

**BYLAWS  
OF  
ROCKY PEAK VILLAGE II OWNERS ASSOCIATION**

**ARTICLE 1 - INTRODUCTION; CERTAIN DEFINITIONS**

Rocky Peak Village II, a subdivision in the City of Steamboat Springs, Routt County, Colorado, has been established as a common interest community pursuant to the provisions of the Colorado Common Interest Ownership Act, as amended (“CCIOA”). Capitalized terms used but not defined herein shall have the meanings set forth in the Declaration of Covenants, Conditions, Restrictions, and Easements for Rocky Peak Village II, which shall be recorded in the real estate records of Routt County, Colorado (the “Declaration”). References to the Declaration shall include all amendments and supplemental declarations recorded from time to time. Pursuant to CCIOA and the Colorado Revised Nonprofit Corporation Act, as amended (the “Nonprofit Act”), the Declarant caused the Rocky Peak Village II Owners Association (the “Association”) to be formed as the association of Owners of Lots at Rocky Peak Village II. In these bylaws, references to the Common Interest Community or Subdivision shall be to Rocky Peak Village II.

**ARTICLE 2 - EXECUTIVE BOARD**

**2.1 Number and Qualification**

(a) The affairs of the Common Interest Community and the Association shall be governed by an Executive Board, the members of which are sometimes referred to in these Bylaws as directors. The initial Executive Board shall consist of the person named in the Association’s articles of incorporation. The number of members of the Executive Board may be changed by amendment to these Bylaws, except that the number of members of the Executive Board shall not be less than three (3) after termination of the Association Control Period. Further, not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots created by the Plat to Owners other than the Declarant, at least one (1) director and not less than twenty-five percent (25%) of the directors must be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots created by the Plat to Owners other than the Declarant, not less than thirty-three and one-third percent (33-1/3%) of the directors must be elected by Owners other than the Declarant. Not later than the termination of the Association Control Period, at least a majority of the directors must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. Directors must be Owners or designated representatives of the Declarant or Owners. Directors shall be elected by the Owners, except for those appointed by the Declarant. At any meeting at which directors are to be elected, the Owners may, by resolution, adopt procedures for conducting the election which are not inconsistent with these Bylaws, the Association’s Policies, CCIOA, or the Nonprofit Act.

(b) The term of office of directors appointed by the Declarant shall continue until such directors are removed and replaced by the Declarant or until replacements are elected by the members, as provided in these Bylaws. The term of office of directors elected by the Owners shall be three (3) years, subject to prior resignation or removal, and provided that the terms of such

directors shall be managed so that the terms of approximately one-third (1/3) of such directors shall expire annually. The term of office of directors shall commence upon election or appointment.

(c) The Declaration and CCIOA shall govern appointment and election of directors during the Association Control Period.

(d) The officers of the Association shall be appointed by the Declarant during the Association Control Period. Thereafter, the Executive Board shall elect the officers.

**2.2 Powers.** The business and affairs of the Association shall be managed by its Executive Board which may exercise all powers of the Association and do all lawful acts and things as are not by statute or by the Articles of Incorporation or by these Bylaws or by the Declaration required to be done by the Owners. The power and authority of the Executive Board shall include, but shall not be limited to, the power and authority, acting directly or through the Association's officers or through the Association's manager or managing agent:

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

(b) To establish, make and amend Rules and Regulations (including Design Guidelines), provisions and resolutions as may be necessary, convenient or proper for the management and operation of the Association, the management, operation and use or occupancy of the Subdivision, the Common Property and all real and personal property owned or leased by the Association for common use, and to enforce compliance therewith, including (without limitation) the right, power and authority to establish penalties for the infraction thereof and to assess fines in favor of the Association for specific violations, each such fine to be a special Common Expense assessment against the Lot of the Owner who or whose guests, invitees, agents or tenants committed the violation.

(c) To create any reserve required by the Declaration or deemed appropriate by the Executive Board, including (without limitation) capital reserve funds for repairs, maintenance, replacement and acquisition of Association property and Common Property and operating reserves to meet unanticipated Common Expenses and to permit payment of Common Expenses in advance of receipt of assessments.

