

**AMENDED AND RESTATED BYLAWS  
OF  
Mt. Harvard Valley Development Property Owners Association, Inc.  
(A Colorado Nonprofit Corporation)**

The name of the Corporation shall be Mt. Harvard Valley Development Property Owners Association, Inc., a Colorado Nonprofit Corporation (the "Association"), a Colorado nonprofit corporation. These are the Amended and Restated Bylaws of the Association (the "Bylaws"), which shall operate under the Colorado Revised Nonprofit Corporation Act, as amended (the "CRNCA") and the Colorado Common Interest Ownership Act, as amended (the "Act").

**ARTICLE I. GENERAL**

**Section 1.1. Purpose of Association.**

The purpose for which the Association is formed is to govern and manage Mt. Harvard Valley Development Subdivision Filing 1 and Mt. Harvard Addition ("Mt. Harvard Estates"). Mt. Harvard Estates is a common interest community, as that term is defined in the Act. The Association shall exercise the rights, power and authority of the Association, and fulfill the duties of the Association, as provided in the Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements recorded in the office of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 422082 and any amendments and supplements thereto ("Declaration"); the Association's Articles of Incorporation, and any amendments thereto, filed with the Colorado Secretary of State ("Articles of Incorporation"); these Bylaws; and the Rules, Regulations, and Policies of the Association (collectively, the "Association Documents"). All Members and any other person who may use or occupy the property within Mt. Harvard Estates, or any portion thereof, or any facilities or appurtenances thereto or thereon, shall be subject in all respects to the terms and provisions set forth in the Association Documents. The acquisition, rental, use or occupancy of any Residential Unit ("Lot") Mt. Harvard Estates, or any portion thereof, shall signify that all terms and provisions of the Association Documents are accepted and shall be complied with.

**Section 1.2. Terms Defined in Declaration.**

Terms which are defined in the Declaration shall have the same meanings in these Bylaws unless such terms are otherwise defined in these Bylaws.

**Section 1.3. Controlling Laws and Instruments.**

These Bylaws are controlled by, and in all cases when possible, shall be interpreted to be consistent with, the provisions of the Act, the CRNCA, the Declaration, and the Articles of Incorporation, as any of the foregoing may be amended or supplemented from time to time. In the event of a conflict between the terms of these Bylaws and either the Act or the CRNCA, the Act or the CRNCA, as appropriate, shall control. In the event of a conflict between the terms of these Bylaws and the terms of the Declaration, the Declaration shall control. In the event of a

conflict between the terms of the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control.

## **ARTICLE II. OFFICES**

### **Section 2.1. Principal Office.**

The principal office of the Association shall be as determined by the Executive Board (also referred to as 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.

### **Section 2.2. Registered Office and Agent.**

The CRNCA 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 initial registered office and the initial registered agent are specified in the Articles of Incorporation, 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.

## **ARTICLE III. MEMBERS**

### **Section 3.1. Members.**

A "Member" of the Association is as defined in the Declaration. The Association shall have one class of Members.

### **Section 3.2. Memberships Appurtenant to Lot.**

Each Membership shall appurtenant to the fee simple title to a Lot within Mt. Harvard Estates. The Member(s) owning fee simple title to a Lot shall automatically be the holder of the Membership therefore, and the Membership shall automatically pass with fee simple title to the Lot. No Member may resign or assign his, her, or its Membership without the conveyance of fee simple title to the Lot.

### **Section 3.3. Members' Votes.**

The Owners of each Lot shall be entitled to one vote for each Lot owned within Mt. Harvard Estates.

### **Section 3.4. Voting by Joint Members and Entities.**

If there is more than one Owner of Lot, the vote for such Lot shall be exercised as the persons holding such interest shall determine among themselves, provided that in no event shall more than one vote be cast with respect to any Lot. Any vote cast on behalf of a Lot with more than one Owner shall be deemed the vote of all of the Owners, unless one of the Owners states

his or her objection to the vote before the final vote is tallied. If the Owners of a Lot are unable, within a reasonable time, to agree upon how they will vote any issue, then the vote of those persons owning a majority interest in such a Lot shall be entitled to cast the vote attributable to such Lot. If agreement is not reached by a majority, then the vote of such Owners shall be passed over and their right to vote on such issue shall be forfeited. The vote of an entity Member may be cast by any authorized or apparent representative of the entity in the absence of express notice of the designation of a specific person by the governing body of such entity.

### **Section 3.5. Resolution of Voting Disputes.**

In the event of any dispute as to the entitlement of any Member to vote or as to the results of any vote of Members at a meeting, the Board shall act as arbitrators and the decision of a disinterested majority of the Board shall, when rendered at a meeting, or in writing, if decided outside of a meeting, shall be final and binding. The action taken by a vote in accordance with the Board's decision shall be valid and binding for all purposes.

### **Section 3.6. Suspension of Voting Rights.**

The Board may suspend, after notice and hearing as provided herein, the voting rights of a Member during and for up to 60 days following any breach by such Member or Member's guest, invitee, lessee or other a permitted user (hereinafter referred to as a "Permitted User") of any provision of the Declaration or of any rule or regulation adopted by the Association unless such breach is a continuing breach, in which case such suspension may continue for so long as such breach continues and for up to 60 days thereafter.

### **Section 3.7. Transfer of Memberships on Association Books.**

Transfers of Memberships shall be made in the records of the Association upon presentation of evidence, satisfactory to the Association, of the transfer of ownership of the Lot to which Membership is appurtenant. Prior to presentation of such evidence, the Association may elect to treat the previous owner of the Lot as the owner of the Membership entitled to all rights in connection therewith, including the right to vote and to receive notices.

## **ARTICLE IV. MEETINGS OF MEMBERS**

### **Section 4.1. Place of Members' Meetings.**

Meetings of Members shall be held at the principal office of the Association or at such other place as may be fixed by the Board from time to time and specified in the notice of the meeting.

