

**AMENDED AND RESTATED  
BYLAWS  
OF  
DILLON PINES TOWNHOME ASSOCIATION, INC.**

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## TO

## BYLAWS

## FOR

## DILLON PINES TOWNHOME ASSOCIATION, INC.

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**BYLAWS  
OF  
DILLON PINES TOWNHOME ASSOCIATION, INC.**

These Amended and Restated Bylaws ("Bylaws") are hereby adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by the Dillon Pines Townhome Association, Inc., a Colorado nonprofit corporation, (the "Association"). These Bylaws supersede and replace the existing Bylaws and all Amendments thereto in their entirety.

**ARTICLE 1. PURPOSES, ASSENT OF OWNERS, AND DEFINITIONS**

Section 1.1. Purposes. The primary purposes for which the Association is formed are (a) to provide for the operation, administration, use, and maintenance of certain common areas and other property more fully described in the Second Amended and Restated Declaration of Dillon Pines Townhomes recorded in the office of the Clerk and Recorder of Summit County, Colorado, as amended or which may be supplemented from time to time (the "Declaration"); (b) to preserve, protect, and enhance the values and amenities of such common areas and other property; and (c) to promote the health, safety, and welfare of members of the Association; and (d) for any other lawful purpose.

Section 1.2. Assent. All present or future Owners, Occupants, or any other persons using the facilities of the Project in any manner are subject to these Bylaws and any Rules and Regulations adopted by the Board of Directors pursuant to these Bylaws. Acquisition or rental of any of the Units in the Project, and/or the mere act of occupancy of any Unit, shall constitute an acceptance and ratification of these Bylaws and an agreement to comply with said Rules and Regulations.

Section 1.3. Definitions. Unless otherwise specified, capitalized terms used in these Bylaws shall have the same meaning in these Bylaws as such terms have in the Declaration. The definitions set forth in the Declaration are hereby adopted by these Bylaws and are incorporated herein by this reference. In addition, the term "Project", as it is used herein, shall mean the collective Units of the Dillon Pines Townhomes.

**ARTICLE 2. MEMBERSHIP**

Section 2.1. Membership. Ownership of a Unit is required in order to qualify for membership in the Association.

Section 2.2. Responsibilities of Owners. Any person or entity, upon becoming an Owner, shall automatically become a member of the Association and shall thereafter be subject to these Bylaws. Such membership shall terminate without any formal Association action whenever such person ceases to own a Unit, but such termination shall not relieve or release any such former Owner, from any liability or obligation incurred while acting as a member of, or in any way connected with, the Association during the period of such ownership, or impair any rights or remedies which the Board of Directors or others may have against such former Owner arising out of ownership of the Unit and the resulting membership in the Association and the covenants and obligations incident thereto.

Section 2.3. Membership Certificates. No certificates of stock shall be issued by the Association, but the Board of Directors may, if it so elects, issue membership cards to Owners. Such membership card shall be surrendered to the Secretary of the Association whenever ownership of the Unit designated on the card shall terminate.

Section 2.4. Voting Rights. With regard to the affairs of the Association, each Unit shall be allocated a single vote. The Association shall not have a vote with respect to any Unit which may be owned by it.

Section 2.5. 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 pursuant to the laws of the State of Colorado. The criteria for compliance with this Section shall be determined by the Board of Directors.

### **ARTICLE 3. MEETINGS OF OWNERS**

Section 3.1. Place of Meeting. Meetings of the Owners shall be held at such place, within the State of Colorado, as the Board of Directors may determine at its sole discretion.

Section 3.2. Annual Meeting. The annual meetings of the Owners shall be held on a date and at a time selected by the Board of Directors each year. The default annual meeting date shall occur on the third Saturday of September of each year, but the date of such meeting is subject to change at the sole discretion of the Board of Directors. The purposes of the annual meetings shall include, among others, the election of the members of the Board of Directors, consideration of a budget for the next fiscal year, and the transaction of such other business of the Association as may properly come before the meeting.

Section 3.3. Special Meetings. Special meetings of the Owners may either be called by the President of the Association or by a majority of the Board of Directors, or by Owners representing twenty percent (20%) of the total votes of all of the Owners.

Section 3.4. Notice of Meetings. Written notice given in accordance with the requirements set forth in the Declaration and stating the place, day, and hour of each meeting and, in the case of a special meeting, stating the purpose or purposes for which the meeting is called, shall be delivered and shall be considered effective if delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, by or at the direction of the president or the secretary or the persons calling the meeting as provided under these Bylaws, to the registered address for notice (as provided in the Declaration) of each Unit entitled to be represented by a vote at such meeting. The notice of any meeting shall be physically posted in a conspicuous place, to the extent that such posting is feasible and practicable, in addition to any electronic posting or electronic mail notices that may be given pursuant to these Bylaws or any other of the Association's Documents. Any notice of a meeting of Owners shall include the items to be included on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, and any proposal to remove an officer or member of the Board of Directors. To the extent feasible, the notice of any meeting shall be physically posted in a conspicuous place, in addition to any electronic posting or electronic mail notices, which electronic postings and/or mailings are further discussed herein.

Section 3.5. Electronic Notice. If electronic means are available, the Association shall provide all notices and agendas in electronic form, by posting said notices on a website or otherwise, in addition to printed form, and such postings shall include, without limitation, notices of all regular and special meetings in addition to the provision of such information via electronic mail to all Owners 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 a meeting. If the Board of Directors determines that it is feasible and practicable, the notice of any meeting of Owners shall be physically posted in a conspicuous place in or around the Project.

Section 3.6. Adjourned Meetings. If any meeting of the Owners cannot be organized because a quorum, as defined below, has not attended, the Owners who are present, either in person or by proxy, may adjourn the meeting until a quorum is obtained.

Section 3.7. Designation of Voting Representative. If title to a Unit is held by more than one (1) individual, by a firm, corporation, partnership, association, limited liability company, trust or other legal entity, or any combination thereof, such individuals, entity, or entities shall by written notarized instrument executed by all such parties and delivered to the Association, appoint and authorize one (1) person or alternate persons to represent the Owners of the Unit. Such representative shall be a natural person who is an Owner, or a designated board member or officer of a corporate Owner, or a general partner of a partnership Owner, or a manager of a limited liability company Owner, or a trustee of a trust Owner, or a comparable representative of any other entity as Owner, and such representative shall have the power to cast allocated votes per Unit owned by the group of individuals or entity on behalf of the collective individuals or entities acting as Owners as a member of the Association, and shall have the power to serve on the Board of Directors if elected, subject to the provisions of and in accordance with the procedures described in these Bylaws. Notwithstanding the foregoing, if only one (1) of the multiple Owners of a Unit is present at a meeting of the Owners, such Owner is entitled to cast the vote allocated to that Unit. If more than one (1) of the multiple Owners are present, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Owners, which majority agreement may be assumed for all purposes if any one (1) of the multiple Owners cast the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit. If such protest is made, the vote allocated to the Unit may only be cast by written instrument executed by all Owners who are present at the meeting.

Section 3.8. Proxies. Votes may be cast in person or by proxy, but no proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. Proxies shall be filed with the secretary of the Association at or before the appointed time of each meeting.