(d) To hire and discharge contractors, management agents, managers, agents and employees, and to designate and remove personnel necessary for the operation of the Association and the operation, maintenance, repair, restoration and replacement of the Common Property, and to set and determine the conditions and duties of, and wages, benefits and payments to, any such contractor, agent, employee or personnel.

(e) To declare the office of a Director on the Executive Board (other than a director appointed by the Declarant) to be vacant in the event such Director shall be absent from three (3) consecutive regular meetings of the Executive Board.

(f) To enter into, make, amend and terminate contracts or agreements pertaining to its authority and responsibilities, and to incur liabilities.

(g) To institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Declaration, Bylaws, Policies or Rules and Regulations, in the Association's name, on behalf of the Association, or two (2) or more Lot Owners, on matters affecting the Subdivision.

(h) To adopt and amend Bylaws.

(i) To adopt and amend budgets for revenues, expenditures and reserves.

(j) To impose and receive a payment, fee or charge for services provided to Owners of Lots and for the use, rental or operation of the Common Property

(k) To impose a reasonable charge for late payment of Common Expense assessments and, after notice and hearing, to levy a reasonable fine for each violation of the Declaration, Bylaws, Policies or Rules and Regulations of the Association.

(l) To grant easements for any period of time, including permanent easements and including the access easement provided for in Article 6 Section 8 of the Declaration and to grant leases, licenses and concessions for no more than one year, through or over the Common Property.

(m) To provide for the indemnification of the Association's officers and the Executive Board and to maintain directors' and officers' liability insurance.

(n) To adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibilities for deductibles, and any other matter of insurance claims adjustment.

(o) To exercise, for the Association, all powers and authority vested in or delegated to the Association and not reserved to the membership or the Declarant by any other provisions of these Bylaws, the Articles of Incorporation, or the Declaration, and to exercise any other power conferred by CCIOA, the Nonprofit Act or which are necessary and proper for the governance and operation of the Association or the Subdivision.

(p) To borrow funds in order to pay for any expenditure or outlay authorized by these Bylaws and in the Declaration, and to execute all such instruments evidencing such indebtedness as the Executive Board may deem necessary or advisable, subject to the limitations of the Declaration.

(q) To establish bank accounts for the common treasury and for all separate funds and reserves which are required or may be deemed advisable by the Executive Board.

(r) Delegate to managers, managing agents or other persons all or any portion of the powers of the Executive Board.

**2.3 Duties.** It shall be the duty of the Executive Board acting directly or through the Association's officers or through the Association's manager or managing agent:

(a) To supervise all officers, managers, agents, contractors and employees of the Association, and to see that their duties are properly performed.

(b) To prepare annually a budget for the collection of general Common Expense assessments and the payment of the Common Expenses of the Association (including reserves) for the ensuing fiscal year.

(c) To fix, determine, levy and collect general Common Expense assessments to be paid by the Owners to meet the Common Expenses and to fund any reserve required by the Declaration or Policies or deemed appropriate by the Executive Board, including (without limitation) capital reserve funds for repairs, maintenance, replacement and acquisition of Common Property and other Association property and operating reserves to meet unanticipated Common Expenses and to permit payment of Common Expenses in advance of receipt of assessments, and to fix, determine, levy and collect special Common Expense assessments. Nothing shall prohibit the Executive Board from combining operating reserves and capital reserves into one (1) reserve fund.

(d) To maintain in clean and good order, attractive and sanitary condition, and in good repair the Common Property and all other real and personal property of the Association.

(e) To obtain and maintain insurance in connection with the Subdivision, for the benefit of the Owners and the Association, as provided in CCIOA and in at least the amounts set forth in the Declaration.

(f) To collect all delinquent assessments by suit, by foreclosure of lien, by exercise of any power or remedies granted or provided in the Declaration or the Nonprofit Act, or otherwise, as may be available at law or in equity, and to enjoin or seek damages from an Owner as is provided in the Declaration, CCIOA, the Nonprofit Act, the Policies or these Bylaws.

(g) To maintain full and accurate books and financial records showing all of the receipts, expenses and disbursements of the Association. The Association shall keep and maintain all records and documents required by CCIOA and the Nonprofit Act to be kept and maintained by the Association.

