

AMENDED AND RESTATED BY-LAWS
OF
OWNERS ASSOCIATION OF BOULDERS SCOTTSDALE

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**AMENDED AND RESTATED BY-LAWS
OF
OWNERS ASSOCIATION OF BOULDERS SCOTTSDALE**

**ARTICLE I
NAME, MEMBERSHIP, APPLICABILITY, AND DEFINITIONS**

Section 1. Name. The name of the Association shall be Owners Association of Boulders Scottsdale.

Section 2. Principal Office. The principal office of the Association in the State of Arizona shall be located in the Property or in a nearby community, as determined by the Board of Directors. The Association may have such other offices, either inside or outside of the State of Arizona, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in the Master Declaration of Covenants, Conditions, and Restrictions for The Boulders Scottsdale, as amended from time to time, unless the context shall prohibit.

**ARTICLE II
ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES**

Section 1. Membership. All Owners of Lots shall be Members of the Association, as more fully set forth in that Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place within the State of Arizona convenient to the Members as may be designated by the Board of Directors.

Section 3. Annual Meetings. An annual meeting of the Members of the Association shall be held at least once every year, no more than fourteen (14) months after the immediately prior annual meeting, at such time and place as is determined by the Board.

Section 4. Special Meetings. The President may call special meetings of the Members. In addition, it shall be the duty of the President to call a special meeting of the Members if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by at least ten percent (10%) of the total votes of the Association.

Section 5. Notice of Meetings. Written notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, not less than ten (10) nor more than fifty (50) days before the date of such meeting, to each Member entitled to vote at such meeting, addressed to the Member's address last appearing on the books of the Association

or supplied by such Member to the Association for the purpose of notice. The notice of any special meeting shall also state the purpose thereof and no business shall be transacted at a special meeting except as stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice, with postage thereon prepaid.

Section 6. Waiver of Notice. By attending a meeting, whether in person or by absentee ballot, a Member waives any right the Member may have had to object to the meeting on the basis that the proper notice of the meeting was not given in accordance with these Bylaws or the statutes of the State of Arizona, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order.

Section 7. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

Section 8. Method of Voting. At all meetings of the Members a vote may be cast in person or by absentee ballot and the Board may allow for voting by some other form of delivery.

Section 9. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by absentee ballot of one-third (1/3) of the Members shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

Section 10. Conduct of Meetings. The President or other person designated by the Board of Directors shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and a record of all resolutions adopted at the meeting and all transactions occurring thereat.

ARTICLE III

BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection.

Section 1. Number and Qualifications of Directors. The number of Directors in the Association shall be not less than three (3) nor more than nine (9), as the Board of Directors may from time to time determine by resolution. The Directors shall be Members or spouses of such Members; provided, however, no more than one qualified representative of a Lot (Member or spouse) may serve on the Board at any one time.

Section 2. Nomination of Directors. Nominations for election to the Board may be made by Members, by the Board of Directors and, if appointed by the Board, by a Nominating Committee. Nominations shall be made in accordance with a procedure established by the Board of Directors.

Section 3. Election and Term of Office. The members of the Board of Directors shall serve staggered, three-year terms. At each annual meeting, the Members, by plurality vote, shall elect Directors to replace those Directors whose terms have expired and all such Directors shall be elected for a term of three (3) years, except that the Board shall have the right to cause a Director to be elected for less than a three (3) year term if it becomes necessary to re-establish the staggered terms. If the Board increases the number of Directors, the newly appointed Directors shall serve until the first annual meeting after such increase, at which time the terms of the new directorships shall be designated by the Board.

Section 4. Removal of Directors. Any Director may be removed with or without cause at a special Members' meeting called for such purpose in accordance with Arizona law regarding the removal of Directors, by the affirmative vote of a majority of the Members voting on the matter. Any vacancy in the Board occurring because of removal of a Director by the Members shall be filled by a plurality vote of the Members and any Director so elected shall hold office until the next election of the Directors when a successor is elected and qualified.

Section 5. Vacancies. Except for vacancies on the Board caused by the removal of a Director in accordance with the provisions of Section 4 of this Article III of these By-Laws, any vacancy occurring in the Board may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum or by a sole remaining Director, and any Director so chosen shall hold office until the next election of the Directors when a successor is elected and qualified. Any newly created directorship shall be deemed a vacancy. When one or more Directors resigns from the Board, effective at a future time, a majority of the Directors then in office, including those who have so resigned, may fill such vacancy, the vote on the vacancy to take effect when such resignation becomes effective. If by reason of death, resignation or otherwise, the Association has no Directors in office, any officer or Member may call a special meeting of the Members for the purpose of electing the Board of Directors.

B. Meetings.

Section 6. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, e-mail, or telephone, at least three (3) days prior to the day named for the meeting. Notice of regular meetings of the Board shall be given to Members at least forty-eight (48) hours in advance of the meeting by newsletter, conspicuous posting, or any other reasonable means as determined by the Board of Directors. The failure of any Member to receive actual notice of a meeting of the Board does not affect the validity of any action taken at that meeting.

