the debt on the books of the Association, in which case the Association may report the full amount of the forgiven indebtedness to the Internal Revenue Service as income to the defaulting Owner.

- 5-N. Suspension of Voting Rights. The Association may suspend the voting rights of an Owner whose account with the Association is delinquent for at least 30 days.
- 5-O. Suspension of Use of Certain Facilities or Services. The Association may suspend the use of the Common Area amenities by an Owner, or his tenant, whose account with the Association is delinquent for at least thirty (30) days.
- 5-P. Utility Shut-Off. The Association may terminate utility service to the Unit for which assessments used to pay the cost of that utility are delinquent, according to the Association's utility shut-off policy.

## SECTION 6. GENERAL PROVISIONS

- 6-A. Independent Judgment. Notwithstanding the contents of this detailed policy, the officers, directors, manager, and attorney of the Association will exercise their independent, collective, and respective judgment in applying this policy.
- 6-B. Other Rights. This policy is in addition to and does not detract from the rights of the Association to collect assessments under the Association's Documents and the laws of the State of Colorado.
- 6-C. Limitations of Interest. The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Colorado. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with this policy, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid special and Regular Assessments, or reimbursed to the Owner if those assessments are paid in full.
- 6-D. Notices. Unless the Documents, State law, or this policy provide otherwise, any notice or other written communication given to an Owner pursuant to this policy will be deemed delivered to the Owner upon depositing same with the U.S. Postal Service, addressed to the Owner at the most recent address shown on the Association's records, or on personal delivery to the Owner, If the Association's records show that a Unit is owned by 2 or more persons, notice to one co-Owner is deemed notice to all co-Owners. Similarly, notice to one Resident is deemed notice to all Residents. Written communications to the Association, pursuant to this policy, will be deemed given on actual receipt by the Association's president, secretary, managing agent, or attorney.
- 6-E. Definitions. Words and phrases used in this policy have the same meanings given to them by the Declaration.

6-F. Amendment of Policy. This policy will remain effective until 10 days after the Association delivers to an Owner notice of amendment or revocation of this policy. The notice may be published and distributed in an Association newsletter or other community-wide publication.





#### 4. FINING POLICY – SHADOWROCK TOWNHOMES

Shadowrock Townhomes is subject to the Townhome Declaration of Covenants, Conditions and Restrictions - Shadowrock, recorded or to be recorded in the Official Public Records of Eagle County, Colorado, as it may be amended (the “**Declaration**”). Words and phrases defined in the Declaration have the same meaning when used in this fining policy.

1. Background. The Association adopts this policy as part of the initial project documentation.
2. Policy. The Association uses fines to discourage violations of the Documents, and to encourage compliance when a violation occurs - not to punish violators or generate revenue for the Association. Although a fine may be an effective and efficient remedy for certain types of violations or violators, it is only one of several methods available to the Association for enforcing the Documents. The Association’s use of fines does not interfere with its exercise of other rights and remedies for the same violation. Nor may the Association use fines to the exclusion of other remedies.

**DRAFTER’S DICTUM**

*Users of this document should periodically review statutes and court rulings that may modify or nullify provisions of this document or its enforcement, or may create rights or duties not anticipated by this document.*

3. Owner’s Liability. An Owner is liable for fines levied by the Association for violations of the Documents by the Owner, the Residents of the townhome, and the relatives, guests, employees, and agents of the Owner and Residents. Regardless of who performs the violation, the Association will direct its communications to the Owner, although the Association may send copies of its notices to the Resident.
4. Violation Notice. Before levying a fine, the Association will give the Owner a written violation notice and an opportunity to be heard. This requirement may not be waived. The Association’s written violation notice will contain the following items: (1) the date the violation notice is prepared or mailed; (2) a description of the violation; (3) a reference to the rule or provision that is being violated; (4) a description of the action required to cure the violation; (5) the amount of the fine; (6) a statement that not later than the 30th day after the date of the violation notice, the Owner may request a hearing before the Board to contest the fine; and (7) the date the fine attaches or begins accruing

(the "Start Date"), subject to the following:

- a. New Violation. If the Owner was not given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months, the notice will state a specific date by which the violation must be cured to avoid the fine, if the violation is ongoing or continuous. If the violation is not ongoing, but is instead sporadic or periodic, the notice must state that any future violation of the same rule may result in the levy of a fine.
  - b. Repeat Violation. In the case of a repeat violation, the notice will state that, because the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months, the fine attaches from the date of the violation notice.
4. Violation Hearing. An Owner may request in writing a hearing by the Board to contest the fine. To request a hearing before the Board, an Owner must submit a written request to the Association's manager within thirty (30) days after the date of the violation notice. Within fifteen (15) days after Owner's request for a hearing, the Association will give the Owner at least fifteen (15) days' notice of the date, time, and place of the hearing. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend. Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine. The hearing will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner may attend the hearing in person, or may be represented by another person or written communication. No audio or video recording of the hearing may be made. The minutes of the hearing must contain a statement of the results of the hearing and the fine, if any, imposed. A copy of the violation notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the meeting, the notice requirements will be deemed satisfied.
  5. Levy of Fine. Within thirty (30) days after levying the fine, the Board must give the Owner notice of the levied fine. If the fine is levied at the hearing at which the Owner is actually present, the notice requirement will be satisfied if the Board announces its decision to the Owner at the hearing. Otherwise, the notice must be in writing. In addition to the initial levy notice, the Association will give the Owner periodic written notices of an accruing fine or the application of an Owner's payments to reduce the fine. The periodic notices may be in the form of monthly statements or delinquency notices.
  6. Amount. The Association may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Association may establish a schedule of fines for certain types of violations. If circumstances warrant a variance from the schedule, the Board will document the reasons for the variance in the minutes of its meeting. The amount and cumulative total

of a fine must be reasonable in comparison to the violation, and should be uniform for similar violations of the same provision of the Documents. If the Association allows fines to accumulate, it will establish a maximum amount for a particular fine, at which point the total fine will be capped.

The Board has adopted the following general Schedule of Fines, provided, that the Board reserves the right to set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation:

<u>Number of violations in a 12 month period</u>	<u>Fine Amount</u>
First violation:	Warning
Second violation:	\$100
Third violation:	\$200
Fourth violation:	\$300

7. Type of Levy. If the violation is ongoing or continuous, the fine may be levied on a periodic basis (such as daily, monthly, or quarterly), beginning on the Start Date. If the violation is not ongoing, but is instead sporadic or periodic, the fine may be levied on a per occurrence basis.
8. Collection of Fines. The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard. The Association may not foreclose its assessment lien on a debt consisting solely of fines. The Association may not charge interest or late fees for unpaid fines.
9. Amendment of Policy. This policy may be revoked or amended from time to time by the Board. This policy will remain effective until ten (10) days after the Association delivers to an Owner of the amendment or revocation of this policy. The notice may be published and distributed in an Association newsletter or other community-wide publication.



## 5. HANDLING OF CONFLICTS OF INTEREST INVOLVING BOARD MEMBERS– SHADOWROCK TOWNHOMES

1. No loans shall be made by the Association to any member of the Board or any officer of the Association. Any member of the Board or any officer of the Association who assents to or participates in the making of any such loan shall be liable to the Association for the amount of such loan until the repayment thereof.

2. No “conflicting interest transaction” (as defined in Section 7-128-501(1), C.R.S.) shall be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by a Member or by or in the right of the Association, solely because the conflicting interest transaction involves a member of the Board or a “party related to a member of the Board” (as defined in Section 7-128-501(5), C.R.S.) or an entity in which a member of the Board is a director or officer or has a financial interest or solely because the member of the Board is present at or participates in the meeting of the Board that authorizes, approves, or ratifies the conflicting interest transaction or solely because the interested Board member’s vote is counted for such purpose if:

- a. The material facts as to the interested Board member’s relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board, and the Board in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested Board members, even though the Board members are less than a quorum; or
- b. The material facts as to the interested Board member’s relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board members entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the Board members entitled to vote thereon; or
- c. The conflicting interest transaction is fair as to Association.

3. Common or interested Board members may be counted in determining the presence of a quorum at a meeting of the Board which authorizes, approves, or ratifies the conflicting interest transaction.



## **6. CONDUCT OF MEETINGS– SHADOWROCK TOWNHOMES**

1. **Notice.** In addition to the notice required by the Bylaws, notice of any meeting of the Members shall be physically posted in a conspicuous place, to the extent that such posting is feasible and practicable. If electronic means are available to the Association, notice of all regular and special meetings of the Members shall be provided to all Owners who so request and who furnish the Association with their electronic mail addresses. Electronic notice of a special meeting of the Members shall be given as soon as possible, but at least twenty-four (24) hours before the meeting.