(h) To cause to be made, after the Association Control Period, and if requested by at least one-third (1/3) of the Owners, either (1) an audit of the Association's books and records using generally accepted accounting principles, or (2) a review of the Association's books and records using statements on standards for accounting and review services. An audit is mandatory if the revenues or expenditures of the Association are greater than \$250,000.00 and

one-third (1/3) of the Owner's request an audit. A review is mandatory if requested by one-third (1/3) of the Owners. The cost of any audit or review pursuant to this section shall be a Common Expense unless otherwise provided in the Declaration.

(i) To issue, or cause the secretary or the Association's managing agent to issue, within fourteen (14) days after receipt of written request of any Owner, first Mortgagee, prospective first Mortgagee holder, purchaser or other prospective transferee of a Lot, or title insurer, a written statement certifying the matters required by Article 5 Section 12 of the Declaration. The Association may charge the requesting party a reasonable fee established by the Executive Board for such statement.

(j) To make reasonably available to any Owner, or the duly authorized agents or attorneys of any Owner, for inspection and copying purposes the financial and other records of the Association, as required by CCIOA, provided the Board may restrict the time and location for examination of the above documents in accordance with the Association's Policy regarding the inspection and copying of documents.

(k) To cause all officers and employees and managing agents having responsibility over and access to the funds and treasury of the Association to be bonded if required by the Declaration or CCIOA.

**2.4 Removal of Directors.** The Owners may remove and replace any director, other than a director appointed by the Declarant, with or without cause, by vote of sixty-seven percent (67%) of the votes present and entitled to be cast at a meeting of the Owners at which a quorum is present, called for the purpose of considering such removal.

**2.5 Vacancies.** Vacancies in the Executive Board caused by any reason other than the removal of a director by a vote of the Owners may be filled for the remaining unexpired portion of the term at any time after the vacancy occurs as follows:

(a) As to vacancies of directors whom Owners other than the Declarant elected, by a majority of the remaining elected directors constituting the Executive Board, even though less than a quorum; and

(b) As to vacancies of directors whom the Declarant has the right to appoint, by the Declarant.

**2.6 Regular Meetings.** The Executive Board shall by resolution provide for the holding of regular meetings at the time(s) and place(s), either within or without the state of Colorado, specified in the resolution. Further notice of regular meetings shall not be required.

**2.7 Special Meetings.** Special meetings of the Executive Board may be called by or at the request of the president or any two (2) directors. The person or persons authorized to call special meetings of the Executive Board may fix any place within Routt County, Colorado, as the place for holding any special meeting of the Executive Board called by them.

**2.8 Notice.** At least two (2) days' prior notice of the date, time and place of each special meeting of the Executive Board shall be given to each director. The notice need not describe the purpose of the meeting unless otherwise required by law.

**2.9 Quorum and Voting; Proxies.** A quorum of the Executive Board is deemed present throughout any meeting if fifty percent (50%) or more of the number of directors in office are present at the beginning of the meeting. If a quorum is present at the beginning of the meeting, the affirmative vote of a majority of the directors present when the vote is taken is the act of the Executive Board unless the vote of a greater number of directors is required by applicable law. Each director shall be entitled to cast one (1) vote on matters before the Executive Board. For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a proposal, a director shall be deemed to be present at a meeting and to vote if the director has granted a signed written proxy to another director who is present at the meeting authorizing the other director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy.

**2.10 Action Without Meeting.** Any action required or permitted to be taken at an Executive Board meeting may be taken without a meeting if each and every member of the Executive Board either votes for such action or votes against such action or abstains from voting and waives the right to demand that a meeting be held. Any action so taken shall be adopted only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the directors then in office were present and voted. No action taken pursuant to this section shall be effective unless writings describing the action taken and otherwise satisfying the requirements of this section shall be signed by all directors and not revoked as provided below are received by the Association. Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings described in the action set forth a different effective date. Any director who has signed a writing pursuant to this section may revoke such writing by delivering a dated and signed writing to the Association stating that such director's prior vote is revoked, provided such revocation is received by the Association before the last writing necessary to effect the action is received. Action taken pursuant to this section shall have the same effect as action taken at a meeting of directors. Any writing pursuant to this section may be received by the Association by electronically transmitted facsimile or other form of wire or wireless communications providing the Association with a complete copy of the document, including a copy of the signature on the document.