Section 7. Special Meetings. Special meetings of the Board of Directors may be called to discuss business that cannot be delayed until the next regular Board meeting and the minutes of such special meeting must state the reason necessitating the special meeting. Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President, or Secretary of the Association, or by any two (2) Directors, given to

each Director, personally or by mail, e-mail, or telephone, forty-eight (48) hours in advance of the meeting, unless emergency circumstances necessitate a meeting before forty-eight (48) hours notice can be given. Notice of special meetings of the Board shall be given to Members at least forty-eight (48) hours in advance of the meeting by newsletter, conspicuous posting, or any other reasonable means as determined by the Board of Directors unless emergency circumstances necessitate a meeting before forty-eight (48) hours notice can be given. The notice shall specify the time and place of the meeting and the nature of any special business to be considered.

Section 8. Waiver of Notice. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting except when a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 9. Means of Participation. Meetings of the Board of Directors may be held by means of conference telephone or other similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation at such meeting shall constitute presence in person at the meeting. Furthermore, for any Board meetings open to the Members, the means of communication must also allow Members to hear all parties who are speaking during the meeting.

Section 10. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

Section 11. Compensation. No Director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total votes in the Association at a regular or special meeting of the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 12. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep minutes of the Board of Directors, recording all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 13. Open Meetings and Executive Sessions. Unless the Board or a committee is permitted by Arizona law to hold a closed meeting or a closed executive session for portions of a meeting, all meetings of the Board of Directors and committees of the Association shall be open to the Members. At any open meeting of the Board of Directors, Members will be entitled to speak before the Board takes formal action on an item under discussion in addition to any other opportunities to speak. The Board of Directors may meet in closed session to discuss the following:

- (a) Legal advice from an attorney for the Board or the Association;

(b) Pending or contemplated litigation;

(c) Personal, health, or financial information about an individual Member of the Association, an individual employee of the Association, or an individual employee of a contractor for the Association;

(d) Matters relating to job performance of, compensation of, health records of, or specific complaints against an individual employee of the Association, or an individual employee of a contractor of the Association who works under the direction of the Association; and

(e) An Owner's appeal of any violation cited or penalty imposed by the Association except on request of the affected Owner that the meeting be held in an open session.

Section 14. Proxies. At all meetings of the Board, a Director's vote may be cast in person or by proxy. A proxy may be granted by any Board member in favor of only another Board member or the Secretary of the Association. A proxy shall be duly executed in writing and it shall be valid only for the particular meeting designated in the proxy. All proxies must be filed with the Secretary prior to the commencement of the meeting for which the proxy is given. The proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of a notice of revocation signed by the Board member who granted the proxy. No proxy shall be valid after twenty-five months from the date of its execution.

Section 15. Action Without a Formal Meeting. Unless otherwise expressly restricted by statute, the Declaration, the Articles, or these By-Laws, any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors. Any such written consent shall be filed with the minutes of the proceedings of the Board.

C. Powers and Duties.

Section 16. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the Members.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of a managing agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget in which there shall be established the contribution of each owner to the common expenses;
- (b) making Assessments to defray the common expenses, establishing the means and methods of collecting such Assessments, and establishing the period of the installment payments of the Regular Assessments;
- (c) providing for the operation, care, upkeep, and maintenance of all of the Common Areas;
- (d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Common Areas and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) permit utility providers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Property;
- (f) collecting the Assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;
- (g) making and amending rules and regulations;
- (h) opening of bank accounts on behalf of the Association and designating the signatories required;
- (i) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Areas in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;
- (j) enforcing by legal means the provisions of the Declaration, these By-Laws, the Design Guidelines and the rules and regulations adopted by it or any committee and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (k) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (l) paying the cost of all services rendered to the Association or its Members and not chargeable to Owners;
- (m) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses

and any other expenses incurred. All books and records shall be kept in accordance with generally accepted accounting practices;

(n) levy fines against a Member for a violation of the Declaration, Association Rules, and/or Design Guidelines by the Member or the Member's family, tenants, or guests, after giving the Member notice of the violation and an opportunity to be heard; and

(o) suspend the right of a Member or any Person to use the Common Areas during any time in which any Assessment respecting such Member remains unpaid and delinquent, or for a period not to exceed sixty (60) days for any single infraction of the Association Rules or breach of this Declaration by the Member or any person for whom the Member is responsible and up to one (1) year for any subsequent violation of the same or similar provision of the Association Rules or the Declaration, and such suspension may remain in place for so long as the Member remains in violation of the Association Rules or the Declaration.

Section 17. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of repair or restoration of the Common Areas and facilities without the approval of the Members of the Association; provided, however, the Board shall obtain membership approval in the same manner provided in the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed twenty-five percent (25%) of the budgeted gross expense of the Association for that fiscal year.