### **Section 4.2. Annual Meetings of Members.**

Each regular annual meeting of the Members shall be held on a date and at a time selected by the Board in each succeeding year. At each annual meeting, the Members shall elect Directors to fill vacancies in accordance with the provisions of the Declaration, the Articles of

Incorporation, and these Bylaws and shall conduct such other business as may properly come before the meeting.

**Section 4.3. Special Meetings of Members.**

Special meetings of the Members may be called by the Association's President or a majority of the Directors, and shall be called by the President at the request of Members to whom not less than twenty percent (20%) of the total votes in the Association are allocated.

**Section 4.4. Notice of Meetings.**

Written notice of each meeting of the Members shall be given to each Member entitled to vote at such meeting, by or at the direction of the Secretary of the Association or person authorized to call the meeting, not less than 10 days and not more than 50 days before the date of the meeting. Notice shall be given either by hand delivery, prepaid United States mail, email, or any other method of delivery authorized by statute directed to the mailing or email address of each Lot or to any other mailing or email address designated in writing by the Member. To the extent possible, the notice of any meeting shall also be posted on the Association's web site (if one exists), and shall be physically posted in a conspicuous place in the mail box area in Mt. Harvard Estates. Additionally, all Members who have provided the Association with their email addresses shall be provided notice to that address as soon as possible, but at least twenty-four (24) hours prior to the time the meeting commences. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration, the Articles of Incorporation, or these Bylaws, any budget changes, and any proposal to remove an officer or Director. If mailed, such notice shall be deemed to have been delivered when deposited in the United States mail addressed to the Member at the address of his, her or its Lot or to any other mailing address designated in writing by the Member, with postage thereon prepaid; if hand delivered or emailed, such notice shall be deemed to have been delivered on the date of actual hand delivery or email thereof.

**Section 4.5. Record Date.**

For the purpose of determining Members entitled to notice of, or to vote at, any meeting of Members in order to make a determination of such Members for any other proper purpose, the Board may fix, in advance, a date as the record date for any such determination of Members. The record date shall be not more than 50 days prior to the meeting of Members or the event requiring a determination Members.

**Section 4.6. Proxies.**

A Member entitled to vote may vote in person or by proxy executed in writing by the Member or its duly authorized attorney-in-fact and delivered to the Secretary of the Association prior to the time the proxy is exercised. A Member may appoint a proxy by signing an appointment form, either personally or by the Member's attorney-in-fact. A proxy form may be transmitted by electronic means; provided that the transmitted appointment shall include written evidence from which it can be determined that the Member transmitted or authorized the

transmission of the appointment. A proxy shall automatically cease upon the conveyance of the Member's Lot and the transfer of the Membership in the records of the Association. No proxy shall be valid after 11 months from its date unless otherwise provided in the proxy, and no proxy shall be valid in any event for more than three years after its date of execution. A proxy is void if it is not dated or if it purports to be revocable without notice. Appointment of a proxy is revoked by the person appointing the proxy: (a) attending any meeting and voting in person; or (b) signing and delivering to the Secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form. A proxy shall not be valid if obtained through fraud or misrepresentation.

#### **Section 4.7. Quorum at Members' Meetings.**

Except as maybe otherwise provided in the Declaration, the Articles of Incorporation or these Bylaws, and except as hereinafter provided with respect to the calling of another meeting, a quorum is deemed present if persons entitled to cast forty percent (40%) of the votes which may be cast are present, in person or by proxy, at the beginning of the meeting. A quorum of Members who are present in person or by proxy at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members so as to leave less than a quorum.

#### **Section 4.8. Participation by Electronic Means.**

Any or all of the Members may participate in a regular or special meeting of the Members in person or by proxy, or the meeting may be conducted through the use of any means of communication by which all persons participating in the meeting may hear each other during the meeting. A Member participating in a meeting by this means is deemed to be present in person at the meeting.

#### **Section 4.9. Adjournments of Members' Meetings.**

Members present in person or by proxy at any meeting may adjourn the meeting from time to time, whether or not a quorum is present in person or by proxy, without notice other than announcement at the meeting, for a total period or periods not to exceed 30 days after the date set for the original meeting.

#### **Section 4.10. Vote Required at Members' Meetings.**

At any Members' meeting, if a quorum is present, in person or by proxy, a majority of the votes present in person or by proxy and entitled to be cast on a matter shall be necessary for the adoption of the matter, unless a greater percentage is required by law, the Declaration, the Articles of Incorporation or these Bylaws; except that in the case of elections in which there are more candidates than positions to be filled, the person (or persons if there is more than one position to be filled) receiving the highest number of votes cast shall be elected. Votes for contested positions on the Board shall be taken by secret ballot. At the discretion of the Board or upon the request of twenty percent (20%) of the Members who are present at the meeting or represented by proxy, a vote on any matter affecting the Association 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 Members 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 Directors and, in the case of a contested election for a Board position, shall not be candidates. The results of a vote taken by secret ballot shall be reported without reference to names, addresses, or other identifying information of Members participating in the vote. No Member is entitled to vote who is not in good standing; provided, however, that any action taken by a vote that includes the vote of a Member who is not in good standing shall not be invalid, unless timely objection is made by a Member in good standing prior to the time that such vote is taken.

#### **Section 4.11. Acceptance or Rejection of Vote, Consent, Ballot, Waiver or Proxy.**

a. The Association is entitled to reject a vote, consent, written ballot, waiver, proxy appointment or proxy appointment revocation if the Secretary of the Association, or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the Owner.

b. The Association and its officer or agent who accepts or rejects a vote, consent, written ballot, waiver, proxy appointment or proxy appointment revocation in good faith and in accordance with the standards of this Section 4.11 are not liable for damages for the consequences of the acceptance or rejection.

c. Any action of the Association based on the acceptance or rejection of a vote, consent, written ballot, waiver, proxy appointment or proxy appointment revocation under this Section 4.11 is valid unless a court of competent jurisdiction determines otherwise.