**2.11 Participation by Electronic Means.** Any members of the Executive Board or any committee designated by such Board may participate in a meeting of the Executive Board or committee by means of telephone conference 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.

## **ARTICLE 3 - OWNERS**

**3.1 Annual Meeting.** The annual meetings of the Association shall be held each year on such date as shall be selected by the Board. At the annual meetings, the directors shall be

elected by ballot of the Owners in accordance with the provisions of Article 2 of these Bylaws. The Owners may transact any other business as may properly come before them at the annual meetings.

**3.2 Budget Meeting.** Meetings of Owners to consider proposed budgets shall be called in accordance with CCIOA. The budget may be considered at annual or special meetings called for other purposes as well.

**3.3 Special Meetings.** Special meetings of the Association may be called by the president, by a majority of the members of the Executive Board or by Owners comprising twenty percent (20%) or more of the votes in the Association.

**3.4 Place of Meetings.** Meetings of the Owners shall be held at a suitable place in Routt County, Colorado as may be designated by the Executive Board or the president.

**3.5 Notice of Meetings.** The secretary or an assistant secretary shall cause notice of meetings of the Owners to be hand-delivered or sent prepaid by United States mail to the mailing address of each Owner at such Owner's address as it appears in the records of the Association, not less than ten (10) nor more than fifty (50) days in advance of a meeting. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration, the Association's articles of incorporation or these Bylaws, any budget changes, and any proposal to remove a member of the Executive Board.

**3.6 Waiver of Notice.** Any Owner may, at any time, waive notice of any meeting of Owners in writing, and the waiver shall be deemed equivalent to the receipt of notice.

**3.7 Adjournment of Meeting.** At any meeting of Owners, a majority of Owners who are present at that meeting, either in person or by proxy, may adjourn the meeting to another time without further notice.

**3.8 Order of Business.** The order of business at all meetings of the Owners shall be as follows:

- (a) Roll call (or check-in procedure);
- (b) Proof of notice of meeting;
- (c) Reading of minutes of preceding meeting;
- (d) Reports;
- (e) Establish number and term of memberships of the Executive Board (if required and noticed);
- (f) Election of inspectors of election (when required);
- (g) Election of directors of the Executive Board (when required);
- (h) Ratification of budget (if required and noticed);
- (i) Unfinished business; and
- (j) New business

### **3.9 Voting.**

(a) The Owners may vote or take action pursuant to any procedure authorized by CCIOA and the Nonprofit Act, including action without meeting or action by written ballot. Each Owner entitled to vote shall be entitled to cast the number of votes specified in the Declaration. Owners entitled to vote may vote or otherwise act in person or by proxy.

(b) Division of the vote allocated to a single Lot among multiple Owners of such Lot shall not be allowed; rather, the vote allotted to a Lot shall be voted entirely for or against or in abstention of an issue or matter put to vote. If a Lot is owned entirely by one individual Owner or one organizational Owner, such individual Owner or the authorized representative of the organizational Owner with respect to such Lot may cast and vote the vote allotted to such Lot. If a Lot is owned in fee simple by two or more Persons, if only one of the multiple Owners of a Lot is present at a meeting of the Association, such Owner is entitled to cast all of the votes allocated to that Lot. If more than one of the multiple Owners is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any one of the multiple Owners cast the votes allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot. If a protest by an Owner is made, then the vote allocated to such Lot shall not be counted.

(c) The vote allocated to a Lot may be cast under a proxy duly executed by an Owner. If a Lot is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of votes by the other Owners of the Lot through a duly executed proxy. An Owner may revoke a proxy given under this Section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven (11) months after its date, unless it provides otherwise.