Section 3.9. Rejection of Vote or Proxy. The Board of Directors, by majority vote of the Board of Directors, is entitled to reject a vote, consent, written ballot, waiver, proxy appointment, or proxy revocation if the secretary or other officer or agent authorized to tabulate the votes, acting in good faith, has a reasonable basis to question or doubt the validity of the signatures thereon, or about the signatory's authority to sign for the Owner. Unit Owners understand that the Association, and its officer or agent, and the Board of Directors, who accept

or reject a vote, consent, written ballot, waiver, proxy appointment, or proxy revocation in good faith, are not liable in damages for the consequences of the acceptance or rejection.

Section 3.10. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Owners possessing sufficient weighted votes to constitute forty percent (40%) of the total votes of all Owners shall constitute a quorum, and such Owners present in person or by proxy shall constitute the Owners entitled to vote upon any issue presented at a meeting at which a quorum is present. A majority of votes entitled to be cast by such Owners present in person or by proxy shall be sufficient to make decisions binding on all Owners, unless a different manner or method of voting is expressly required by statute or by the Declaration, the Articles, or these Bylaws.

Section 3.11. Voting. Except as otherwise required by the Declaration or by these Bylaws, the votes of Owners who are present either in person or by proxy at any duly convened meeting of Owners at which a quorum has been established and who cast a simple majority of the total votes eligible to be voted by such present or represented Owners shall decide any question under consideration, and shall constitute the act of the Association, which act shall be binding thereon.

Section 3.12. Secret Ballot for Director Elections. At the annual meeting of the Owners, votes for any contested position on the Board of Directors shall be cast via secret ballots. The votes shall be counted either by a neutral third party, or by a committee of volunteers, who are Owners selected or appointed at an open meeting, in a fair manner, by the chair of the Board of Directors or another person presiding during that portion of the meeting. The volunteers shall not be members of the Board of Directors and, in the case of a contested election for a board position, shall not be candidates. The Board of Directors may amend this procedure at any time, in its sole discretion, in order to conform with applicable Colorado statutes without needing to amend these Bylaws.

Section 3.13. Use of Secret Ballot for Votes by Owners. At the sole discretion of the Board, or upon the request of twenty percent (20%) of the Owners who are present at a meeting or represented by a proxy, if a quorum has been achieved pursuant to Section 3.10 of these Bylaws, a vote on any matter affecting the Project on which all Owners are entitled to vote shall be taken by secret ballot.

Section 3.14. Results of Secret Ballot Election. The results of a vote taken by secret ballot shall be reported without reference to the names, addresses, or other identifying information of Owners participating therein.

Section 3.15. Waiver of Meeting and Consent to Action. Whenever the vote of Owners at a meeting of Owners is required or permitted by any provision of these Bylaws to be taken in connection with any action of the Association, said meeting and vote may be dispensed with and the action in question may be approved if all the Owners eligible to vote on the matter at issue consent, in writing, to dispense with the meeting and consent, in writing, to the action of the Association contemplated thereby.



Section 3.16. Right to Notice and Hearing. Whenever the Project Documents require that an action be taken after "notice and an opportunity to be heard", the following procedure shall be observed:

(a) the party proposing the action (e.g., the Board of Directors, a committee, an officer, the Managing Agent, etc.) shall give notice of the proposed action to all Owners whose interests the proposing party reasonably determines would be significantly affected by the proposed action;

(b) the notice shall be delivered personally, or by mail, fax or e-mail, not less than ten (10) days before the proposed action is to be taken; and

(c) the notice shall include a general statement of the proposed action and the date, time and place of the hearing related thereto.

At the hearing, the potentially affected person shall have the right, either in person or via a representative, to provide oral or written testimony (or both, as specified in the notice), subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such testimonial evidence (and/or other documentary evidence as may be offered) shall be considered by the decision makers, but shall not be binding thereon. Upon issuance of any decision, the potentially affected person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Owner having a right to notice and a hearing shall have the right to appeal any decision affecting that Owner to the Board of Directors by filing a written notice of appeal with the Board of Directors within ten (10) days after being notified of the decision. The Board of Directors shall thereafter conduct a hearing within forty-five (45) days, giving the same notice and observing the same procedures as were required for the original hearing.

#### **ARTICLE 4. BOARD OF DIRECTORS**

Section 4.1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors, composed of between five (5) and seven (7) persons. The members of the Board of Directors may be nonresidents of Colorado, but all members of the Board of Directors elected by the Owners must be either Owners or representatives of Owners designated in accordance with Section 3.7 hereof.

Section 4.2. Election and Term of Office. Each Director shall hold office from the date of his or her election or appointment until the third annual meeting of members following such election or appointment and/or until a successor is elected, provided that if a director ceases to be an Owner, such director's term shall be terminated concurrently therewith. In order to stagger the terms of the existing Directors, the Board of Directors shall identify two existing Directors to serve a term until the next annual meeting of the members following the adoption of these Bylaws, and two existing Directors to serve a term until the second annual meeting of the members following the adoption of these Bylaws, with the remaining members serving three year terms.

Section 4.3. Removal of Members of the Board of Directors. A regular or special meeting of Owners may be called for the purpose of considering the removal of any member of

the Board of Directors. The Board of Directors shall designate, by resolution or motion, the date and time of such regular or special meeting in accordance with these Bylaws and Colorado law. Any one (1) or more of the members of the Board of Directors may be removed with or without cause by an affirmative vote of a majority of a quorum of the Owners present, in person or represented by proxy, and eligible to vote. Any member of the Board of Directors whose removal has been proposed shall be given an opportunity to be heard at the meeting considering his or her removal. Potential successors may then be proposed and elected by the Owners present, in person or represented by proxy, and eligible to vote in order to fill the vacancies created by any removal(s).

Section 4.4. Vacancies. Any vacancy occurring in the Board of Directors may temporarily be filled by the affirmative vote of a majority of all of the remaining Board of Directors, though less than a quorum of the Board of Directors. The term of the member of the Board of Directors so elected shall be coincident with the term of the replaced member of the Board of Directors.

Section 4.5. Quorum of the Board of Directors. A majority of the number of members of the Board of Directors shall constitute a quorum of the Board for the contemplation and/or transaction of business. Any act by a majority vote of the Board of Directors, in attendance at a meeting of the Board of Directors where a quorum is present, shall be considered a valid and proper act of the Board of Directors.