#### **Section 4.12. Member Participation at Meetings.**

All meetings of the Association and Board are open to every Member, or to any person designated by a Member in writing as the Member's representative, and Members or designated representatives so desiring shall be permitted to attend, listen, and speak at an appropriate time during the deliberations and proceedings, as determined by the Board. At an appropriate time determined the Board, but before the Members vote on an issue under discussion, Members 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. 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. Member participation in regular or special meetings of the Board shall be as set forth in the CRNCA, the Act, and Section 6.4 of these Bylaws.

**Section 4.13. Cumulative Voting Not Permitted.**

Cumulative voting by Members is not permitted.

**Section 4.14. Officers at Meetings.**

The President of the Association shall act as chairman and the Secretary of the Association shall act as secretary at all meetings of the Members.

**Section 4.15. Order of Business.**

The order of business at any meeting of Members shall be as follows: (a) proof of notice of meeting or waiver of notice; (b) roll call; (c) determination and announcement of a quorum; (d) approval of minutes of preceding meeting; (e) voting with respect to budgets adopted by the Board, if applicable at such meeting; (f) election of Directors (at annual meetings or special meetings held for such purpose); and (g) other business.

**Section 4.16. Expenses of Meetings.**

The Association shall bear the expenses of all meetings of Members.

**Section 4.17. Action of Members Without a Meeting.**

Any action required to be taken or which may be taken at a meeting of Members may be taken without a meeting if consent, in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof. All such writings must be received by the Association within 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, electronic mail, 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 set forth a different effective date.

**Section 4.18. Action by Written Ballot.**

Any action that maybe 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. "Delivery" of ballots to Members, and the Members' return of completed ballots shall be made by the same methods available for providing notice to a Member set forth in Section 4.4 herein. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. 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. All

solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of Directors; specify the time by which a ballot must be received by the Association in order to be counted; and be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. In the event the action is for election of Directors, there shall be space on the ballot for write-in nominations. The Board is authorized to establish rules or regulations regarding voting by mail, including email, provided that such rules or regulations shall not conflict with this Section 4.18. 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.

**Section 4.19. First Mortgagees.**

First Mortgagees of a Lot shall have the right to designate a representative to attend all meetings of Members, but such representatives shall not be entitled to vote.

**ARTICLE V. EXECUTIVE BOARD**

**Section 5.1. General Powers and Duties of Executive Board.**

The Board shall have the duty to manage and supervise the affairs of the Association and shall have all powers necessary or desirable to permit it to do so. Without limiting the generality of the foregoing, the Board shall have the power to exercise or cause to be exercised all of the powers, rights and authority not reserved to Members by the Declaration, the Articles of Incorporation, these Bylaws, the Act or the CRNCA.

**Section 5.2. Qualifications of Directors.**

A Director shall be a natural person who is 18 years of age or older and must be a Member or, if the Member is a limited liability company, partnership, corporation, trust or other type of entity, then a Director must be an authorized agent of such entity. If a Director ceases to be a Member due to the conveyance of the Director's Lot, then such Director's term shall immediately terminate and a new Director shall be selected as promptly as possible to take such Director's place. No two Directors shall be members of the same household.

**Section 5.3. Number of Directors.**

The number of Directors of the Association at the time of adoption of these Bylaws is five (5). The number of Directors may be increased or decreased by action of the Board or the Members; provided, however, the number must be an odd number of not less than three (3) and not more than nine (9). No decrease in number shall have the effect of shortening the term of any incumbent Director.



**Section 5.4. Term of Office of Directors.**

Each Director shall hold office until two annual meetings of the members since his/her election shall have been held, and until his/her successor shall have been elected and qualified. Any increase or decrease in the number of Directors shall be in units of two Directors, whose initial terms shall be one for one year and the other for two years, with the determination of the respective terms of the additional Directors to be made by lot.

**Section 5.5. Nomination.**

Nomination for election to the Board may be made by the Board, by a Nominating Committee if such a committee is appointed by the Board, or in such other manner as determined by the Board. Nominations may also be made from the floor at any Members' meeting.

**Section 5.6. Election.**

Contested elections for Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

**Section 5.7. Removal of Directors: Vacancies of Directors.**

The Members may remove any Director with or without cause upon the vote of sixty-seven percent (67%) of the votes cast at any meeting of the Members at which a quorum is present, in person or proxy. In the event of death, resignation or removal of a Director, his or her successor shall be selected by a majority of the remaining Directors, whether or not such remaining Directors constitute a quorum, and shall serve for the unexpired term of the Director being replaced. A Director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of his or her predecessor in office.

**Section 5.8. Resignation of Directors.**

Any Director may resign at any time by giving written notice to the President, to the Secretary or to the Board stating the effective date of such resignation. Acceptance of such resignation shall not be necessary to make the resignation effective.

**Section 5.9. Executive Committee.**

The Board, by resolution adopted by a majority of the Directors in office, may, at any time, appoint an executive committee, which shall include one or more Directors and which shall have and exercise such authority as the Board may from time to time delegate, except that no such committee shall exercise any of the authority prohibited by **Section 7-128-206, C.R.S.**, as it may be amended.

**Section 5.10. Other Committees.**

The Board, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more other committees, which may consist of or include Members who are not Directors. Any such committee shall have and may exercise such authority as shall be specified in the resolution creating such committee, except that no such committee shall exercise any of the authority prohibited by Section 7-128-206, C.R.S., as it may be amended. The Board shall have the right, at any time, to add, remove or replace committee members.