(d) An organizational Owner may from time to time designate in writing to the Association one individual who may represent it with respect to such Lot at meetings and vote on behalf of such organizational Owner. The Association shall maintain a record of each person so designated to act on behalf of an organizational Owner with respect to such Lot and, until the Association is notified in writing to the contrary, only such designated person, or the written proxy of such designated person, may cast the votes of the organizational Owner with respect to such Lot, and any action taken by such individual purporting to act on behalf of the organizational Owner shall be binding upon such organizational Owner. If an organizational Owner owns an interest in more than one Lot, such organizational Owner may designate separate individuals to represent such organizational Owner with respect to each separate Lot. If no person has been designated, as provided above, to act on behalf of an organizational Owner, the vote of such organizational Owner may be cast by any officer of a corporation, partner of a partnership, member or manager of a limited liability company, member of an association or trustee of a trust.

(e) Votes allocated to Lots owned by the Association may not be cast.

(f) Votes for contested positions on the Executive Board shall be taken by secret ballot and, upon the request of twenty percent (20%) of Owners present at the meeting or represented by proxy, a vote on any other matter affecting the Subdivision on which all Owners are entitled to vote shall be by secret ballot. A vote shall be considered taken by secret ballot if the ballots are counted by a neutral third party or by a committee of volunteer Lot Owners who are not Executive Board members and, in the case of contested elections, candidates. The results of votes taken by secret ballot shall be reported without reference to names, addresses or other identifying information.

**3.10 Quorum.** Except as otherwise provided in these Bylaws, a quorum is deemed present throughout any meeting of the members if persons entitled to cast at least thirty-five percent (35%) of the votes of the members are present in person or by proxy at the beginning of the meeting.

**3.11 Majority Vote.** If a quorum is present at the beginning of the meeting, the affirmative vote of a majority of the Owners present in person or by proxy when the vote is taken is the act of the members and shall be binding upon all Owners for all purposes except where a higher percentage vote is required in the Declaration, these Bylaws or by law.

**3.12 Decisions Without a Meeting.** A vote of Owners may be obtained by mail, if the Executive Board so resolves, and if the ballot to all Owners is mailed by the secretary or the managing agent of the Association and contains the exact question or questions submitted for vote and ballot by mail and a brief explanation of same and the position of the Executive Board with respect thereto, and if reasonable time is allowed for return of ballots before the vote is counted. A decision on a question submitted to mail vote shall not be considered, passed, approved or effective unless at least seventy-five percent (75%) of the votes of the entire Association are represented by returns received from Owners and unless at least fifty-one percent (51%) of the votes received are cast in the affirmative on such submitted question. Such mail vote shall not be permitted in respect to any matter, which by law, by the Declaration, by the Articles of Incorporation or by these Bylaws, requires approval, by more than a majority of Owners. The annual meeting of Owners shall not be handled by mail.

**3.13 Suspension of Voting Rights.** The rights of membership are subject to the payment of general and special Common Expense assessments levied by the Association. The obligation to pay such assessments is imposed against each Owner and becomes a lien upon the Lot against which such assessments are made, as provided by Article 5, Section 9 of the Declaration. During any period in which an Owner shall be in default in the payment of any general or special Common Expense assessment levied by the Association, the voting rights in the Association allotted to the Lot of such Owner may be suspended by the Executive Board until such delinquent assessment has been paid. Such voting rights for such Lot may also be suspended for violation of any of the Rules and Regulations, Policies, provisions, resolution or decision established by the Executive Board governing the use and occupancy of the Lots or the Common Property or property owned by the Association. No suspension of voting rights shall be exercised except after not less than three (3) days' advance written notice given to the delinquent Owner and to the First Lienor of the affected Lot. Further, no suspension of voting

rights shall affect the rights of any First Lienor to vote pursuant to a proxy granted in connection with a first-lien Mortgage on the affected Lot.

**3.14 Membership Not Transferable.** The Association shall issue no stock and there shall be no stock interest in this nonprofit corporation. No certificates of membership shall be issued. It shall be the duty of each Owner, upon automatically becoming an Owner under the provisions hereof, to notify the secretary of the Association or its managing agent in writing of the fact of membership and to furnish the name and address under which the membership shall be carried and recognized by the Association and the name and address of all Mortgagees of the Owner's interest in the Lot. No membership may be sold, transferred or assigned, whether voluntarily or by operation of law, except in connection with the sale and transfer of an interest in a Lot to which such membership attaches.

