

# **AMENDED AND RESTATED BY-LAWS OF THE HARBOR WALK HOME OWNERS ASSOCIATION**

## **ARTICLE I NAME**

The name of the Colorado non-profit corporation is "**HARBOR WALK HOME OWNERS ASSOCIATION**" (hereinafter referred to as "the Association").

## **ARTICLE II DEFINITIONS**

1. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Harbor Walk at Water Valley, recorded in the office of the Clerk and Recorder, Weld County, Colorado, as amended.

2. All other words and terms used in these By-Laws shall have the meaning given in the Declaration.

## **ARTICLE III OFFICES**

The principal office of the Association shall be at *123 N. College Avenue, Suite 200, Fort Collins, Colorado 80525*. The Association may have such other offices within the State of Colorado as the Board of Directors may designate or as the business of the Association may, from time to time, require.

## **ARTICLE IV MEMBERSHIP AND MEETINGS**

1. **Owners Subject to By-Laws:** All present and future Owners, tenants, future tenants, or any other person that might use in any manner the facilities of the Patio Home project are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the Patio Homes or the mere act of occupancy of any of the said Patio Homes will signify that these By-Laws are accepted, ratified and will be complied with.

2. **Membership:** Ownership of a Patio Home or Patio Home Lot is required in order to qualify for membership in the Association. Any person or entity, on becoming an Owner of a Patio Home or Patio Home Lot, shall automatically become a member of the Association and be subject to these By-Laws. Membership in the Association shall be appurtenant to and may not be separate from ownership of said Patio Home or Patio Home Lot. Such membership shall terminate without any formal Association action whenever such person ceases to be an Owner; but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with the Association during the period of such ownership or

membership in the Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former Owner and member pursuant to the Declaration and obligations incident thereto. No certificates of stock shall be issued by the Association; but the Board of Directors may, if it so elects, issue one (1) membership certificate per Patio Home or Patio Home Lot to the Owner of the Patio Home or Patio Home Lot. Such membership certificate shall be surrendered to the Secretary whenever the Owner (member) transfers, conveys, or sells his/her interest in the Patio Home or Patio Home Lot to another person or entity; and the new Owner shall then become a member of the Association. The Owner or Owners of a Patio Home or Patio Home Lot shall hold and share the membership related to that Patio Home or Patio Home Lot in the same proportionate interest and by the same type of tenancy in which the title to the Patio Home or Patio Home Lot is held, provided always that there shall be only one (1) membership per Patio Home or Patio Home Lot.

3. **Voting:** Owners shall be entitled to one (1) vote for each Patio Home or Patio Home Lot owned. When more than one person or entity holds the membership, the persons or the entity shall designate one person as proxy to cast the vote for that Patio Home or Patio Home Lot. No proof of proxy will be required.

The votes of a membership may not be divided. No fractional votes are permitted. If the owning members cannot agree on the manner in which their vote should be cast, when called upon to vote, then they shall be treated as having abstained.

4. **Voting by Mail:** The Board of Directors may decide that voting of the Owners on any matter required or permitted by the statutes of Colorado, the Declaration, the Articles of Incorporation, or these By-laws shall be by written ballot. Pursuant to the Colorado Revised Nonprofit Corporation Act ("CRNCA"), any action that may be taken at any annual, regular, or special meeting of Owners may be taken without a meeting if the secretary delivers a written ballot to every member entitled to vote on the matter. "Delivery" to the Owner of the ballot, and the Owner's return of the completed ballot shall be made by the same methods available for providing notice to a member set forth in Section 8 below.

4.1 A written ballot shall: (i) set forth each proposed action; and (ii) provide an opportunity to vote for or against each proposed action.

4.2 Approval by written ballot 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.

4.3 All solicitations for votes by written ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than the election of members of the Board; (iii) specify the time by which a ballot must be received by the Association in order to be counted; and (iv) be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.



4.4 A written ballot, once received by the Association, may not be revoked, unless the Owner casting the written ballot appears in person at a meeting convened to consider any one or more of the matters on the ballot.

5. **Annual Meetings:** The annual meeting of the members shall be held during the month of January of each year for the purpose of electing Directors and for the transaction of any other business as may come before the meeting. The first annual meeting shall be held within one (1) year of the date of incorporation. In the event that such annual meeting is omitted by oversight, the Directors shall call a meeting in lieu thereof to be held as soon thereafter as conveniently possible; and any business transaction or election held at such meeting shall be as valid as if transacted or held at the annual meeting. Such subsequent meeting shall be called in the same manner as provided for the annual meeting.