**Section 5.11. General Provisions Applicable to Committees.**

The appointment of any committee and the delegation thereto of authority shall not relieve the Board of any responsibility imposed upon it by law.

**Section 5.12. Compensation.**

No Director shall receive compensation from the Association for serving on the Board. However, any Director may be reimbursed for actual expenses incurred in the performance of the Director's duties.

**ARTICLE VI. MEETINGS OF DIRECTORS**

**Section 6.1. Place of Directors' Meetings.**

Meetings of the Board shall be held at the principal office of the Association or at such other place as may be fixed by the Board and specified in the notice of the meeting.

**Section 6.2. Regular Meetings of Directors.**

The Board shall hold at least one regular meeting annually and may, by resolution, establish in advance the times and places for regular meetings. No prior notice of any regular meetings need be given to Directors after establishment of the times and places thereof by resolution.

**Section 6.3. Special Meetings of Directors.**

Special meetings of the Board may be called at any time by the President or any two Directors, upon not less than twenty-four (24) hours notice to each Director.

**Section 6.4. Open Meetings.**

All regular and special meetings of the Board, or any committee thereof, shall be open to attendance by all Members or to any person designated by a Member in writing. Agendas for meetings of the Board shall be made reasonably available for examination by all Members of the Association or their representatives. The Association is encouraged to provide all notices and agendas required by this article in electronic form, by posting on a web site or otherwise, in addition to printed form. If such electronic means are available, the Association shall provide

notice of all regular and special meetings of Members by electronic mail to all Members who so request and who furnish the Association with their 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. At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, Members 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.

### **Section 6.5 Executive Sessions.**

Notwithstanding the foregoing, the Board or a committee thereof may hold an executive or closed door session and may restrict attendance to Directors 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 Act, as amended from time to time, or other applicable law. The matters to be discussed at such an executive session shall include only the following matters: (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; and (f) review of or discussion relating to any written or oral communication from legal counsel. Prior to the time the Board, or any committee thereof, convenes in executive session, the chair of the body shall announce the general matter of discussion as enumerated in paragraphs (a) to (f) above. 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.

### **Section 6.6. Proxies.**

A Director may attend a meeting and vote by proxy only if the Director has granted a signed written proxy to another Director who is present at the meeting, authorizing the other Director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy. Except as provided in this Section and as permitted by Section 6.12 of these Bylaws, Directors may not vote or otherwise act by proxy.

### **Section 6.7. Quorum of Directors.**

A majority of the number of Directors fixed in these Bylaws in office immediately before the meeting begins shall constitute a quorum for the transaction of business. For purposes of

determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Director may be deemed to be present at a meeting and to vote if the Director has appointed a proxy in compliance with the provisions of Section 6.6 of these Bylaws.

#### **Section 6.8. Vote Required at Directors' Meeting.**

At any meeting of Directors, if a quorum is present, a majority of the votes present in person and entitled to be cast on a matter shall be necessary for the adoption of any matter, unless a greater proportion is required by law, the Declaration, the Articles of Incorporation or these Bylaws.

#### **Section 6.9. Order of Business.**

The order of business at all meetings of Directors shall be as determined by the Board, and in the absence of such a determination, shall be as follows: (a) proof of notice of meeting or waiver of notice; (b) roll call; (c) determination and announcement of quorum; (d) approval of minutes of preceding meetings; (e) reports of officers; (f) reports of committees; (g) unfinished business; and (h) new business.

#### **Section 6.10. Officers at Meetings.**

The President of the Association shall act as chairman and the Secretary of the Association shall act as secretary at all meetings of Board.

#### **Section 6.11. Waiver of Notice.**

A waiver of notice of any meeting of the Board, signed by a Director, whether before or after the meeting, shall be equivalent to the giving of notice of the meeting to such Director.

#### **Section 6.12. Action of Directors Without a Meeting.**

Any action required be taken or which may be taken at a meeting of Directors may be taken without a meeting if a notice stating the action to be taken and the time by which a Director must respond is transmitted in writing to each Director and each Director, by the time stated in the notice, either: (a) votes in writing for such action; or (b) votes in writing against such action, abstains writing from voting, or fails to respond or vote and fails to demand that action not be taken without a meeting. Action is taken under this Section only if the affirmative vote for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the Directors then in office were present and voted. No action taken pursuant to this Section shall be effective unless writings describing the action taken and otherwise satisfying the requirements of this Section, signed by all Directors and not revoked pursuant to the provisions of this Section are received by the Association. Any such writing may be received by the Association by electronically transmitted facsimile, electronic mail, or other form of wire or wireless communication providing the Association with a complete copy of the document, including a copy of the signature on the document. Action taken

pursuant to this Section shall be effective when the last writing necessary to effect the action is received by the Association so long as the writings are received by the date specified, unless the writings describing the action taken set forth a different effective date. Any Director who has signed a writing pursuant to this Section may revoke such writing by a writing signed and dated by the Director describing the action and stating that the Director's prior vote with respect 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. Action taken pursuant to this Section has the same effect as action taken at a meeting of Directors and may be described as such in any document. All signed written instruments necessary for any action taken pursuant to this Section shall be filed with the minutes of the meetings of the Board.

### **Section 6.13. Participation by Electronic Means.**

The Board may permit any Director to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all Directors participating may hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting.