Section 18. Management Agent. The Board of Directors may employ for the Association a professional manager or agent at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the manager or agent, subject to the Board's supervision, all of the powers and duties of the Board of Directors and Officers established by these By-Laws, other than the powers set forth in subparagraphs (a), (b), (g), (h) and (j) of Section 16 of this Article III.

Section 19. Contracts for Performance of Association Duties and Functions. With respect to the Common Areas or other Association responsibilities, and in accordance with the Articles of Incorporation and By-Laws of the Association, the Association, by and through the Board of Directors, shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with other community, neighborhood and homeowners associations, both within and without the Property.

ARTICLE IV **OFFICERS**

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The Board of Directors may elect such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall

deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two or more offices may be held by the same person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed at any time by the Board of Directors.

Section 4. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Powers and Duties. To the extent such powers and duties are not assigned or delegated to a manager pursuant to Article III, Section 18 of these Bylaws, the powers and duties of the officers shall be as follows:

(a) President. The president shall be the chief officer of the Association; shall preside at all meetings of the Board or the Members; shall see that orders and resolutions of the Board are carried into effect; and have general and active management of the business of the Association;

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

(c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board;

(d) Treasurer. The treasurer shall be primarily responsible for overseeing the financial affairs of the Association, including receipt and deposit in appropriate bank accounts all funds of the Association and disbursement of such funds for appropriate Association purposes as set forth in the Declaration and determined by the Board; shall oversee the keeping of proper books of account and preparation of an annual budget and a statement of income and expenditures; and, in general, shall perform all the duties incident to the office of treasurer.

Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by the President and Treasurer or by such other person or persons as may be designated by resolution of the Board of Directors.

ARTICLE V **MISCELLANEOUS**

Section 1. Committees. In addition to other committees specifically provided for in these By-Laws or the Declaration, committees comprised of such persons, formed to perform such tasks, and to serve for such periods as may be designated by a resolution adopted by the Board of Directors are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Section 2. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 4. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such owner; or

(b) if to the Association, the Board of Directors, a committee, or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such other address as shall be designated by the notice in writing to the Owners pursuant to this Section.

Section 5. Books and Records. The books, records and papers of the Association, including, but not limited to the Declaration and By-Laws, membership register, books of account, and minutes of meetings of the Members, the Board, and committees, shall be made available for inspection by any Member or any person designated by the member in writing as the Member's representative during reasonable business hours within ten (10) business days of such request. Each Member may also purchase copies of the Association records within ten (10) business days of such request for a reasonable price, not to exceed any limit imposed by law. Notwithstanding the foregoing, the following are not subject to inspection by any party other

than the Board of Directors, its management agent, if any, and its attorneys and accountants, as necessary and appropriate:

(a) Privileged communication between an attorney for the Association and the Association, including, but not limited to, legal advice from an attorney for the Board or the Association;

(b) Pending litigation;

(c) Meeting minutes or other records of a closed executive session of the Board held in accordance with Arizona law;

(d) Personal, health or financial information about an individual Member of the Association, an individual employee of the Association, or an individual employee of a contractor for the Association;

(e) Records relating to job performance of, compensation of, health records of, or specific complaints against an individual employee of the Association or an individual employee of a contractor of the Association who works under the direction of the Association; and

(f) Financial and other records of the Association if disclosure would violate any state or federal law.

Notwithstanding the foregoing, every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and reasonable copies of documents at the expense of the Association.

Section 6. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform with established AICPA guidelines and principles, which require, without limitation, (i) a segregation of accounting duties, (ii) disbursements by check requiring two (2) signatures, and (iii) cash disbursements are limited to amounts of \$25.00 and under;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the manager or agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the

form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which the manager or agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) financial reports shall be prepared for the Association on at least a quarterly basis and more frequently if determined by the Board of Directors; and

(g) an annual financial audit, review or compilation shall be completed no later than one hundred eighty (180) days after the close of the fiscal year and made available upon request to the Members within thirty (30) days after its completion. Ordinarily, an audit shall be prepared by an independent accountant for any fiscal year in which the gross income to the Association exceeds Seventy-Five Thousand Dollars (\$75,000.00). If a financial review or compilation is prepared, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

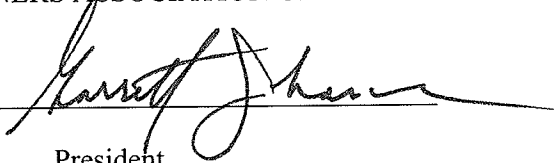
Section 7. Amendment. These By-Laws may be amended by the Members through a vote of two-thirds (2/3) of the votes cast or a majority of the total votes in the Association, whichever is less.

CERTIFICATION

The President of the Association hereby certifies that the above amendments were adopted by the required percentage of the Members.

DATED this 29 day of June, 2012

OWNERS ASSOCIATION OF BOULDERS SCOTTSDALE

By: 
Its: President