Section 4.6. Place and Notice of the Board of Directors Meetings. Regular or special meetings of the Board of Directors may be held at such place(s) within the State of Colorado and upon such notice as the Board of Directors may prescribe. The Board of Directors shall hold a regular meeting at least once each calendar year and shall, in addition, meet as often as they deem necessary or desirable to perform their duties as required hereunder. Attendance of a member of the Board of Directors at any meeting shall constitute a waiver of notice of such meeting, except when a member of the Board of Directors attends a meeting for the express purpose of objecting to the transaction of any business because the meeting has not been lawfully called or convened. Before, at, or after any meeting of the Board of Directors, any member of the Board of Directors may waive notice of such meeting, in writing, and such waiver shall be deemed equivalent to the giving of such notice prior to the time of said meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the waiver of notice of such meeting. The Board of Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written authority, including written authority provided through electronic mail, of a majority of members of the Board of Directors. Any action so approved and authorized shall have the same effect as though taken at a meeting of the Board of Directors. All or some of the members of the Board of Directors may participate in a meeting by means of a conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

Section 4.7. Conduct of Meetings. With regard to the conduct of meetings for the Board of Directors:

- A. Notwithstanding any provision contained within the Declaration, these Bylaws, or other documents to the contrary, all meetings of the Board of Directors are open to every Owner, or to any person designated by an Owner, in writing, as such Owner's representative, and all Owners, or their designated representatives, shall be permitted to attend, listen, and speak at an appropriate time during the deliberations and proceedings; except as set forth herein.. Agendas for meetings of the Board of Directors shall be made reasonably available for examination by all Owners.
- B. At an appropriate time determined by the Board of Directors, but before the Board of Directors votes on an issue under discussion, Owners or their designated representatives shall be permitted to speak regarding that issue. The Board of Directors may place reasonable time restrictions on persons speaking during meetings. If more than one person desires to comment on an issue and there are opposing views, the Board of Directors shall permit a reasonable number of persons to speak on each side of the issue.
- C. The members of the Board of Directors, or any committee thereof, may hold an executive or closed door session (collectively an "Executive Session") and may restrict attendance to Board of Director members and such other persons requested by the Board of Directors during a regular or specially announced meeting or any part thereof. The matters to be discussed at such an Executive Session may include only those matters enumerated below:
  - (i) 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;
  - (ii) Consultation with legal counsel concerning disputes that are the subject of pending or imminent litigation or other court proceedings or matters that are privileged or confidential between attorney and client;
  - (iii) Investigative proceedings concerning possible or actual criminal conduct;
  - (iv) Matters subject to specific constitutional, statutory, or judicially imposed requirements to protect particular proceedings or matters from public disclosure;
  - (v) Any matter, the disclosure of which would constitute an unwanted invasion of individual privacy; and
  - (vi) Review of, or discussion relating to, any written or oral communication to or from legal counsel.
- D. Upon the final resolution of any matter for which the Board of Directors receives legal advice or which concerns pending or contemplated litigation, the Board of Directors may elect to preserve the attorney-client privilege in any appropriate

manner, or may elect to disclose such information, as it deems appropriate, in its sole discretion at an open meeting.

- E. Prior to the time the members of the Board of Directors, or any committee thereof, convene in an Executive Session, the chairperson of the body shall announce the general matter of the discussion as enumerated above. No rule or regulation of the Board of Directors, or any committee thereof, shall be adopted during an Executive Session. A rule or regulation may be validly adopted during a regular or special meeting or after the Board or Committee goes back into session following an Executive Session.
- F. Minutes of all meetings Executive Sessions and/or of the meeting from which the need for an Executive Session has arisen, shall indicate that an Executive Session was held and shall denote the general subject matter of the Executive Session.

Section 4.8. Powers and Duties. The Board of Directors shall have the powers and duties necessary, desirable and/or appropriate for the administration of the affairs of the Association and to ensure the proper operation and maintenance of the Project. The Board of Directors may do all such acts and things which are not specifically required to be done by the Owners pursuant to the Colorado Nonprofit Corporation Act or the Colorado Common Interest Ownership Act or otherwise, the Declaration, the Articles, or these Bylaws.

Section 4.9. Managing Agent. The Board of Directors may employ a Managing Agent at a compensation level established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize; provided, however, that the Board of Directors in delegating such duties shall not be relieved of its responsibilities under the Declaration. The Managing Agent shall maintain fidelity insurance coverage or a bond for the benefit of the Association in an amount not less than two (2) months' worth of current Assessments, plus reserves, as calculated from the current budget of the Association, or such other or higher amount as the Board of Directors shall require, in its sole discretion. The Managing Agent may, at the sole discretion of the Board of Directors, maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the Managing Agent and shall maintain all reserve accounts for the Association separate from operational accounts of the Association. If directed by the Board of Directors, the Managing Agent shall provide an accounting of Association funds and shall provide a financial statement to the Association on an annual basis and/or on such other basis as may be directed by the Board of Directors at its sole discretion. The Association's contract with a Managing Agent shall be terminable for cause without penalty to the Association. Any such contract shall be subject to renegotiation.

Section 4.10. Compensation of the Members of the Board of Directors. Except as provided in this section, members of the Board of Directors shall not be paid any compensation for their services performed as members of the Board of Directors unless a resolution authorizing such remuneration shall have been adopted by the Association. The Board of Directors may authorize, and account for as a common expense, reimbursement of Board of Director members for their actual and necessary expenses incurred in attending educational meetings and seminars on responsible governance of the Association, as long as the content of such course is specific to the state of Colorado.

Section 4.11. Conflicts of Interest for the Members of the Board of Directors. With regard to any conflict of interest for the Board of Directors:

- A. Declaration of Conflict of Interest. If any contract, decision, or any other action (hereinafter collectively referred to as “Action”), taken by or on behalf of the Association would financially benefit any member of the Board of Directors (or any person who is a parent, grandparent, spouse, child, or sibling of a member of the Board of Directors), then that interested member of the Board of Directors shall declare that a conflict of interest exists as to that person. Members of the Board of Directors have a fiduciary duty to disclose any and all such conflicts of interest. The interested member of the Board of Directors shall declare the conflict of interest as soon as is reasonably practicable upon the introduction of a motion or discussion regarding the action, and shall describe in detail all of the particular facts of the conflict of interest. The declaration of a conflict of interest may be set forth in writing by the interested member, in which case the written description of the conflict shall be read aloud into the record by a disinterested member, or may otherwise be presented verbally.
- B. Vote of Interested Member. After the interested member of the Board of Directors makes such a declaration, the interested member may, nonetheless, still participate in a discussion of the matter giving rise to the conflict of interest, but the interested member of the Board of Directors may not *vote* on the Action, pursuant to the Colorado Revised Nonprofit Corporation Act, as may be amended.
- C. Conflicting Interest Not Void. No conflicting interest transaction, as defined by Colorado Revised Nonprofit Corporation Act, as amended, shall be void or voidable if any of the following conditions have been met:
  - (i) The interested member of the Board of Directors disclosed the material facts relating to the conflict of interest or the Board of Directors is aware of them and the Board of Directors authorizes the transaction by a majority vote;
  - (ii) The interested member of the Board of Directors disclosed the material facts to the membership or the membership is aware of them and the membership votes to authorize the transaction; or
  - (iii) The conflicting interest transaction is fair to the Association.

Section 4.12 Budget. Within ninety (90) days after adoption of any proposed budget for the Project, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider a budget. Such meeting shall occur within a reasonable time after mailing of other deliver of the summary, or as allowed for in these Bylaws. The Board shall give notice to the Owners of the meeting as allowed in these Bylaws. The budget proposed by the Board does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by a majority of all Owners, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the

Board and *not* vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners.

Section 4.13 Actions of Board Without a Meeting. . The Board of Directors may take action without a meeting if the following events occur:

- (a) A written notice is sent to all Board members regarding the action proposed to be taken;
- (b) The notice states the time by which a Director must respond;
- (c) Each Board member votes, in writing “for” or “against” or “abstains” OR fails to respond; and
- (d) No Board member demands a meeting regarding the proposed action.