## **ARTICLE VII. POWERS AND DUTIES OF THE BOARD**

### **Section 7.1. Powers.**

The Board shall have the power to:

a. Adopt and publish rules and architectural or design guidelines governing Mt. Harvard Estates, or any portion thereof, and any improvements or facilities thereon and the personal conduct of the Members and their Permitted Users thereon, and to establish penalties for the infraction thereof;

b. Suspend the voting rights and the right of a Member or Permitted User to use Common Element amenities, after notice and hearing, for up to 60 days following any infraction by such Member or a Permitted User of any provision of the Declaration or of any rule or regulation adopted by the Association unless such infraction is a continuing infraction, in which case such suspension may continue for so long as such infraction continues and for up to 60 days thereafter;

c. Enter into, make, perform or enforce contracts, licenses, leases and agreements of every kind and description; provided, however, that the following contracts and leases, if such contracts and leases were entered into before the Board elected by the Members took office subsequent to termination of the period of Declarant Control as described in the Declaration and/or the Act, may be terminated without penalty by the Association at any time after such date, upon not less than ninety (90) days notice to the other party:

1. Any management contract, employment contract, or lease of recreational or parking areas or facilities; or

2. Any other contract or lease between the Association and a Declarant or an affiliate of a Declarant; or

3. Any contract or lease that is not bona fide or was unconscionable to the Members at the time entered into under the circumstances then prevailing;

d. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not expressly reserved to the Membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

e. Declare the office of a Director to be vacant in the event such Director shall be absent from two (2) regular meetings of the Board during any one-year period;

f. Employ a manager, an independent contractor, or such other employees as they deem necessary, and prescribe their duties; and

g. Provide for notice and hearing in compliance with the provisions of these Bylaws, through promulgation of procedures therefore.

#### **Section 7.2. Duties.**

It shall be the duty of the Board to:

a. Cause to be kept a complete record of all its acts and corporate affairs and present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to cast at least one-fourth (1/4) of the votes at such meeting;

b. Supervise all officers, agents, and employees of the Association, and see that their duties are properly performed;

c. As more fully provided in the Declaration, to:

1. Determine the amount of the annual assessment against each Lot in accordance with the Association budget, and revise the amount of the annual assessment if such budget is rejected by the Members; and

2. Foreclose the lien against any Lot for which assessments are not paid, and/or to bring an action at law against the Member personally obligated to pay the same, subject to the requirements of the Act;

d. Issue, or cause an appropriate officer or authorized agent to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of such payment as to all persons who rely thereon in good faith;

e. Procure and maintain insurance, as more fully provided in the Declaration;

f. Provide for maintenance, repair and reconstruction of the Common Elements, other parcels of real property, and improvements located thereon owned by the Association or in which the Association has a possessory interest, including obtaining insurance certificates for reasonable insurance coverage from all contractors, as more fully provided in the Declaration;

g. Keep financial records sufficiently detailed to enable the Association to comply with the requirement that it prove statements of unpaid assessments. All financial and other records shall be made reasonably available for examination and copying by any Member and such Member's authorized agents; and

h. Invest Association funds subject to any investment policy the Board may adopt which reflects the basic investment objectives of diversity, safety, liquidity and income return. At least annually, the Board shall make available to the Members information regarding the amount, type and rate of return, of the instruments, funds and accounts in which Association funds are invested or deposited;

i. Adopt responsible governance policies adopted under Section 38-33.3-209.5 of the Act, as amended.

Any of the aforesaid duties (except as specified in Section 7.2.i.) may be delegated by the Board to any other person(s) or to the Manager. To the extent it may be required by any statute, and if not required by statute then at the option the Board, the Association or the Manager or other person who receives the delegation of duties relating to the collection, deposit, transfer or disbursement of Association funds shall: (1) maintain fidelity insurance or a bond in an amount not less than the greater of: (a) fifty thousand dollars (\$50,000) or such higher amount as the Board may require); or (b) the estimated maximum amount of funds, including reserve funds, in the custody the Manager at any given time during the term of each policy as calculated from the current budget of the Association; or (c) a sum equal to three (3) months of aggregate assessments plus reserve funds; and (2) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the Manager or other person(s) and maintain all reserve accounts separate from operational accounts of the Association. Furthermore, the Manager, a public accountant or certified public accountant shall prepare and present to the Association an annual accounting for Association funds and a financial statement as set forth in the Act.

### **Section 7.3. Limitation on Powers.**

The Board may not act on behalf of the Association to amend the Declaration, to terminate Mt. Harvard Estates, to elect Directors, or to determine the qualifications, powers and duties, or terms of office of Directors. However, the Board may fill vacancies in its membership for the unexpired portion of any term.

**Section 7.4. Conflicts of Interest.**

If any contract, decision, or other action taken by or on behalf of the Board would financially benefit any Director, or a descendent, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the Director or a party related to a Director has a beneficial interest, or an entity in which a party related to a Director is a Director, officer, or has a financial interest, then, in advance of entering into that contract, making the decision or taking the action, the interested Director shall disclose the material facts as to the Director's relationship or interest and as to the conflicting interest transaction. The Board may in good faith authorize, approve, or ratify the conflicting interest transaction by the affirmative vote of a majority of the disinterested Directors, even though the disinterested Directors are less than a quorum.

**Section 7.5. Audit or Review.** At the discretion of the Board, or upon request pursuant to subparagraph a or b of this paragraph 7.5 as applicable, the books and records of the Association shall be subject to an audit, using generally accepted auditing standards, or a review, using statements on standards for accounting and review services, by an independent and qualified person selected by the Board. Such person need not be a certified public accountant except in the case of an audit. A person selected to conduct a review shall have at least a basic understanding of the principles of accounting as a result of prior business experience, education above the high school level, or bona fide home study. The audit or review report shall cover the Association's financial statements, which shall be prepared using generally accepted accounting principles or the cash or tax basis of accounting.

a. An *audit* shall be required under this subparagraph only when both of the following conditions are met:

1. the Association has annual revenues or expenditures of at least two hundred fifty thousand dollars (\$250,000); and
2. an audit is requested by the Members owning at least one-third (1/3) of the total number of Lots in Mt. Harvard Estates.

b. A *review* shall be required under this subparagraph only when a review is requested by the Members owning at least one-third (1/3) of the total number of Lots and Units in Mt. Harvard Estates.