#### **ARTICLE 4 - OFFICERS**

**4.1 Designation.** The principal officers of the Association shall be the president, the vice president, the secretary and the treasurer, all of whom shall be elected by the Executive Board, after termination of the Association Control Period. Pursuant to the Declaration and the Association's Articles of Incorporation, Declarant has reserved the right for Declarant, or any Person designated by Declarant in a writing delivered to the Executive Board, to appoint and remove any officers of the Association. During the Association Control Period, the Declarant, and thereafter the Executive Board, may appoint assistant treasurers, assistant secretaries and other officers as it finds necessary. Officers need not be directors or members of the Association. Two (2) or more offices may be held by the same person, and the office of vice president may be vacant.

**4.2 Election of Officers.** After termination of the Association Control Period, the officers of the Association shall be elected annually by the Executive Board and shall hold office at the pleasure of the Executive Board. The term of office of officers shall commence upon election.

**4.3 Removal of Officers.** After termination of the Association Control Period, upon the affirmative vote of a majority of the directors then in office, any officer may be removed, either with or without cause. A successor may be elected at any regular meeting of the Executive Board or at any special meeting of the Executive Board called for that purpose.

**4.4 Vacancies.** A vacancy in any office may be filled by appointment of the Executive Board, subject to subparagraph 4.1 above. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces or at the pleasure of the Executive Board.

**4.5 President.** The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Owners and of the Executive Board. The president shall have all of the general powers and duties which are incident to the office of president of a nonprofit corporation organized under the laws of the State of Colorado, including but not limited to the power to appoint committees from among the Owners from time to time as the president may decide is appropriate to assist in the conduct of the affairs of the Association. The president may fulfill the role of any other officer in their absence.

**4.6 Vice President.** The vice president shall take the place of the president and perform the president's duties whenever the president is absent or unable to act. If neither the president nor the vice president is able to act, the Executive Board shall appoint some other director to act in the place of the president on an interim basis. The vice president shall also perform other duties imposed by the Executive Board or by the president.

**4.7 Secretary.** Unless another person is designated by the Executive Board to do so, the secretary shall prepare and maintain the minutes of all meetings of the Owners and the Executive Board and other records and information required to be kept pursuant to CCIOA and the Nonprofit Act and shall be responsible for authenticating records of the Association. The secretary shall have charge of the Association's books and papers as the Executive Board may direct and shall perform all the duties incident to the office of secretary of a nonprofit corporation organized under the laws of the State of Colorado.

**4.8 Treasurer.** The treasurer shall be responsible for Association funds and securities, for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. This officer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Executive Board and shall perform all the duties incident to the office of treasurer of a nonprofit corporation organized under the laws of the State of Colorado. The treasurer may endorse on behalf of the Association, for collection only, checks, notes and other obligations and shall deposit the same and all monies in the name of and to the credit of the Association in banks designated by the Executive Board. The treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Association or as fiduciary for others.

**4.9 Amendments, Agreements, Contracts, Deeds, Checks, etc.** Except as provided in Sections 4.5, 4.6, 4.7, 4.8 and 4.10 of these Bylaws, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any officer of the Association or by any other person or persons designated by the Executive Board. Any officer may cause to be prepared and may execute amendments to the Declaration, the Association's Articles of Incorporation and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

**4.10 Statements of Unpaid Assessments.** The treasurer, assistant treasurer, a manager employed by the Association or, in their absence, any officers having access to the books and records of the Association may prepare, certify and execute statements of unpaid assessments, in accordance with Section 38-33.3-316 of CCIOA.

The Association may charge a reasonable fee for preparing statements of unpaid assessments. The amount of this fee and the time of payment shall be established by resolution of the Executive Board. Any unpaid fees may be assessed as a Special Common Expense against the Lot for which the certificate or statement is furnished.

## **ARTICLE 5 - ENFORCEMENT**

Upon the violation of the Declaration, the Association's Articles of Incorporation, Bylaws, Policies or Rules and Regulations (including the Design Guidelines), the Executive Board may, in addition to all other available rights and remedies:

- (a) Exercise any right or remedy provided for in the Declaration, the Nonprofit Act, CCIOA, these Bylaws, the Policies or the Rules and Regulations (including the Design Guidelines);
- (b) Enter the Lot in which, or as to which, the violation exists and summarily abate and remove the structure, thing or condition (except for additions or alterations of a permanent nature that may exist on that Lot) that is in violation, and no person acting under the authority of the Executive Board shall be liable for any manner of trespass or damages as a result of such action;
- (c) Enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach;
- (d) Following notice and hearing, levy a reasonable fine of up to \$500.00 per day for each day that a violation continues after notice and hearing.