6. **Special Meetings:** Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute, may be called at any time by resolution of the Board of Directors or by the President of the Association and shall be called by the President upon written request of the members entitled to cast 20% of all the votes entitled to be cast at such meeting, provided such written request shall also state the purpose of the meeting called and the business to be transacted at such meeting.

7. **Place of Meeting:** All meetings of members shall be held at the principal office of the Association unless the Board of Directors designates another location as the place of meeting for any annual meeting or special meeting.

8. **Notice of Meetings and Waiver of Notice:** Notice of Owner meetings shall be hand delivered or sent prepaid by US Mail at least fifteen days prior to but not more than fifty days in advance of any meeting of the Owners or as required by C.R.S. §38-33.3-308 as amended. Notice of any meeting shall also be given in the following manner:

(a) Notice shall be posted on the Association website, if any, within 24 hours of the mailing of notice to Owners.

(b) Notice shall be physically posted in a conspicuous place on the Property, to the extent that such posting is feasible and practicable.

(c) Notice shall be provided via email to any Owner who has requested that the Association provide notice via email and has provided the Association with a valid email address. Electronic notice of a meeting shall be given within 24 hours of mailing of notice to Owners.

All notices shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendments to the Declaration or By-laws, any budget changes, and any proposal to remove an officer or member of the Board.

The attendance of a member at a meeting shall constitute waiver of notice of such a meeting except where the member attends a meeting for the express purpose of objecting to the

transaction of any business because the meeting is not lawfully called or convened.

Any meeting, of which all members shall at any time waive or have waived notice in writing, shall be a legal meeting for the transaction of business notwithstanding that notice has not been given as hereinabove provided. The certificate of the Secretary that Notice was properly given as provided in these By-Laws shall be prima facie evidence thereof.

9. **Quorum:** Except as otherwise provided in these By-Laws, the Articles of Incorporation, the Declaration or as provided by law, at any meeting of the members, the presence in person or by proxy of members holding 20% of the votes entitled to be cast on the matter to be voted upon shall constitute a quorum. An affirmative vote of a majority of the votes entitled to be cast on a matter to be voted upon by the members present in person or by proxy at a meeting at which a quorum of members is present shall be necessary to the adoption thereof unless a greater portion is required by law, the Articles of Incorporation, by the Declaration or by these By-Laws.

10. **Adjourned Meetings:** If any meeting of Owners cannot be convened because a quorum has not been reached or if the business of the meeting cannot be concluded, the Owners who are present, either in person or by proxy, may adjourn the meeting for periods of no longer than one (1) week from time to time, until a quorum can be obtained or until a conclusion can be reached.

11. **Proxies:** Members may vote at any meeting, either in person or by written proxy, which shall be filed by its holder with the Secretary of the Association before being voted.

12. **Order of Business:** The order of business for all meetings shall be as follows:

- (a) Roll Call,
- (b) Proof of Notice of Meeting or Waiver of Notice,
- (c) Determination of a Quorum,
- (d) Reading of Minutes,
- (e) Reports of Officers,
- (f) Reports of Committees,
- (g) Election of Directors,
- (h) Unfinished Business, and
- (i) New Business

13. **Owner Education.** The Association shall provide, or cause to be provided, education to Owners at no cost on at least an annual basis as to the general operations of the Association and the rights and responsibilities of Owners, the Association, and its Board of Directors under Colorado law. The criteria for compliance with this section shall be determined by the Board of Directors.



## ARTICLE V BOARD OF DIRECTORS

1. **General Powers:** The business and affairs of the Association shall be managed by its Board of Directors. The Board of Directors shall have the power and duties necessary for the administration of the Association and for the operation and maintenance of the Common Elements and for the administration and enforcement of the Covenants and Restrictions contained in the Declaration. The Directors shall in all cases act as a Board; and they may adopt such Rules and Regulations for the conduct of their meetings and the management of the Association as they may deem proper, not inconsistent with these By-Laws, the Articles of Incorporation, the Declaration or the laws of the State of Colorado.

2. **Other Powers and Duties:** The Board of Directors shall be empowered and shall have the duties as follows:

(a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions of the Declaration.