2. **Open Meetings.** All meetings of the Association and the Board of Directors are open to every Member, or to any person designated by a Member in writing as the Member's representative, and all Members or their designated representatives so desiring shall be permitted to attend, listen, and speak at an appropriate time during the deliberations and proceedings; except that, for regular and special meetings of the Board, Members who are not Board members may not participate in any deliberation or discussion unless expressly so authorized by a vote of the majority of a quorum of the Board.

3. **Restrictions on Participation at Meetings.** The Board may place reasonable time restrictions on those persons speaking during the meeting but shall permit a Member or a Member's designated representative to speak before the Board takes formal action on an item under discussion, in addition to any other opportunities to speak. The Board shall provide for a reasonable number of persons to speak on each side of an issue. Should the President or acting chair determine that any Member has spoken for the allocated amount of time or longer, the President or acting chair shall have the authority to instruct that member to yield the floor, and that member will be obligated to comply with the President's or acting chair's instruction.

4. **Attorney-Client Privilege.** Upon the final resolution of any matter for which the Board received legal advice or that concerned pending or contemplated litigation, the Board may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate, about such matter in an open meeting.

5. **Executive Session.** Notwithstanding the foregoing, the Board or a committee thereof may hold an executive or closed door session and may restrict attendance to Board members and other persons specified by the Board; provided that any such executive or closed door session may only be held in accordance with the provisions and requirements of the

Colorado Common Interest Ownership Act, § 38-33.3-101, et seq., as amended from time to time, or other applicable law. The matters to be discussed at such an executive session are limited to:

- a. Matters pertaining to employees of the association or the managing agent's contract or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the association;
- b. Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
- c. Investigative proceedings concerning possible or actual criminal misconduct;
- d. Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
- e. Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;
- f. Review of or discussion relating to any written or oral communication from legal counsel.

Prior to the time the members of the Board convene in executive session, the President or acting chair shall announce the general matter of discussion as enumerated in paragraphs (a) to (f) above.

6. **Secret Ballot.** Votes for contested positions on the Board shall be taken by secret ballot. In addition, at the discretion of the Board, or upon the request of twenty percent (20%) or more of the Members present, or represented by proxy, at a meeting in which a quorum has been achieved, a vote on any other matter affecting the Project on which all Members are entitled to vote shall be by secret ballot. Ballots shall be counted by a neutral third party or by a committee of volunteers. Such volunteers shall be Owners who are selected or appointed at an open meeting, in a fair manner, by the chair of the Board or another person presiding during that portion of the meeting. The volunteers shall not be Board members and, in the case of a contested election for a Board position, shall not be candidates. The results of the vote taken by secret ballot shall be reported without reference to names, addresses or other identifying information of the Owners participating in such vote.



**7. INSPECTION AND COPYING OF ASSOCIATION RECORDS BY MEMBERS—  
SHADOWROCK TOWNHOMES**

1. The Association shall keep financial records sufficiently detailed to enable the Association to provide a written statement of any unpaid Assessments in accordance with Section 316(8) of the Colorado Common Interest Ownership Act.

2. The Association shall keep as permanent records (a) Minutes of all meetings of Members and the Board, (b) a record of all actions taken by the Members or the Board by written ballot or written consent in lieu of a meeting, (c) a record of all actions taken by a committee of the Board in place of the Board on behalf of the Association, and (d) a record of all waivers of notices of meetings of Members and of the Board or any committee of the Board.

3. The Association or its agent shall maintain a record of Members in a form that permits preparation of a list of the names and addresses of all Members, showing the number of votes each Member is entitled to vote.

4. The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

5. All financial and other records (other than records deemed confidential by the Board) shall be made reasonably available for examination and copying by any Member and such Member's authorized agents. The Association may charge a fee, which may be collected in advance by which shall not to exceed the Association's actual cost per page, for copies of Association records. As used in this Paragraph 5, "reasonably available" means available during normal business hours, upon notice of five (5) business days, or at the next regularly scheduled meeting if such meeting occurs within thirty (30) days after the request, to the extent that (a) the request is made in good faith and for a proper purpose, (b) the request describes with reasonable particularity the records sought and the purpose of the request, and (c) the records are relevant to the purpose of the request.