## **ARTICLE 5. OFFICERS AND THEIR DUTIES**

Section 5.1. Enumeration of Officers. The officers of the Association shall include a president, vice president, secretary, and treasurer, and such other officers as the Board of Directors may resolve to create from time to time. The president must be a member of the Board of Directors.

Section 5.2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors and thereafter at the first meeting of the Board of Directors following each annual meeting of the Owners.

Section 5.3. Term. The officers shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless such officer shall sooner die, resign, or shall be removed or otherwise disqualified to serve.

Section 5.4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may determine from time to time.

Section 5.5. Resignation and Removal. Any officer may be removed from office, with or without cause, by a majority vote of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to deem it effective.

Section 5.6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer replaced.

Section 5.7. Multiple Offices. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

Section 5.8. Duties. The duties of the officers include the following:

- A. President. The President shall preside at all meetings of the Owners and the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign documents on behalf of the Association (including all leases, mortgages, deeds, notes, and other written instruments); and, shall exercise and discharge such other duties as may be required of the President by the Board of Directors.
- B. Vice President. The Vice President shall act in the place and stead of the President in the event of his or her absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of the Vice President by the Board of Directors. The Secretary and/or Treasurer may also hold the office of Vice President.
- C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Owners; keep the corporate stamp or seal of the Association, if any, and place it on all papers requiring said stamp or seal, if necessary; serve notice of meetings of the Board of Directors and/or of the Owners; keep appropriate current records showing the Owners together with their addresses; and shall perform such other duties as may be required by the Board of Directors. The duties of the Secretary may be delegated to the Managing Agent or other outside contractor, with proper oversight by the Secretary.
- D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; sign all checks of the Association unless the Board of Directors specifically directs otherwise; keep proper books of account; at the direction of the Board of Directors, cause an audit of the Association books to be made; and prepare an annual budget and a statement of income and expenditures to be presented to the Owners at the regular annual meeting of Owners, and deliver a copy of each to the Owners. The duties of the Treasurer may be delegated to the Managing Agent or other outside contractor, with proper oversight by the Treasurer.

Section 5.9. Execution of Instruments. Notwithstanding the provisions of Section 5.8.A., above, all agreements, contracts, deeds, leases, checks, notes, and other instruments of the Association may be executed by any person or persons as may be designated by resolution of the Board of Directors, including the Managing Agent.

## **ARTICLE 6. INDEMNIFICATION OF MEMBERS OF THE BOARD OF DIRECTORS AND ITS OFFICERS**

To the extent permitted by law and consistent with the Articles, the Declaration, and these Bylaws, the Association shall indemnify each and every member of the Board of Directors, officer, employee, fiduciary and/or agent of the Association against any liability or expense, including judgments, amounts paid in compromise and/or settlements of claims made against the

Association, and amounts paid for attorneys' fees and related expenses asserted against or incurred by such person in any such capacity or arising out of that person's capacity as an officer, employee, fiduciary, agent or member of the Board of Directors. The indemnification contemplated by this Article shall not extend, in any event, to any act or omission occurring prior to the date of incorporation of the Association.

In the event of any settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by its counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of such person's duties for the Association as such actions or inactions may relate to the matter involved. The foregoing rights shall not be exclusive of other rights to which such member of the Board of Directors or officer or other person may be entitled. All liability, loss, damage, cost, and expense arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as a Common Expense.

## **ARTICLE 7. COMMITTEES**

The Board of Directors may appoint such committees as deemed appropriate which, to the extent provided for in the resolution appointing the Committee and allowed by law, shall have the powers of the Board of Directors in the management and affairs and business of the Association, except that all committees may only authorize expenditures of Association funds with approval of the Board of Directors.

## **ARTICLE 8. RECORD RETENTION AND DISCLOSURE**

Section 8.1. Permanent Records. The Association shall keep the following as permanent records:

- A. The meeting minutes from all Owner and Board of Directors meetings;
- B. Records of all actions taken by Owners or the Board of Directors by written ballot;
- C. Records of all actions taken by committees, appointed by the Board of Directors, on behalf of the Association;
- D. Records of all waivers of notices for Owner, Board of Directors or committee meetings.

Section 8.2. Retention of Other Records. In addition to the records set forth above, the Association shall keep copies of the following records at its principal office:

- A. Complete and accurate financial records detailed enough to show unpaid assessments;
- B. A record of Owners so that the Association can make a list of names, addresses, number of votes allocated to each Owner, and the votes or said Owner;



- C. The Association's governing documents including: Articles, Bylaws, the Declaration, rules and regulations, responsible governance policies, and any amendments to any of these documents as may be created from time to time;
- D. Board of Director resolutions;
- E. Minutes of Owner's meetings for the past three years;
- F. Records of actions taken by the Owners without a meeting for the past three years;
- G. All written communications sent to all Owners in the past three years;
- H. A list of the members of the Board of Directors and Officers names and addresses;
- I. A copy of the Association's most recent annual report as filed with the Secretary of State;
- J. A list, by unit, of the Association's current assessments, including both special and regular assessments;
- K. The results of any financial audit or review for the preceding fiscal year, if such audit or review exists;
- L.. The Association's annual financial statements, including any amounts held in reserve for the preceding fiscal year;
- M. A list of all Association insurance policies, including the company names, policy limits, policy deductibles, additional named insured's, and expiration dates of the policies; and
- N. Records reflecting the date on which the fiscal year for the Association begins.

Section 8.3. Principal Place of Business. The principal place of business of the Association shall be deemed to be the Association's office at 350 Lake Dillon Drive, Dillon, CO 80435, or such other address as the Association may designate and promptly notify members. The Association's records shall be stored at this office.

Section 8.4. Disclosure. The Association shall ensure disclosure of these records in one or more of the following methods at no charge to Owners: posting electronic copies on an internet web page with accompanying notice to Owners via first-class mail or e-mail; the maintenance of a literature table or binder at the Association's principal place of business; or by mail or personal delivery. This information is to be made available to Owners, but the Association is under no duty, and has no statutory responsibility, to distribute it. Therefore, if costs are associated with the provision of the documents to Owners, the Association may account for the cost of such distribution as a Common Expense.

Section 8.5. Change of Management Notice. The Association shall provide notice to all Owners, within ninety (90) days, of the Association's change of address, change of designated agent, or change of management company, including written notice stating the name of the association, the name of the management company, the physical address of the Association or management company. Such notice shall also include the name of the common interest community, the initial recording date of the Declaration, including the recording information for the Declaration. The Association may account for the cost of such disclosure as a Common Expense.

Section 8.6. Disclosure After End of Fiscal Year. The Association shall make the following information available to Owners via the Association website, upon reasonable notice in accordance with Article 9 herein:

- A. The date on which the fiscal year commences;
- B. The Association's operating budget for the fiscal year;
- C. A list of the Association's current assessments, both regular and special;
- D. The Association's annual financial statements; including amounts held in reserve for the preceding fiscal year;
- E. The results of the Association's most recent available financial audit or review;
- F. A list of all Association insurance policies, which shall include the company names, policy limits, policy deductibles, additional named insured's, and the expiration dates of the policies;
- G. All of the Association's bylaws, articles, and rules and regulations, and responsible governance policies;
- H. The minutes of the Board and Owner meetings for the preceding fiscal year.