(b) To establish, make and enforce compliance with such reasonable Rules and Regulations as may be necessary for the operation and use of the common elements. Said rules and regulation may be amended, from time to time, by the Board of Directors or by a vote of the majority of the votes entitled to be cast by members present in person or by proxy at an annual meeting or a special meeting. A copy of such rules and regulation shall be delivered or mailed to each member promptly upon the adoption or amendment thereof and to each new member upon becoming the Owner of a Patio Home or Patio Home Lot.

(c) To fix, determine, levy, collect and enforce the general and special assessments to be paid by each of the Owners as provided in the Declaration; to adjust, decrease or increase the amount of such assessments; and to remit or return any excess of the assessments over expenses and cash reserves to the Owners at the end of each operating year, except for necessary reserves as shall be required to insure the proper maintenance of the common elements. General, special and other assessments shall be in statement form and shall set forth in detail the various expenses for which the assessments are being made.

(d) To collect delinquent accounts by suit or otherwise and to enjoin or seek damages from any Owner as provided in the Declaration.

(e) To issue, or cause an appropriate office to issue delinquent status assessment letters. A reasonable charge may be made by the Board for the issuance for such letters.

(f) To borrow funds and to give security therefore in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the Declaration and to execute all such instruments evidencing such indebtedness as the Board of Directors may deem necessary; and such indebtedness shall be the several obligation of all the Owners in the same proportion as each Owner's interest in the Membership.

(g) To establish a bank account for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors.

(h) To keep and maintain, or to cause the same to be kept and maintained, detailed, accurate records in chronological order of receipts and expenditures affecting the Common Elements specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. Such records and the vouchers authorizing payments of such expenses shall be available for examination by the Owners and all mortgagees at convenient hours.

(i) To prepare and deliver annually to each member a statement showing all receipts, expenses or disbursements since the last such statement.

(j) To meet at least annually.

(k) To manage, control, operate, maintain, repair and improve the Patio Home Project and to designate or hire the personnel necessary for such maintenance and operation of the Common Elements. The Board of Directors may employ for the Association a managing Board of Directors to perform such duties and services as it shall authorize. The Board of Directors may delegate any of the powers and duties granted to it but, notwithstanding such delegation, shall not be relieved of its responsibility under the Declaration.

(l) To buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate or otherwise deal in and with real, personal and mixed property of all kinds and any rights or interest therein, for any purpose of this Association.

(m) To obtain and maintain to the extent maintainable, all policies of insurance required by the Declaration.

(n) To enter into contracts for services, facilities, purchase of assets, both person and real, for the benefit of members and do any and all acts that a natural person can do for the benefit of the members.

(o) To suspend the voting rights of a member for failure to comply with these By-Laws or the Rules and Regulations of the Association or any other obligation of the Owners imposed by the Declaration, including during any period in which such Member is in default in the payment of any assessment levied by the Association.

(p) To protect and defend the Patio Home Project from loss or damage by suit or otherwise.

(q) In general, to carry on the administration of the Association, to do all of those things necessary and reasonable in order to carry out the governing and operation of the Association, and to exercise for the Association all powers and authorities vested in or delegated to the Association and not reserved to the membership by other provisions of these By-Laws,



the Articles of Incorporation or the Declaration.

3. **Number and Qualification:** The Board of Directors shall consist of not less than three (3) persons nor more than nine (9) persons. Initially, the Board of Directors as set forth in the Articles of Incorporation, shall consist of three (3) persons who shall hold office until the first annual meeting of the members or until their successors have been duly elected.

4. **Term of Office:** At the first annual meeting of the Association, the term of office of one (1) Director shall be fixed at three (3) years, the term of office of one (1) Director shall be fixed at two (2) years, and the term of office of one (1) Director shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Director, his/her successor shall be elected to serve a term of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting.

5. **Nomination:** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nomination may be made from Members.

6. **Election:** Election to the Board of 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. Cumulative voting is not permitted.

7. **Vacancies:** Vacancies in the Board of Directors caused by any reason other than removal of a Director by a vote of the Association shall be filled by a vote of a majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall remain in office until the next annual meeting of the members at which time an election shall be held to fill the vacancy and unexpired term.

8. **Removal of Directors:** At any regular or special meeting duly called, any one (1) or more of the Directors may be removed, with or without cause, by a vote of the majority of the votes entitled to be cast by the members; and a successor may then and there be elected to fill the vacancy and unexpired term thus created. Any Director whose removal has been proposed by the membership shall be given an opportunity to be heard at such meeting.

9. **Organizational Meeting:** The first meeting of a newly elected Board of Directors shall be held within 10 days of election at such place as shall be fixed by the Directors at the meeting at which such Directors are elected; and no notice shall be necessary to the newly elected Directors in order to legally constitute such meeting.