6. A membership list, or any part thereof, may not be obtained or used by any person for any purpose unrelated to an Owner's interest as an Owner without consent of the Board. Without limiting the generality of the foregoing, without the consent of the Board, a membership list, or any part thereof, may not be:

- a. Used to solicit money or property unless such money or property will be used

solely to solicit the votes of the Owners in an election to be held by the Association;

- b. Used for any commercial purpose; or
- c. Sold to or purchased by any person.

7. At the discretion of the Association or the Association's manager, certain records may only be inspected in the presence of a Board member or employee of the Association's manager. No records may be removed from the office without the express written consent of the Board.

8. In addition to the records specified in Paragraphs 1 and 2 above, the Association shall keep a copy of each of the following records at its principal office:

- a. the Articles of Incorporation;
- b. the Declaration;
- c. the Bylaws;
- d. Resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations and obligations of Members or any class or category of Members;
- e. the minutes of all meetings of the Members and records of all actions taken by Members without a meeting for the past three (3) years;
- f. all written communications within the past three (3) years to Members generally as Members;
- g. a list of the names and business or home addresses of the Association's current directors and officers;
- h. the Association's most recent annual report, if any; and
- i. all financial audits or reviews conducted pursuant to Section 303(4)(b) of the Colorado Common Interest Ownership Act during the immediately preceding three (3) years.





## 8. RESERVE FUND INVESTMENT POLICY– SHADOWROCK TOWNHOMES

1. The Board of Directors shall be responsible for managing and investing a reserve fund (the “Reserve Fund”). In that connection, the Board may engage outside professionals;
2. The Reserve Fund shall be invested in accordance with all applicable laws, including Colorado State Statutes, and with any resolutions adopted by the Board of Directors;
3. The Reserve Fund shall be invested in a manner that will preserve capital and minimize credit and interest rate risk;
4. The investments in the Reserve Fund shall be sufficiently liquid to meet all planned Reserve Fund expenditures for the following fiscal year. The Reserve Fund portfolio shall consist largely of money market accounts and/or certificates of deposit;
5. The portfolio of investments in the Reserve Fund shall earn a competitive market rate of return on available funds while taking into account the Association’s investment risk, constraints, and cash flow needs;
6. Association Members shall have access to a list of the portfolio of investments in the Reserve Fund and the current market valuation of each investment; and
7. Notwithstanding any of the foregoing, with regard to investment of the Reserve Fund, the Board shall be subject to the standards set forth in Section 7-128-401, C.R.S., as more particularly described in Section 303(2.5) of the Colorado Common Interest Ownership Act.



**9. PROCEDURES FOR THE ADOPTION AND AMENDMENT OF  
POLICIES, PROCEDURES AND RULES-SHADOWROCK TOWNHOMES**

1. The Board shall have the authority to create, adopt, enforce, and amend policies, procedures, rules and regulations (the “**Rules and Regulations**”) which it deems appropriate for the Project.

2. Prior to adopting any new Rules and Regulations, the Board may, at its sole option, discuss the proposed new Rules and Regulations at any meeting of the Members which may or may not be called for that purpose.

3. The Board may adopt Rules and Regulations at a meeting of the Board, by unanimous written consent in lieu of a meeting or by any other method authorized by the Association’s governing documents or pursuant to Colorado law.

4. The Board shall inform all Members of the adoption of any new Rules and Regulations either by posting the new Rules and Regulations at the Project or on the Association’s website, if any, or by delivering the new Rules and Regulations to the Members by e-mail, U.S. Mail, newsletter or personal delivery. A compilation of all current Rules and Regulations shall be available for inspection and copying in accordance with the Association’s policy regarding inspection and copying of Association records by Owners.

5. Unless otherwise provided, any new Rules and Regulations shall be in full force and effect and subject to enforcement by the Association immediately following publication thereof in accordance with Paragraph 4 above.



**10. DISPUTE RESOLUTION-SHADOWROCK TOWNHOMES**

THE DISPUTE RESOLUTION POLICIES ARE SET FORTH IN ARTICLE 17 OF THE TOWNHOME DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SHADOWROCK AND SUCH POLICIES ARE HEREBY ADOPTED BY THE ASSOCIATION AND INCORPORATED HEREIN BY REFERENCE.