Any expenses incurred by the Association, including reasonable attorney's fees whether or not suit is brought, and any fines levied by the Association as a result of the violation may be assessed as a special Common Expense assessment against the Lot on which the violation exists and collected as provided in the Declaration and CCIOA.

## **ARTICLE 6 - LIMITATION ON LIABILITIES AND INDEMNIFICATION**

The directors and officers of the Association shall be entitled to the limitations on personal liability as provided in the Association's Articles of Incorporation and the Nonprofit Act, and may be indemnified by the Association as provided in the Nonprofit Act.

## **ARTICLE 7 - RECORDS**

The Association shall keep the following records:

- (a) An account for each Lot, which shall designate the name and address of each Owner, the name and address of each lien holder who has given notice to the Association that it holds a lien on the Lot, the amount of each Common Expense assessment, the dates on which each assessment comes due, the amounts paid on the account and the balance due;
- (b) An account for each Owner showing any other payments payable by the Owner;

- (c) A record of the amount and an accurate account of the current balance of any reserves, together with the amount of those portions of reserves designated by the Association for a specific project;
- (d) Accurate records of Association receipts and expenditures, including the most recent regularly prepared balance sheet and income and expense statement, if any;
- (e) The current operating budget adopted pursuant to Section 38-33.3-315(1) of CCIOA which has not been vetoed pursuant to the procedures of Section 38-33.3-303(4) of CCIOA.
- (f) A record of any unsatisfied judgments held by or against the Association and the existence of any pending suits in which the Association is a defendant;
- (g) A record of insurance coverage provided for the benefit of Owners and the Association;
- (h) The Association's federal and state income tax returns;
- (i) Minutes of actions by proceedings of incorporators, Owners and the Executive Board;
- (j) Copies of the most current versions of the Declaration and the Association's Articles of Incorporation, Bylaws, Policies and Rules and Regulations, along with all exhibits and schedules; and
- (k) All other records required to be maintained by the Association pursuant to the Declaration, CCIOA or the Nonprofit Act.

## **ARTICLE 8 - MISCELLANEOUS**

**8.1 Fiscal Year.** The Executive Board shall establish the fiscal year of the Association.

**8.2 Waiver.** No provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**8.3 Reserves.** As a part of the adoption of the Association's budget, the Executive Board may include amounts which, in its reasonable business judgment, will establish and maintain an adequate reserve funds for the replacement of and improvements to the Common Property.

**8.4 Conflict.** These Bylaws are subordinate and subject to all provisions of the Nonprofit Act, the Articles of Incorporation and the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as in the Nonprofit Act and the Declaration. In the event of any conflict between these Bylaws and the Nonprofit Act, the provisions of the Nonprofit Act shall control. In the event of any conflict between these Bylaws and the Declaration, the provisions of the Declaration shall control. In the event of any conflict between

the aforesaid Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the event of any conflict between the aforesaid Articles of Incorporation and the Bylaws and the Nonprofit Act or other statutes of the State of Colorado, the provisions of the Nonprofit Act or statutes of the State of Colorado shall control.

**ARTICLE 9 - AMENDMENTS TO BYLAWS**

The Executive Board shall have the power to alter or amend the Bylaws, and the Bylaws may also be amended, altered or repealed by the affirmative vote of sixty percent (60%) or more of the votes of the membership of the Association, except where a higher voting requirement is imposed by law, the Declaration, or the Articles of Incorporation. Any alteration or amendment in the Bylaws made by vote of the membership shall not be further altered or amended by the Executive Board.

**ATTEST:** Certified to be the Bylaws adopted by consent of the sole Director of Rocky Peak Village II Owners Association dated \_\_\_\_\_ 2012.

\_\_\_\_\_  
Peter Kreissig, Secretary