10. **Regular Meetings:** Regular meetings of the Board of Directors may be called by the President or a majority of the Directors and 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 one (1) such meeting shall be held during each calendar year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or e-mail, at least three (3) days prior to the day named for such meeting, which notice shall state the time and place of said meeting.

11. **Special Meetings:** Special meetings of the Board may be called by the President on three (3) day's notice to each Director, given personally or by mail, telephone or electronic mail, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of a majority of the Directors.

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

13. **Board of Directors' Quorum:** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business; and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At such adjourned meeting subsequently held, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

13.1 **Types of Communication in Lieu of Attendance.** Any member of the Board of Directors may attend a meeting of the Board by: (i) using an electronic or telephonic communication method whereby the member may be heard by the other members and may hear the deliberations of the other members on any matter properly brought before the Board; or (ii) by participating in "real time" e-mail communication when all Board members are participating in this form of communication. The vote of such member shall be counted and the presence noted as if that member was present in person on that particular matter.

14. **Action by Consent:** Any action which may be taken at a meeting of the Members or 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 Members or Directors entitled to vote with respect to the action to be taken.

15. **Board Member Education.** The Board of Directors may authorize, and account for as a common expense, reimbursement of Board members for their actual and necessary



expenses incurred in attending educational meetings and seminars on responsible governance of the Association. The course content of such educational meetings and seminars shall be specific to Colorado, and shall make reference to applicable sections of the Act.

16. **Public Disclosures Required.**

16.1 Within ninety (90) days after assuming control from the Declarant pursuant to the Act, the Association shall make the following information available to Owners upon reasonable notice in accordance with subsection 16.3 below. In addition, if the Association's address, designated agent, or management company changes, the Association shall make updated information available within ninety (90) days after the change:

- (a) The name of the Association;
- (b) The name of the Association's designated agent or management company, if any;
- (c) A valid physical address and telephone number for both the Association and the designated agent or management company, if any;
- (d) The name of the Common Interest Community;
- (e) The initial date of recording of the Declaration; and
- (f) The reception number or book and page for the main document that constitutes the Declaration.

16.2 Within ninety (90) days after assuming control from the Declarant pursuant to the Act, and within ninety (90) days after the end of each fiscal year thereafter, the Association shall make the following information available to Owners upon reasonable notice in accordance with subsection 16.3 below:

- (a) The date on which its fiscal year commences;
- (b) Its operating budget for the current fiscal year;
- (c) A list of the Association's current assessments, including both regular and special assessments;
- (d) Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- (e) The results of its most recent available financial audit or review;
- (f) 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 insureds, and expiration dates of the policies listed.

(g) All the Association's By-laws, Articles, and Rules and Regulations;

(h) The minutes of the Executive Board and member meetings for the fiscal year immediately preceding the current annual disclosure; and

(i) The Association's responsible governance policies adopted under C.R.S. §38-33.3-209.5.

16.3 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 Owners at their convenience. Disclosure shall be accomplished by one of the following means: (i) posting on an internet web page with accompanying notice of the web address via first-class mail or e-mail; (ii) the maintenance of a literature table or binder at the Association's principal place of business; or (iii) mail or personal delivery. The cost of such distribution shall be accounted for as a common expense liability.

## ARTICLE VI OFFICERS

1. **Destination:** The officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Directors and such assistant officers as the Board of Directors shall, from time to time, elect.

2. **Election of Officers:** The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board. One (1) person may hold concurrently any two (2) offices provided, however, that the offices of President and Secretary shall not be held by the same person. The office of Vice-President need not be filled.

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

4. **Vacancies:** A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by a majority vote of the members of the Board of Directors.

5. **President:** The President shall be the principal executive officer of the Association, and, subject to the control of the Directors, shall in general supervise and control all of the business and affairs of the Association. He/she shall preside at all meetings of the Board of Directors and Members. He/she shall present, at each annual meeting of the Members, a report of the conditions of the business of the Association. He/she shall cause to be called



regular and special meetings of the Members and Directors in accordance with these By-Laws. He/she shall appoint and remove, employ and discharge and fix the compensation of all employees of the Association and shall have the power to appoint committees from among the Members, from time to time, as he/she may, in his/her discretion, decide is appropriate to assist in the conduct of the affairs of the Association. He/she shall sign and make all contracts and agreements in the name of the Association. He/she shall sign checks, notes, drafts, warrants or other orders for the payment of money duly drawn by the Treasurer, and any deeds, mortgages, bonds or other instruments which are required to be executed, except in cases where the signing and execution thereon shall be expressly delegated by the Directors to some other officer or agent of the Association, or shall be required by law or the Declaration to be otherwise signed or executed. He/she shall enforce these By-Laws and perform all of the duties incident to the position and office which are required by law.