## 11. MOLD POLICY – SHADOWROCK TOWNHOMES

Shadowrock Townhomes are subject to the Townhome Declaration of Covenants, Conditions and Restrictions - Shadowrock, recorded or to be recorded in the Official Public Records of Eagle County, Colorado, as it may be amended (the “Declaration”). Words and phrases defined in the Declaration have the same meaning when used in this mold policy.

### RECITALS

A. Background. Because of extensive news coverage in recent years relating to mold, the public and the insurance industry have a heightened awareness of and sensitivity to anything pertaining to mold. In a condominium context, the mold issue has numerous facets. Like many other maintenance issues, the community of Owners must know where to draw the line between the Association’s responsibility and the Owner’s responsibility. The purpose of this policy is to help draw that line.

B. Mold Information. In adopting this policy, the Association relies on information about mold obtained from government sources, including the “Indoor Air Mold” website sponsored by the U. S. Environmental Protection Agency at [www.epa.gov/mold](http://www.epa.gov/mold). On the date of this policy, the first page of the website contains this information:

*The key to mold control is moisture control. It is important to dry water damaged areas and items within 24-48 hours to prevent mold growth. If mold is a problem in your home, clean up the mold and get rid of the excess water or moisture. Fix leaky plumbing or other sources of water. Wash mold off hard surfaces with detergent and water, and dry completely. Absorbent materials (such as ceiling tiles & carpet) that become moldy may have to be replaced.*

C. Owner/Resident Duty. Because the Association does not have continual access to the individually owned townhomes, the Association relies on Owners and Residents to control the moisture levels in their townhomes, and to promptly identify and report water leaks and water penetrations in their townhomes. The fact that a townhome is vacant or occupied by a person other than the Owner does not relieve the Owner from fulfilling his obligations to the Association and to the Owners of townhomes that adjoin his own. Although the Resident, if not the Owner, may perform the obligations, the Owner is ultimately responsible if the non-Owner Resident fails or refuses to perform.

D. Insurance. On the date of this Policy, property insurance available to the

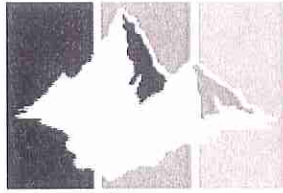
Association does not include coverage of mold at a price that is affordable for the Association. An Owner who wants insurance coverage with respect to mold and mold-related damages is advised to purchase such insurance coverage as part of his homeowners insurance policy.

E. Mold Reminders. Mold spores are a natural component of our environment. Mold spores are everywhere - in the outside air and inside of townhomes. In addition to air-borne mold, visible surface mold is a common occurrence in wet areas, such as showers. Air quality tests for mold are capable of being unreliable as determinates of a health problem.

## RULES

1. Inspect for Surface Mold. Each Resident and Owner will regularly inspect his entire townhome (including inside closets and cabinets, and behind furniture and appliances) for visible surface mold and will promptly remove same using procedures recommended by an appropriate source, such as the U. S. Environmental Protection Agency ([www.epa.gov](http://www.epa.gov)). Similarly, the Resident and Owner will be alert to odors associated with mold, and will try to locate the source of such odor when detected.
2. Inspect for Water Leaks. Each Resident and Owner will regularly inspect his entire townhome (including inside closets and cabinets, and behind furniture and appliances) for leaks, breaks, or malfunctions of any kind that may emanate from or cause damage to other townhomes. When possible, such inspection will be performed after rains when leaks from wind-driven rain are most likely to be evident. Typical indicators of water penetration problems include water leaks around windows, doors, flues, and vents; standing water on a floor; water stains on ceilings and walls.
3. Monitor Water Appliances. Each Owner is responsible for the inspection, maintenance, repair, and replacement of all water-using appliances and fixtures in the townhome or serving the townhome exclusively, such as dishwashers, water heaters, washing machines, ice-makers, toilets, air conditioning drip pans, and shower pans. The Owner is solely responsible for any damage to his townhome, another townhome, or the Common Area coming from the appliances and fixtures in his townhome or serving his townhome exclusively, regardless of the nature or exact location of the water source.
4. Report. A Resident or Owner will promptly report to the Association his discovery of any leak, break, or malfunction in any portion of his townhome for which the Association has a maintenance responsibility. The origin of a water leak can be difficult to locate and may require repeated attempts to repair. The failure of the Association or its contractors to effectively stop a water leak on the first repair attempt is not uncommon and must not dissuade a Resident or Owner from re-reporting the leak on its next occurrence. The failure by an Owner or Resident to promptly report a water leak or water penetration problem may be deemed negligence, thereby making the Resident or Owner liable for any additional damage caused by the delay.