If the Association's address, designated agent, or management company changes, the Association shall provide all Owners with an Amended Notice within ninety (90) days after the change.

## **ARTICLE 9. INSPECTION OF ASSOCIATION RECORDS**

Section 9.1 Retention of Records. The Association shall keep financial and other records in accordance with this Article 9. These records shall be made available to Owners for inspection and copying pursuant to the provisions described herein.

Section 9.2. Scheduled Record Inspection. Association records shall be available for inspection through the Managing Agent by appointment, and at the office of the Association. To schedule record inspection at the Association's office, an Owner, or the Owner's designated representative, must provide the Association with a written "Notice of Intent to Inspect". So that the Association can have the desired books, records and personnel available, a Notice of Intent to

Inspect must be submitted to the Association not later than five (5) business days prior to the date of the planned inspection. Said Notice must describe, with reasonable particularity, which records are to be inspected and the purpose of the inspection. Such Notice may be sent to the Association by mail at the following address: 350 Lake Dillon Drive, Dillon, CO 80435, or such other address as the Association may designate and promptly notify members. The Association may provide the requested records at the next regularly scheduled meeting if such meeting occurs within thirty (30) after the request.

Section 9.3. No Removal of Records. No records may be removed from the Association's possession without the express written consent of the Board. If an Owner requests to inspect records, the Association, or its agent, may photocopy and provide the requested records to the Owner in lieu of the Owner's inspection of the records. The Board may, at its sole discretion, identify certain records that may only be inspected in the presence of a Board member or other person designated by the Board.

Section 9.4. Fee for Copies. The Association may charge a fee for copies, not to exceed the Association's actual cost for copies of records, and which fee may be collected before any copying begins. Copying requests shall be reviewed on a case by case basis.

Section 9.5. Non-Disclosure of Certain Records. Certain records may only be disclosed with the express written consent of the Board, which records include:

- A. Confidential personnel records;
- B. Confidential communications with legal counsel concerning litigation, disputes that are subject to pending or imminent court proceedings or concerning privileged or confidential communications between attorney and client;
- C. Records or files regarding investigative proceedings concerning possible or actual criminal misconduct;
- D. Any matter, the disclosure of which would constitute an unwarranted invasion of individual privacy;
- E. Preliminary records, work papers, drafts or other general information which has not been formally approved by the Board;
- F. Owners' phone numbers and/or e-mail addresses.

Section 9.6. List of Owners. The Association is permitted to distribute a list of owners to include Owner names, unit numbers and addresses. An Owner may not request a membership list for any purpose unrelated to an Owner's interest as a Unit Owner. Unrelated purposes for the use of a membership list include, but are not limited to:

- A. The solicitation of money or property;
- B. Any commercial purpose; and
- C. To be sold to, or purchased by, any person.

## **ARTICLE 10. CORPORATE SEAL**

The Association may create and maintain a seal or stamp in circular form having within its form the words: “Dillon Pines Townhome Association”.

## **ARTICLE 11. FISCAL YEAR**

The fiscal year of the Association shall begin on January 1 and end on December 31 of every year, except that the first fiscal year shall begin on the date of incorporation. Through an Amendment of the Bylaws, the Association may establish a different fiscal year for the Association.

## **ARTICLE 12. FINANCIAL REVIEW OR AUDIT**

The Association shall maintain accurate and complete financial records. At the discretion of the Board of Directors, or upon a request as set forth herein, 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, at least every two (2) years, by an independent and qualified person. The cost of any audit or review shall be considered a Common Expense. An audit as contemplated by this Section, and to be performed by a Certified Public Accountant, shall only be required if the Association has annual revenues or expenditures of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) and such audit is requested in writing by the Owners of at least one-third (1/3) of the Units (each Unit to be counted equally and not based on Allocated Interests). A review shall be required to be performed by a person having at least a basic understanding of the principles of accounting when requested by Owners of at least one-third (1/3) of the Units (each Unit to be counted equally and not based on Allocated Interests). The audit or review report shall cover the Association’s financial statements, which shall be prepared using either generally accepted accounting principles or the cash or tax basis of accounting. The report shall also state the principles/basis of preparation that was used in its preparation. The guidelines and procedures set forth in these Bylaws shall be applied in combination with those set forth in C.R.S. § 38-33.3-303 of the Act.

## **ARTICLE 13. INVESTMENT OF RESERVES**

The following policies shall apply with regard to the investment of any assessment reserves collected pursuant to the Declaration, if any such reserves exist, and if the Association decides to invest such assessment reserves. The investment strategy of the Association for any assessment reserves should emphasize a long-term outlook by diversifying the maturity dates of fixed-income instruments within the portfolio utilizing a laddered investments strategy, at the sole discretion of the Board of Directors. The Board of Directors is subject to the standard of care set forth in the Colorado Revised Nonprofit Corporation Act, as may be amended from time to time, when investing assessment reserves of the Association. This standard dictates that the Board of Directors is required to invest assessment reserves in good faith and with the care of an ordinarily prudent person. The Board of Directors, in its sole discretion, may hire a qualified investment counselor to assist in formulating a specific investment strategy. The Board of Directors shall invest any assessment reserves to generate revenue that will accrue to the balance of such assessment reserves and, in furtherance of that goal, such investment shall be made in accordance with the following policies, listed in order of their priority:

A. Safety of Principal. Promote and ensure the preservation of the principal of any assessment reserves.

B. Liquidity and Accessibility. Structure maturities to ensure availability of assets for projected or unexpected expenditures.

C. Minimize Maintenance and Transaction Costs. Minimize investments costs, such as redemption fees, commissions, and other transactional costs.

D. Diversify. Mitigate the effects of interest rate volatility upon assessment reserves.

E. Return. Invest funds to seek the highest level of return.

#### **ARTICLE 14. RULES, REGULATIONS AND POLICIES (THE HOUSE RULES).**

Section 14.1. Adoption of Rules, Regulations and Policies. The Board of Directors shall have the right to establish, amend, and enforce, from time to time, such Rules, Regulations and Policies as the Board of Directors may deem necessary and appropriate for the management, preservation, safety, control, and orderly operation of the Project for the benefit of all Owners. Such Rules, Regulations and Policies may include a system of late charges and/or interest for untimely payment of Assessments, fees for review by the Association of matters required under the Declaration, and fees and fines for noncompliance with the Rules, Regulations and Policies and other obligations set forth in the Declaration and these Bylaws. The Board of Directors shall provide notice of the adoption of, or amendment to, any Rules, Regulations and Policies and make such amended Rules, Regulations and Policies available for inspection by all Owners, Occupants, Purchasers, and any Eligible First Mortgagees during convenient weekday business hours at the principal office of the Association. Such Rules, Regulations and Policies may, to the extent not in conflict with the provisions of the Declaration, the Articles of Incorporation of the Association and these Bylaws, impose reasonable restrictions upon the use and occupancy of any portion of the Project as the Board of Directors, in its sole and absolute discretion, deems necessary and appropriate. Each Owner agrees that all his or her ownership rights shall be in all respects subject to the Rules, Regulations, and Policies, and each Owner agrees to obey such Rules, Regulations and Policies as the same may lawfully be amended from time to time, and to ensure that the same are faithfully observed by Occupants of his or her Unit. Each person who comes within the Project shall be subject to the Rules, Regulations and Policies for the duration of his or her presence therein. A copy of the Rules, Regulations and Policies, as amended from time to time, shall be made available to Owners, Occupants, Purchasers, and Eligible First Mortgagees upon request and the payment of a reasonable fee.