6. **Vice-President:** The Vice-President shall have the powers and authority and shall perform all the functions and duties of the President in the absence of the President or his/her inability, for any reason, to exercise such powers and functions or perform such duties.

7. **Secretary:** The Secretary shall keep all the minutes of the meetings of the Board of Directors and the minutes of all meetings of the Association; he/she shall have charge of such books and papers as the Board of Directors may direct; and he/she shall, in general, perform all the duties incident to the office of Secretary. The Secretary shall compile and keep up-to-date at the principal office of the Association a complete list of members and first mortgages and their last known addresses as shown on the records of the Association. Such list shall also show opposite each Member's name the number or other appropriate designation of the Patio Home or Patio Home Lot owned by each Member. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during business hours.

8. **Treasurer:** The Treasurer shall have the responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He/she shall be responsible for the deposit of all monies and other valuables in the name, and to the credit, of the Association in such accounts and depositories as may, from time to time, be designated by the Board of Directors. Withdrawals shall be made from such accounts by checks signed by the President and Treasurer or other such person as the Board of Directors may designate. He/she shall, in general, perform all of the duties incident to the office of Treasurer.

## **ARTICLE VII INDEMNIFICATION OF OFFICERS, DIRECTORS AND MANAGING AGENT**

The Association shall indemnify every Director, officer, agent or employee and any former Director, officer, agent or employee, his heirs, executors and administrators against loss, costs and expenses, including attorneys' fees, reasonably incurred by him in connection with any suit, action or proceeding to which he/she may be made a party by reason of his being or having been a Director, officer, agent or employee of the Association, except as to matters as to which he/she shall be finally adjudged in such action, suit or proceeding to be liable for gross

negligence or fraud. Any such indemnification shall be limited to and may only be paid out of the insurance proceeds provided by an insurer, furnishing officers and directors, errors and omissions insurance coverage, and any other insurance protecting the Association from liability because of the negligent acts of its servants, including insurance coverage covering motor vehicles for public liability, property damage, medical and other similar coverage. It is the intent and purpose of this provision to limit all payments of settlement in indemnification to the actual proceeds of insurance policies.

No indemnification shall be provided for acts constituting gross negligence, nor for fraud, nor for more reprehensible conduct.

No officer, Director, agent or employee of any managing agent who is an independent contractor, nor of any other independent contractor, shall be protected by this indemnification provision, nor by any insurance policies obtained by the Association in relation thereto, but any such protection shall be the sole and separate responsibility of any managing agent who is an independent contractor, or any independent contractor as one of their expenses of doing business.

In the event of a settlement, the settlement shall be approved by the insurance carrier and paid for by the insurance carrier out of the insurance proceeds.

## **ARTICLE VIII**

### **BILLS, NOTES, CHECKS AND OTHER NEGOTIABLE INSTRUMENTS**

All bills payable, notes, checks or other negotiable instruments of the Association shall be made in the name of the Association. Checks shall be signed by the President and Treasurer of the Association and notes or other negotiable instruments of the Association shall be signed by the President and countersigned by the Secretary. No officer or agent of the Association, either singly or jointly with others, shall have the power to make any bill payable, note, check, draft, warrant or other negotiable instrument, or endorse the name of the Association, or contract or cause to be contracted any debt or liability in the name of or in behalf of the Association, except as expressly prescribed and provided by the Board of Directors.

## **ARTICLE IX AMENDMENT**

1. These By-Laws may be amended by a vote of a majority of the votes entitled to be cast by the members present in person or by proxy at an annual meeting or special meeting called for such purpose.

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



## ARTICLE X MORTGAGES

1. **Notice to Association:** Every Owner who mortgages his/her Patio Home shall notify the Association by giving the name and address of his/her mortgagee to the Secretary of the Association. The Association shall maintain such information in the books of the Association.

2. **Notice of Default:** The Association may report to any first mortgagee any assessment which remains unpaid for over 30 days or any other default of any Owner which remains uncured for over 30 days.