Copies of an audit or review shall be made available upon request to any Member beginning no later than thirty (30) days after its completion.

**ARTICLE VIII. OFFICERS**

**Section 8.1. Officers, Employees and Agents.**

The officers of the Association shall consist of a President, a Vice President, a Secretary and a Treasurer, and may include other officers, assistant officers, employees and agents as may be deemed appropriate or necessary by the Board from time to time. Officers other than the



President need not be Directors. The offices of President and Secretary may not be held by the same person. However, any person may simultaneously hold two or more of any of the other offices, subject to any applicable requirements or limitations imposed by law or contained in the Declaration, Articles of Incorporation, and these Bylaws.

**Section 8.2. Appointment and Term of Office of Officers.**

The officers shall be elected or appointed by acclamation by the Board at the first meeting of the Board held subsequent to the annual meeting of the Members, and shall hold office for one (1) year, unless the officer sooner resigns or is removed, or shall otherwise be disqualified to serve.

**Section 8.3. Removal of Officers.**

Any officer, employee or agent may be removed by the Board, with or without cause, whenever in the Board's judgment the best interests of the Association will be served thereby.

**Section 8.4. Resignation of Officers.**

Any officer may resign at any time by giving written notice to the President, to the Secretary or to the Board stating the effective date of such resignation. Acceptance of such resignation shall not be necessary to make the resignation effective.

**Section 8.5. Vacancies in Offices.**

Any vacancy occurring in any office may be filled by the Board. An officer appointed to fill a vacancy shall be appointed for the unexpired term of its predecessor in office.

**Section 8.6. President.**

The President shall be a Director and shall be the principal executive officer of the Association. The President shall preside at all meetings of the Board and at all meetings of the Members.

**Section 8.7. Vice Presidents.**

The Vice President(s) may act in place of the President in case of his/her death, absence or inability to act, and shall perform such other duties and have such authority as is from time to time delegated by the Board or by the President.

**Section 8.8. Secretary.**

The Secretary shall be the custodian of the records of the Association; shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by law and that the books, reports and other documents and records of the Association are properly kept and filed; shall take or cause to be taken and shall keep minutes of the Board and of committees

of the Board; shall keep at the principal office of the Association a record of the names and addresses of the Members; and, in general, shall perform all duties incident to the office of Secretary and such other duties as may, from time to time, be assigned by the Board or by the President. The Board may appoint one or more Assistant Secretaries who may act in place of the Secretary for whatever reason, including in case of death, absence or inability to act.

**Section 8.9. Treasurer.**

The Treasurer shall be responsible for overseeing the deposit of all funds in such depositories as shall be designated by the Board; shall keep correct and complete financial records and books of account and records of financial transactions and condition of the Association and shall submit such reports thereof as the Board may, from time to time, require; shall arrange for the annual reports required by these Bylaws; and, in general, shall perform all the duties incident to the office of Treasurer and such other duties as may from time to time be assigned to it by the Board or by the President. The Board may appoint one or more Assistant Treasurers who may act in place of the Treasurer for whatever reason, including in case of death, absence or inability to act.

**Section 8.10. Bonds.**

The Association shall obtain fidelity bonds or insurance, if reasonably available, covering officers or other persons handling funds of the Association.

**ARTICLE IX. INDEMNIFICATION OF OFFICIALS AND AGENTS**

**Section 9.1. Certain Definitions.**

“Corporate Official” shall mean any Director, officer, or committee member and any former Director, officer, or committee member of the Association. “Corporate Employee” shall mean any employee, and any former employee, of the Association. “Corporate Official” and “Corporate Employee” shall not include any officer, Director, agent or employee of any managing agent employed by the Association, and no such person shall have a right of indemnification hereunder. “Expenses” shall mean all costs and expenses including attorney’s fees, liabilities, obligations, judgments and any amounts paid in reasonable settlement of a Proceeding. “Proceeding” shall mean any claim, action, suit or proceeding, civil or criminal, whether threatened, pending or completed, and shall include appeals.

**Section 9.2. Right of Indemnification.**

The Association shall indemnify any Corporate Official and may, in the discretion of the Board, indemnify any Corporate Employee, against any and all Expenses actually and reasonably incurred by or imposed upon it in connection with, arising out of, or resulting from, any Proceeding in which it is or may be made a party by reason of: (a) actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty while acting in an official capacity as a Corporate Official or Corporate Employee, or (b) any matter claimed against it solely by reason of being a Corporate Official or Corporate Employee. The

right of indemnification shall extend to all matters as to which a majority of Directors of the Association by resolution, or independent legal counsel in a written opinion, shall determine that the Corporate Official or Corporate Employee acted in good faith and such person reasonably believed that the conduct was in the Association's best interests and had no reasonable cause to believe that its conduct was improper or unlawful. The right of indemnification shall not extend to matters as to which the Corporate Official or Corporate Employee is finally adjudged in an action, suit or proceeding to have been liable for gross negligence or willful misconduct in the performance of its duty except to the extent that a court may determine, upon application, that despite such adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity. The right of indemnification shall not extend to any matter as to which said indemnification would not be lawful under the laws of the State of Colorado.

### **Section 9.3. Advances of Expenses and Defense.**

The Association may advance Expenses to, or where appropriate, may undertake the defense of, any Corporate Official or Corporate Employee, in a proceeding provided that the Corporate Official or Corporate Employee shall comply with the requirements of **Section 7-129-104, C.R.S.**

### **Section 9.4. Rights Not Exclusive.**

The right of indemnification herein provided shall not be exclusive of other rights to which such Corporate Official or Corporate Employee may be entitled.

### **Section 9.5. Authority to Insure.**

The Association may purchase and maintain liability insurance on behalf of any Corporate Official or Corporate Employee against any liability asserted against it as a Corporate Official or Corporate Employee or arising out of its status as such, including liabilities for which a Corporate Official or Corporate Employee might not be entitled to indemnification hereunder.