Section 14.2. Adoption of Rules for Structural Alterations and Exterior Appearance. The Association may adopt Rules, Regulations and Policies for the approval of structural alterations to Units that may include, but shall not be limited to, requirements that the applicant submit plans and specifications showing the nature, kind, shape, height, color, materials, and location of the proposed alterations in sufficient detail for the Association to review them, and pay any processing and/or review fees, which may include any professional fees the Association might incur in retaining architects or engineers to review the plans and specifications.

## **ARTICLE 15. ENFORCEMENT.**

Section 15.1. Enforcement of Association's Documents. The Board of Directors may determine enforcement action on a case by case basis, and take other actions as it may deem necessary and appropriate to assure compliance with the Declaration, Articles of Incorporation, Bylaws, and/or any other rules, regulations and policies promulgated thereunder (hereafter collectively the "Association's Documents"), and in order to ensure a safe and harmonious living environment. The Board of Directors shall also have the power, and a duty, to hear and make decisions regarding potential violations and/or written complaints filed with the Board of Directors and to impose fines and/or other sanctions, pursuant to this power.

Section 15.2. Lodging A Complaint. Any Owner within the community may submit a formal, written complaint of a covenant or rule violation to the Association, via either electronic mail or regular mail, providing as much information as is known and/or available to the complaining Owner. Complaints may also be initiated by the Manager or any member of the Board of Directors. If an oral complaint cannot be independently verified by a Board member or the Association's management agent, the Board may take only limited enforcement action. The Board shall have the authority to determine whether a complaint is justified before moving forward with the Notice and Hearing Procedure.

Section 15.3. Notice of Alleged Violation. Written Notice of an Alleged Violation of any provision of the Association's Documents shall be provided to the Owner to be charged as soon as is reasonably practicable following either the receipt of a complaint or the discovery by the Board of such violation. The Board may also, in its sole discretion, provide a copy of such notice to any non-Owner violator. The notice shall describe the nature of the violation, the extent of any action necessary to correct the violation, the possible fine that may be imposed, the right of the alleged violator to request a hearing before the Board to contest the violation or possible fine, and may indicate that the Board may seek to protect its rights as they are specified in the governing legal documents. All notices shall be delivered by messenger or sent by certified U.S. mail, with a return receipt requested.

Section 15.4. Request for Hearing. If an Owner desires a hearing to challenge or contest any alleged violation and possible fine, or to discuss any mitigating circumstances, the Owner must request such hearing, in writing, within fourteen (14) days of the date of the Notice of Alleged Violation. The request for hearing shall describe the grounds and basis for challenging the alleged violation or the mitigating circumstances related thereto. In the event a proper and timely request for a hearing is not made as provided herein, the right to a hearing shall be deemed forever waived. If a hearing is not requested within the fourteen (14) day period, the Board shall determine if there was a violation based upon the information available to it and, if the violation warrants, shall assess a reasonable fine as set forth in the Fine Schedule contained within the Association's Documents, within thirty (30) days after the expiration of the fourteen (14) day period. The Board of Directors shall then give written notice of said fine to the applicable Owner.

Section 15.5. Board of Directors to Conduct Hearing. The Board shall apply and adhere to a fair and impartial fact finding process and shall hear and decide cases set for hearing pursuant to the procedures set forth herein. The Board may appoint an officer or other Owner to act as the Presiding Officer at any hearing contemplated by this Article. The Board shall make

the final determination regarding whether a violation exists and shall impose fines when necessary and/or warranted.

Section 15.6. Conflicts. The Board, in acting as the decision maker in any hearing process, shall be impartial and shall be made up only of individuals who can be impartial. An impartial decision maker is a person (or persons) with authority who must not, as a result of his or her participation, receive any greater benefit or detriment than any other member of the Association. Any Board member who is incapable of objective and disinterested consideration regarding any hearing before the Board or Association shall disclose such incapacity to the President of the Association prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing and the Board member shall be disqualified from all proceedings with regard to that hearing. If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer may appoint an Association member, in good standing, to serve as a voting member of the hearing board.

Section 15.7. Notice and Hearing. The Board shall inform the Owner of the scheduled time, place and date of the requested hearing by regular U.S. mail. The Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall establish the existence of a quorum, explain the rules, procedures and guidelines by which the hearing shall be conducted and shall introduce the case before the Board, which shall serve as an impartial decision maker. The complaining parties and the Owner allegedly in violation of covenants or rules shall have the right, but not the obligation, to be in attendance at the hearing. Each party may present evidence, testimony, and witnesses. The decision of the Board at each hearing shall be based on the matters set forth in the Notice of Alleged Violation and Hearing, Request for Hearing, and such evidence as may be presented at the hearing. Unless otherwise determined by the Board of Directors in accordance with the terms of the Colorado Common Interest Ownership Act, all hearings shall be open to attendance by all members of the Association. If a complaining party is unable to attend the Hearing, he or she may instead submit a letter to the Board explaining the basis of the complaint.

Section 15.8. Decision. After all testimony and other evidence has been presented to the Board at a hearing, the Board shall render its written findings and decision, and impose a reasonable fine (as set forth in the Fine Schedule contained within the Association's Documents), if applicable, within fourteen (14) days after the hearing. A decision, either a finding for or against the Owner allegedly in violation of covenants or rules, shall be determined by a majority vote of the Board of Directors present.

Section 15.9. Failure to Enforce. Failure of the Board or the Association to enforce the covenants and rules set forth within any of the Association's Documents at any time shall not be deemed a waiver of the right to do so for any subsequent or concurrent violations.

Section 15.10. Failure to Comply. For any failure to comply with the provisions of this Article or any provision of the Declaration, these Bylaws, the Articles or the Rules and Regulations, other than payment of assessments or any money or sums due to the Association, the Association, any Owner, or any class of Owners adversely affected by the failure to so comply may seek reimbursement for collection costs and reasonable attorney's fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal

proceeding. If, however, a legal proceeding is commenced, for each claim or defense, including, but not limited to, counterclaims, cross-claims, and third-party claims, and except as otherwise provided herein, the court shall award to the prevailing party (for each claim) the prevailing party's reasonable collection costs and attorney's fees and costs incurred in asserting or defending the claim. Notwithstanding, in connection with any claim in which an Owner is alleged to have violated a provision of this Article or any provision of the Declaration, these Bylaws, the Articles or the Rules and Regulations of the Association and in which the court finds that the Owner prevailed because the Owner did not commit the alleged violations:

- (a) The court shall award the Owner reasonable attorney's fees and costs incurred in asserting or defending the claim; and
- (b) The court shall not award costs or attorney's fees to the Association. In addition, the Association shall be precluded from allocating to the Owner's account with the Association any of the Association's costs or attorney's fees incurred in asserting or defending the claim.
- (c) An Owner shall not be deemed to have confessed judgment to attorney's fees or collection costs.