3. **Mortgagees as Proxies:** Owners shall have the right to irrevocably constitute and appoint the mortgagee of a mortgage or the beneficiary of a deed of trust their true and lawful attorney to vote their membership in this Association at any and all meetings of the Association and to vest in such mortgagee, beneficiary or his/her nominee any and all rights, privileges and powers that they have as owners under the Articles of Incorporation and By-Laws of this Association or by virtue of the Declaration. Such proxy shall become effective upon the filing of a notice by the mortgagee or beneficiary with the Secretary of the Association at such time or times as the mortgagee or beneficiary shall deem its security in jeopardy by reason of the failure, neglect or refusal of the Association, the managing agent or the owners to carry out their duties as set forth in the Declaration or these By-Laws. A release of the mortgage or deed of trust shall not be construed to relieve the owners, as mortgagors, or their duties and obligations as Owners.

## ARTICLE XI

### EVIDENCE OF OWNERSHIP, REGISTRATION OF MAILING ADDRESS AND REQUIRED PROXIES

1. **Proof of Ownership:** Any person or other entity, upon becoming an Owner of a Patio Home or Patio Home Lot, shall furnish to the Board of Directors a Photocopy of the document vesting that person with an interest of ownership, which copy shall remain in the files of the Association.

2. **Registration of Mailing Address:** The Owner or Owners of each Patio Home or Patio Home Lot shall have one (1) registered mailing address to be used by the Association for mailing of statements of assessment, notices, demands and all other communications; and such registered address shall be the only mailing address of a person or persons, firm, corporation, partnership, association or other legal entity or combination thereof to be used by the Association. Such registered address shall be furnished by such Owner or Owners to the Secretary within five (5) days after an ownership interest is acquired, or after a change of address; and such registration shall be in written form and signed by all Owners or by the person designated by the other Owners to represent the interests of the Owners thereof. If the owner is a corporation, partnership or other entity, such registration shall specify the individual authorized to act on behalf of such entity in all Association matters.

**ARTICLE XII  
MISCELLANEOUS**

1. **Non-Profit Corporation:** This Association is a non-profit corporation, organized under Colorado Law. No Member, member of the Board of Directors, or officer, shall receive or shall be lawfully entitled to receive any pecuniary profit from the operation thereof; and in no event, shall part of the funds or assets of the Association be paid as salary or compensation to, or distributed to, or inure to the benefit of, any member of the Board of Directors, officer or Member of the Association except upon dissolution of the Association; provided, however, (1) that reasonable compensation maybe paid to any Member, Director or officer while acting as agent or employee of the Association for services rendered in effecting the purposes of the Association, and (2) that any Member, Director or officer may, from time to time, be reimbursed for his/her actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

2. **Inspection of Books and Records:** Any Owner or mortgagee of a Patio Home or Patio Home Lot may inspect the records of receipts and expenditures of the Board of Directors pursuant to Colo. Rev. Stat. § 38-33-107 (1973, as amended) at convenient weekday business hours, and, upon 5 days notice to the Board of Directors or managing agent, if any, and upon payment of a reasonable fee, not to exceed \$25, any Owner shall be furnished a statement of his/her account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner and/or an estoppel certificate.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this 6 day of MARCH, 2009.

BOARD OF DIRECTORS, HARBOR WALK HOME OWNERS ASSOCIATION

Tom Quintan  
President

Khashaiar Chareped  
Vice President

Carol F. Hirata  
Secretary-Treasurer

James Bell  
Member



CERTIFICATION

The undersigned, as Secretary of the Harbor Walk Home Owners Association, hereby certifies that the required number of votes of the current Unit Owners, namely a majority of the votes entitled to be cast by the members present in person or by proxy at an annual meeting or special meeting called for such purpose, were cast in accordance with the terms of Article IX of these By-laws to adopt the foregoing Amended and Restated By-laws. All requisite documentation regarding the consent of the Unit Owners to these Amended and Restated By-laws is available for review upon reasonable advance notice at the registered office of the Association.

HARBOR WALK HOME OWNERS ASSOCIATION,  
a Colorado non-profit corporation:

By: Carol S. Dirata  
Its: Secretary

STATE OF COLORADO     )  
  )ss.  
COUNTY OF WELD         )

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 6<sup>th</sup> day of March, 2009, by Carol S. Dirata, as Secretary of the Harbor Walk Home Owners Association, a Colorado non-profit corporation.

WITNESS my hand and official seal.

My commission expires: April 19, 2009

Glenda Caze  
Notary Public