## **ARTICLE X. NOTICE AND HEARING**

### **Section 10.1. Notice and Hearing.**

In all instances where the Act, as amended from time to time, the CRNCA, as amended from time to time, or the Association Documents require notice and hearing, the Board shall comply with a written policy adopted by the Board that provides:

- a. Not less than fifteen (15) days prior written notice of the action to be taken and the reasons for such action;
- b. An opportunity for the affected Member ("Respondent") to be heard, orally or in writing, not less than five (5) days before the action to be taken by either the Board or a hearing committee appointed by the Board in accordance with the Board's written policy;

c. That the action taken shall be fair and reasonable taking into consideration all of the relevant facts and circumstances;

d. The Board or hearing committee appointed by the Board shall take evidence and ensure that a proper record of all proceedings is maintained.

For all purposes of this Section, notice shall be hand delivered or sent prepaid by United States mail, or any other method of delivery authorized by statute directed to the mailing address of each Member or to any other mailing or email address designated in writing by the Member. Notice shall be deemed delivered, if hand delivered upon delivery, and if sent by United States mail, three (3) days after mailing.

## ARTICLE XI. BOOKS AND RECORDS

### Section 11.1. Books and Records.

a. In addition to any records specifically defined in the Association's Declaration or expressly required by Section 38-33.3-209.4(2), the Association must maintain the following, all of which shall be deemed to be the sole records of the Association for purposes of document retention and production to Members:

1. Detailed records of receipts and expenditures affecting the operation and administration of the Association;

2. Records of claims for construction defects and amounts received pursuant to settlement of those claims;

3. Minutes of all meetings of its Members and the Board, a record of all actions taken by the Members or the Board without a meeting, and a record of all actions taken by any committee of the Board;

4. Written communications among, and the votes cast by, Directors if:

(i) Directly related to an action taken by the Board without a meeting pursuant to Section 7-128-202, C.R.S.; or

(ii) Directly related to an action taken by the Board without a meeting pursuant to the Association's Bylaws;

5. The names of Members in a form that permits preparation of a list of the names of all Members and email addresses, if provided by the Members, and the physical mailing addresses at which the Association communicates with them, showing the number of votes each Member is entitled to vote;

6. Its current Declaration, covenants, Bylaws, Articles of Incorporation, Rules and Regulations, responsible governance policies adopted pursuant to Section 38-33.3-209.5, C.R.S. and other policies adopted by the Board;

7. Financial statements as described in Section 7-136-106, C.R.S., for the past three years and tax returns of the Association for the past seven years, to the extent available;

8. A list of the names, email addresses, and physical mailing addresses of its current Directors and officers;

9. Its most recent annual report delivered to the Secretary of State, if any;

10. Financial records sufficiently detailed to enable the Association to comply with Section 38-33.3-316(8), C.R.S. concerning statements of unpaid assessments;

11. The Association's most recent reserve study, if any;

12. Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two years;

13. Records of Board or committee actions to approve or deny any requests for design or architectural approval from Members;

14. Ballots, proxies, and other records related voting by Members for one year after the election, action, or vote to which they relate;

15. Resolutions adopted by its Board relating to the characteristics, qualifications, rights, limitations, and obligations of Members or any class or category of Members; and

16. All written communications within the past three years to all Members generally as Owners of Lots.

b. Records maintained by the Association may be withheld from inspection and copying to the extent that they are or concern:

1. Architectural drawings, plans, and designs, unless released upon the written consent of the legal owner of the drawings, plans, or designs;

2. Contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are currently in or under negotiation;

3. Communications with legal counsel that are otherwise protected by the attorney-client privilege or the attorney work product doctrine;

4. Disclosure of information in violation of law;

5. Records of an executive session of an executive Board;

6. Individual Lots other than those of the requesting owner.

c. Records maintained by the Association are not subject to inspection and copying, and must be withheld, to the extent that they are or concern:

1. Personnel, salary, or medical records relating to specific individuals; or

2. Personal identification and account information of Members, including bank account information, telephone numbers, electronic mail addresses, driver's license numbers, and social security numbers.

d. Association records may be purchased by any Member at reasonable cost not to exceed to the Association's actual cost per page, for copies of Association records. All books and records of the Association shall be reasonably available for inspection by any Member or such Member's authorized agent, and by any holder of a First Mortgage. "Reasonably available" shall mean available for inspection at the Association's principal office, upon 10 days' advance notice, during normal business hours to the extent that: (a) the request is made in good faith; (b) the request describes with reasonable particularity the records sought; and (c) the records are relevant to the request. Notwithstanding the above, all books and records may also be inspected at the next regularly scheduled meeting if such meeting occurs within 30 days after the request. The right to copy records hereunder includes the right to receive copies by photocopying or other means, including the receipt of copies through an electronic transmission if available, upon request by the Member. The Association is not obligated to compile or synthesize information.

e. Association records and the information contained within those records shall not be used for commercial purposes.

f. Membership lists, or any part thereof, may not be:

1. Obtained or used by any person for any purpose unrelated to the Association or the property subject to the Declaration;

2. Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Members in an election to be held by the Association;

3. Used for any commercial purpose;

4. Sold to or purchased by any person.

### **Section 11.2. Public Disclosure.**

a. The Association shall make the following information available to the Members, upon reasonable notice, in accordance with subparagraph c of this Section. In addition, if the

Association's address, designated agent, or management company changes, the Association shall make updated information available within 90 days after the change including:

1. The name of the Association;
2. The name of the Association's designated agent or management company; if any;
3. A valid physical address and telephone number for both the Association and the designated agent or management company, if any;
4. The name of the Common Interest Community;
5. The initial date of recording of the Declaration; and
6. The reception number or book and page for the main document that constitutes the Declaration.