## **ARTICLE 16. ASSESSMENTS**

Section 16.1. Due Dates for Assessment Payments. Unless otherwise determined by the Board of Directors, the annual Assessments and any special Assessments, which are to be paid in installments, shall be paid on a monthly basis, in advance, and shall be due and payable to the Association at its office, or as the Board of Directors may otherwise direct in any Management Agreement, without notice (except for the initial notice of any special Assessment), on the first day of each month. If any such installment shall not be paid within thirty (30) days after it shall have first become due and payable, then the Board of Directors may assess a late charge, default interest charge, fee, or such other charge as the Board of Directors may fix by rule from time to time to cover additional expenses involved in handling such delinquent Assessment installment. Until established or changed by the Board of Directors, the default interest charge shall be made at the rate of eighteen percent (18%) per annum. An Owner's Assessment shall be prorated if the ownership of a Unit commences or terminates on a day other than the first day or last day, respectively, of a month or other applicable payment period.

Section 16.2. Remedies for Nonpayment of Assessments. If any annual, special, or default Assessment (or any installment of the Assessment) is not fully paid within thirty (30) days after the same first becomes due and payable, then as often as the same may happen:

- (a) interest shall accrue at the default rate set by the Bylaws, or as is set forth in the Declaration or the Rules and Regulations on any amount of the Assessment then in default, said interest to accrue from the due date until the date of payment in full;
- (b) the Association may accelerate and declare immediately due and payable all unpaid installments of the annual Assessment or any special Assessment otherwise due during the fiscal year during which such default occurred;



(c) the Association may thereafter bring an action at law or in equity, or both, against any Owner personally obligated to pay the same; and

(d) the Association may proceed to foreclose its lien against the particular Unit pursuant to the power of sale granted to the Association by these Bylaws or the Declaration in the manner and form provided by Colorado law for foreclosure of real estate mortgages.

An action at law or in equity by the Association (or counterclaims or cross-claims for such relief in any action) against an Owner to recover a money judgment for unpaid Assessments (or any installment thereof) may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. Foreclosure, or attempted foreclosure, by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from again foreclosing, or attempting to foreclose, its lien for any subsequent Assessments (or installments thereof) which are not fully paid when due or for any subsequent default Assessments. The Association shall have the power and right to bid in or purchase any Unit at a foreclosure or other legal sale and to acquire and hold, lease, mortgage, and to convey, or otherwise deal with the Unit acquired in such proceedings.

Section 16.3. Statement of Status of Assessments. Upon fourteen (14) days' written notice to the Managing Agent or Board of Directors and upon payment of a reasonable fee set from time to time by the Board of Directors, any Owner, holder of a Security Interest, prospective Purchaser of a Unit or their designees shall be furnished a statement of the Owner's account setting forth:

- (a) the amount of any unpaid Assessments then existing against a particular Unit;
- (b) the amount of the current installments of the annual Assessment and the date that the next installment is due and payable;
- (c) the date(s) on which payment of installments of special Assessments become due and outstanding against the Unit; and
- (d) any other information deemed proper by the Association, including the amount of any delinquent Assessments created or imposed under the terms of these Bylaws or the Declaration.

Upon the issuance of such a statement signed by a member of the Board of Directors, by an officer of the Association, or by a Managing Agent, the information contained therein shall be conclusive upon the Association as to the person or persons to whom such statement is addressed and who rely on the statement in good faith.

Section 16.4. Assessment Collections. The following are the Association's policies and procedures for the collection of Assessments:

- (a) Due Date: Monthly installments of the annual assessment are due and payable on the first (1<sup>st</sup>) day of each month. Payments shall be deemed received and shall be posted on the date the payment is received in the Association's office or the Association's payment processor's office. Any installment not paid in full when due shall be considered past due and delinquent.

(b) Late Charge. A late charge in the amount of Fifty Dollars (\$50.00) shall be imposed for any assessment, fine or other charge not paid within thirty 30 days of the due date without further notice to the Owner. Such late charge is a personal obligation of the Owner and shall also be considered a lien on the Unit.

(c) Interest. Interest at the rate of twelve percent (12%) per annum shall accrue on any delinquent assessment, fine or other charge from the due date without further notice to the Owner. Interest will be added to the Owner's account thirty (30) days following the due date. Such interest is a personal obligation of the Owner and shall also be considered a lien on the Unit.

(d) Suspension of Rights. An Owner's voting rights shall be automatically suspended without notice if an assessment or other charge is not paid within thirty (30) days of the due date.

(e) Return Check Charges. If any check or other instrument payable to or for the benefit of the Association is not honored by a bank or is returned by a bank for any reason including, but not limited to, insufficient funds, the Owner shall be liable to the Association for one of the following amounts, at the option of the Association:

- (1) An amount equal to the face amount of the check, draft, or money order, plus a return check charge of Twenty Dollars (\$20.00); or
- (2) If notice has been sent as provided in C.R.S. § 13-21-109 and the total amount due as set forth in the notice is not paid within fifteen (15) days after such notice is given, the person issuing the check, draft or money order shall be liable to the Association for collection for three times the face amount of the check, but not less than One Hundred Dollars (\$100.00).

Any returned check shall cause an account to be past due if full payment of the monthly installment of the annual assessment or of any other charge is delinquent. If two (2) or more of an Owner's checks are returned unpaid by the bank within any fiscal year, the Association may require that all of the Owner's future payments, for a period of one (1) year, be made by certified check or money order.

(f) Attorney's Fees. The Association shall be entitled to recover its reasonable attorney's fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner pursuant to the terms of the Declaration and Colorado law. Attorney's fees incurred by the Association shall be considered part of the Assessments and shall be due and payable immediately when incurred, upon demand.

(g) Application of Payments. All payments received on account of any Owner or the Owner's property, may be applied first to post-judgment attorney's fees, costs and expense; then to costs and attorney's fees not reduced to a judgment; then to interest; then to late charges; then to return check charges; then to fines and other amounts levied pursuant to the Declaration; then

to delinquent assessments; then to current assessments not reduced to judgment; and finally to amounts reduced to judgment.

(h) Delegation of Authority to Sign Notice of Lien. The Board of Directors may delegate authority to the Association's attorney to sign and acknowledge the Notice of Assessment Lien and its release. This delegation may be withdrawn at any time. In the event the delegation is withdrawn, the Board will send written notice to the Association's attorney of the withdrawal.

(i) Time Frames. The following time frames shall be followed in the collection of monthly installments of the annual assessment and for collection of all other charges.

Due date	1 <sup>st</sup> day of the month for monthly installment of annual assessment or after notice of assessment or charge for all other assessments, fines and charges.
Late Fee date	30 days after due date
Interest date	30 days after due date
First Notice from Association or manager	30 days after due date
Second Notice from Association or manager	60 days after due date
Third Notice from Association or manager	90 days after due date
Delinquent account turned over to Association's attorney; lien filed; demand letter sent to Owner.	105 days after due date

Notwithstanding the time frames set forth above, if a lien holder with priority over the Association's lien (i.e., First Mortgagee) takes title to a Unit through foreclosure or deed in lieu of foreclosure, the Association may file a lien on the Unit for any delinquent payment. Once accounts are turned over to the Association's attorney, Owners shall make payment to the Association at the address of the Association's attorney. The Association's attorney shall consult with the Association regarding collection procedures and payment arrangements.