5. Mitigate. To mitigate damage from water leaks and penetrations, and to discourage mold, the Resident or Owner of a townhome that experiences a water leak or penetration must promptly dry, clean, and disinfect the wet area. If the water penetration is inside a wall cavity or above a ceiling, it may be necessary to cut a hole in the wall or ceiling to circulate air that will dry the wet materials. If the wall or ceiling cavity that holds water is maintained by the Association, the Association will pay the cost of repairing the sheetrock, notwithstanding the Sheetrock Section in the Declaration.
6. Humidity. To discourage mold in his townhome, the Owner or Resident should maintain an inside humidity level under sixty percent (60%). If condensation or moisture collects on windows, walls or pipes, the Owner or Resident should promptly dry the wet surface and reduce the moisture/water source. Condensation can be a sign of high humidity.
7. Negligence. The failure to promptly and properly repair a water-related problem in the Unit may be deemed negligence by the Owner, who may be liable for any additional damage caused by the failure or the delay.
8. Information. Far more information about mold, please consult a reliable source, such as "A Brief Guide to Mold, Moisture, and Your Home" - a brochure published by the U. S. Environmental Protection Agency, which is available on its website at [www.epa.gov/mold](http://www.epa.gov/mold).



Shadowrock

12. SHADOWROCK TOWNHOMES COMMUNITY MANUAL

CERTIFICATION, ADOPTION & ACKNOWLEDGMENT

As the Declarant of Shadowrock Townhomes and the initial and sole member of Shadowrock Townhome Association, Inc. (the "Association"), I certify that the foregoing Shadowrock Townhomes Community Manual was adopted for the benefit of the Association as part of the initial project documentation for Shadowrock Townhomes, located in Eagle County, Colorado. This Community Manual becomes effective when recorded.

SIGNED on this 20<sup>th</sup> day of December, 2006.

BLUE RIDGE INVESTMENTS, L.P., a Texas limited partnership

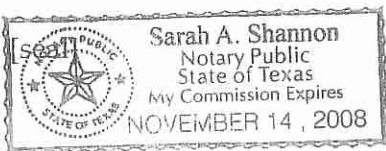
By: GP Blue Ridge Investments, Inc., a Texas corporation, its General Partner

By: [Signature]  
Printed Name: Larry Vineyard  
Title: Vice President

STATE OF Texas §

COUNTY OF Traus §


This instrument was acknowledged before me this 20<sup>th</sup> day of December, 2006 by Larry Vineyard, Vice President of GP Blue Ridge Investments, Inc., a Texas corporation, general partner of Blue Ridge Investments, Ltd., on behalf of said corporation and partnership.



[Signature]  
Notary Public Signature

ACKNOWLEDGED, AGREED AND ADOPTED:

SHADOWROCK TOWNHOME ASSOCIATION, INC.

By: 

Printed Name: Lacey Vinayagas

Title: Board Member

By: 

Printed Name: THOMAS BAHNER

Title: Board Member

By: 

Printed Name: RAYMOND E. ROED

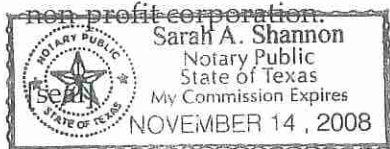
Title: Board Member



STATE OF Texas §

COUNTY OF Travis §

This instrument was acknowledged before me this 20th day of December, 2007 by Larry Vineyard, Board Member of the Shadowrock Townhome Association, Inc., a Colorado

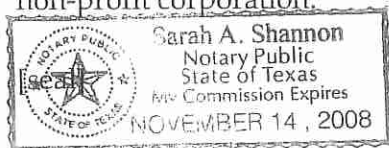


Sarah A. Shannon  
Notary Public Signature

STATE OF Texas §

COUNTY OF Travis §

This instrument was acknowledged before me this 20th day of December, 2007 by Thomas Banner, Board Member of the Shadowrock Townhome Association, Inc., a Colorado non-profit corporation.



Sarah A. Shannon  
Notary Public Signature

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me this 20th day of December, 2007 by Ralph E. Reed, Board Member of the Shadowrock Townhome Association, Inc., a Colorado non-profit corporation.



Cindy Gray  
Notary Public Signature