b. Within ninety (90) days after the end of each year, the Association shall make the following information available to Members upon reasonable notice in accordance with subparagraph c of this Section:

1. The date on which its fiscal year commences;
2. Its operating budget for the current fiscal year;
3. A list of the Association's current assessments, including special assessments, if any;
4. Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
5. The results of its most recent available financial audit or review for the fiscal year immediately preceding the current annual disclosure;
6. A list of all Association insurance policies, including, but not limited to, property, general liability, Association Director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insured, and expiration dates of the policies listed;
7. The Association's Bylaws, Articles and Rules and Regulations;
8. The minutes of the Board and Members' meetings for the fiscal year immediately preceding the current annual disclosure; and

9. The Association's responsible governance policies adopted under **Section 38-33.3-209.5** of the Act.

c. It is the intent of this Section to allow the Association the widest possible latitude in methods and means of disclosure, while requiring that the information be readily available at no cost to Members at their convenience. Disclosure shall be accomplished by one of the following means: posting on an internet web page with accompanying notice of the web address via first-class mail or email; the maintenance of a literature table or binder at the Association's principal place of business; or mail or personal delivery. The cost of such distribution shall be accounted for as a Common Expense.

## **ARTICLE XII. MISCELLANEOUS**

### **Section 12.1. Amendment of Bylaws.**

The Board shall have the power to alter, amend or repeal these Bylaws or any provision herein, or to adopt new Bylaws, subject to the limitations of this paragraph, CCIOA, and the CRNCA. Furthermore, subject to any approval or requirements of the FHA or VA or of holders of First Mortgages required under the Declaration, the Members, at a meeting called for that purpose, by a majority of votes present at the meeting in person or by proxy, if a quorum of the Members is present in person or by proxy at the commencement of the meeting, shall also have the power to alter, amend or repeal these Bylaws and to adopt new Bylaws. Provided, however, if the Members make, amend or repeal any bylaw, the Board shall not thereafter amend the same in such manner as to defeat or impair the object of the Members in taking such action. These Bylaws may contain any provision for the regulation or management of the affairs of the Association not inconsistent with law, the Declaration or the Articles of Incorporation.

### **Section 12.2. Execution, Certification and Recording Amendments to Declaration.**

The President, or the Vice President in the President's absence, shall prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

### **Section 12.3. Statement of Account.**

The Association shall furnish to a Member, or to a First Mortgage or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association, a written statement setting forth the amount of unpaid Assessments currently levied against such Member's Lot. The statement shall be furnished within 14 calendar days after receipt of the request and is binding on the Association. The Association shall have the right to charge a reasonable fee for the issuance of such certificate.

### **Section 12.4. Corporate Reports.**

The Association shall file with the Secretary of State of Colorado, within the time prescribed by law, corporate reports on the forms prescribed and furnished by the Secretary of



State and containing the information required by law, and shall pay the fee for such filing as prescribed by law.

**Section 12.5. Fiscal year.**

The fiscal year of the Association shall begin on January 1 of each year and end the succeeding December 31 except that the first fiscal year shall begin on the date of incorporation. The fiscal year may be changed by the Board without amending these Bylaws.

**Section 12.6. Seal.**

The Board may, but shall not be required to, adopt a seal which shall have inscribed thereon the name of the Association and the words "SEAL" and "COLORADO."

**Section 12.7. Share of Stock and Dividends Prohibited.**

The Association shall not have or issue shares of stock and no dividend shall be paid, and no part of the income shall be distributed to its Members, Directors or officers. Notwithstanding the foregoing, upon dissolution or final liquidation thereof, the Association, may make distributions as permitted by the Declaration; but no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income or profit.

**Section 12.8. Loans to Directors, Officers and Members Prohibited.**

No loan shall be made by the Association to its Members, Directors or officers, and any Director or officer 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.

**Section 12.9. Limited Liability.**

Except as may otherwise be provided by law, the Association, the Board, and any officer, Director, Committee Member, agent or employee of any of the same, shall not be liable to any person for any action or for any failure to act if the action taken or failure to act was in good faith and without malice.

**Section 12.10. Minutes.**

Minutes or any similar records of the meetings of Members or of the Board, when signed by the Secretary or acting Secretary of the meeting, shall be presumed to truthfully evidence the matters set forth therein. A recitation in any such minutes that notice of the meeting was properly given shall be prima facie evidence that the notice was given.

**Section 12.11. Checks, Drafts and Documents.**

All checks, drafts or other orders for payment of money, notes or other evidence of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed by

such person or persons, and in such manner as, from time to time, shall be determined by resolution of the Board.

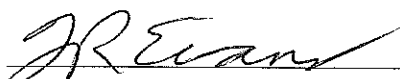
**Section 12.12. Execution of Documents.**


The Board, except as these Bylaws otherwise provide, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instance; and unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

**Section 12.13. Approval and Adoption of Amended and Restated Bylaws.**

In accordance with Article IX.1 of the Bylaws in effect at the time of the consideration, approval and adoption of these Amended and Restated Bylaws, Members representing at least a fifty percent (50%) of the aggregate ownership interests in Mt. Harvard Estates have voted to approve these Bylaws and have directed the Board to adopt the same by the Directors' signatures below.

IN WITNESS WHEREOF, we, being all of the Directors of Mt. Harvard Valley Development Property Owners Association, Inc., have hereunto set our hands this 29th day of August, 2015.

  
\_\_\_\_\_  
T. R. Evans, President

  
\_\_\_\_\_  
David Harwood, Vice President

  
\_\_\_\_\_  
Teresa Loftin, Director

  
\_\_\_\_\_  
Cheryl Mehaffey, Director

  
\_\_\_\_\_  
Jenna Nale, Director