(j) Notices: Use of Certified Mail/Regular Mail. In the event the Association shall cause a collection or demand letter or other notice to be sent to a delinquent Owner by regular mail, the Association may also cause, but shall not be required to send, an additional copy of that letter or notice by certified mail.

(k) Referral of Delinquent Accounts to Attorneys. Upon referral of a delinquent account to the Association's attorneys, the attorneys shall take appropriate action to collect the accounts referred. After an account has been referred to the Association's attorney, the account

shall remain with the attorney until the account is settled, has a zero balance or is written off upon approval by the Board of Directors. The Association's attorney is authorized to take whatever action is necessary, in consultation with the President of the Board of Directors or other person designated by the Board, believed to be in the best interest of the Association, including, but not limited to:

- (1) Filing a lien against the delinquent Owner's property to provide record notice of the Association's claim against the property, if not already filed;
- (2) Filing suit against the delinquent Owner for a money judgment. The purpose of obtaining a personal judgment against the Owner is to allow the Association to pursue remedies such as garnishment of the Owner's wages or bank account to satisfy judgment amounts;
- (3) Instituting a judicial action of foreclosure on the Association's lien. The Association may choose to foreclose on its lien in lieu of, or in addition to, suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been, or is likely to be, unsuccessful or in other circumstances that may favor such action;
- (4) Filing necessary claims, documents, and motions in Bankruptcy Court to protect the Association's claim; and
- (5) Filing a court action seeking appointment of a receiver. A receiver is a disinterested person, appointed by the court, who manages rental of the Owner's property, and collects the rents according to the court's order. The purpose of the appointment of a receiver for the Association is to obtain payment of current assessments, reduce past due assessments, and prevent waste and deterioration of the property.

All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney. Upon referral of any matter to the Association's attorney, the Association shall pay the Association's attorneys their usual and customary charges as well as any costs incurred by the attorney on the Association's behalf, promptly upon receipt of the monthly invoice from the attorney.

(1) Notification to and Communication with Owners. This Collection Policy shall be made available to all Owners by the Association as required by Colorado law. After a delinquent account has been referred to the Association's attorney, all communication with the delinquent Owner shall be handled through the Association's attorney. Neither the manager, if any, nor any member of the Board of Directors shall be required, or shall be permitted, to discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact. However, the Association has the option and right to continue to evaluate each delinquency on a case by case basis.

(m) Certificate of Statement of Status of Assessment/Estoppel Letter. As discussed more fully in Section 16.3 of this Article, upon written request the Association shall furnish to an Owner, an Owner's designee, the holder of a Security Interest, a prospective Purchaser of a Unit or their designees, a written statement setting forth the amount of unpaid assessments currently levied against the Owner's Unit. The statement shall be delivered within fourteen (14) calendar days after receipt of the request. If the Owner's account has been turned over to the Association's attorney, such statement shall be handled through the Association's attorney and shall include any attorney's fees incurred in providing the statement.

(n) Bankruptcies and Public Trustee Foreclosures. Upon receipt of any notice of a bankruptcy filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any Unit within the Association, the Association may advise the Association's attorney of the same and turn the account over to the Association's attorney.

(o) No Waiver by the Association. The Association may alter the time for the filing of lawsuits and/or liens, or otherwise modify the procedures contained herein, as the Association shall determine appropriate under the particular circumstances of each case. Any such change in accommodation shall be documented in the Association's files with the conditions of relief. Failure of the Association to require strict compliance with this Collection Policy shall not be deemed a waiver of the Association's right to require strict compliance and shall not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney's fees and/or costs as described and imposed by this Collection Policy.

## **ARTICLE 17. AMENDMENTS**

These Bylaws may be amended by a vote of a majority of 80% (eighty percent) of the Board of Directors at a regular or special meeting of the Board of Directors. These Bylaws may be amended at any regular meeting of the Owners or at any special meeting called for the purpose of amending the Bylaws, by the affirmative vote of a majority of a quorum of Owners present at the meeting in person or represented by proxy and eligible to vote. Any approved amendment shall be binding upon every Owner. Any amendment adopted at a regular or special meeting of the Owners may thereafter only be amended at a regular or special meeting of the Owners. No amendment shall serve to shorten the term of any member of the Board of Directors, or conflict with the Colorado Common Interest Ownership Act or delete any provision which must be contained in these Bylaws under the terms of said Act, or conflict with the Articles of Incorporation of the Association or the Declaration adopted thereby.

## **ARTICLE 18. INTERPRETATION**

Section 18.1. Generally. The provisions of these Bylaws shall be liberally construed to effect the purpose of ensuring that the Townhome Project shall at all times be operated and maintained in a manner so as to optimize and maximize its enjoyment and utilization by each Owner and Occupant.

Section 18.2. Compliance with the Colorado Common Interest Ownership Act. These Bylaws are intended to comply with those requirements of the Colorado Common Interest Ownership Act ("Act") which are applicable to the Association. If any of these Bylaws conflict

with provisions of said Act applicable to the Association, such provisions of the Act shall govern the Association.

Section 18.3. Conflict between Documents. In the case of any conflict between the Rules and Regulations and the Articles, these Bylaws, or the Declaration, as the case may be, the Rules and Regulations shall control. In the case of any conflict between the Articles and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws or the Articles, the Declaration shall control.

## **ARTICLE 19. INSURANCE CLAIMS BY OWNERS**

Insurance Claims by Owners. Subject to the provisions of C.R.S. § 10-4-110.8(5), as it may be amended from time to time, an Owner shall have the right to file a claim against insurance policies carried by the Association. The Association's insurer, when determining premiums to be charged to the Association, shall not take into account any request by an Owner for clarification of coverage. In making a claim against any insurance policy carried by the Association, the Owner must follow this procedure:

A. The Owner must first contact the Board, in writing, regarding the subject matter of the claim;

B. The Owner must give the Association at least fifteen (15) days to respond, in writing, and shall also give the Association a reasonable opportunity to inspect the damage;

C. The Owner will only be allowed to make a claim if the subject matter of such claim falls within the coverage area of an insurance policy of the Association, and if the subject matter of such claim relates to an issue not created by the Owner or his or her co-occupants or guests.

## **ARTICLE 20. SEVERABILITY**

If any provision of this document, or the application of any part thereof to any person or circumstances, is held to be invalid, the invalidity shall not affect other provisions or applications of this document which can be given effect without the invalid provisions or application, and, to this end, the provisions of this document are severable.

## CERTIFICATION

I, \_\_\_\_\_, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Dillon Pines Townhome Association, Inc., a Colorado nonprofit corporation; and

That the foregoing Bylaws constitute the Amended and Restated Bylaws of the Dillon Pines Townhome Association, Inc., as duly adopted by the Board of Directors in a regular meeting, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Secretary