

**BY-LAWS  
OF  
AUDUBON SPRING HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I  
DEFINITIONS**

Section 1. The terms "Association," "Owner," "Property," "Common Area," "Unit," "Declarant," "Board," and "Articles," as used in these By-Laws shall have the meaning set forth in the Declaration of Covenants, Conditions, and Restrictions for the Audubon Spring Homeowners Association, Inc.

Section 2. "Member" means those persons or entities entitled to membership in the Association as provided in the Declaration.

**ARTICLE II  
MEMBERSHIP**

1. This corporation shall be a membership corporation without certificates or shares of stock. There shall be one class of membership, and there shall be membership in the corporation for each home or unit, as defined in the Declaration and Supplements thereto. The owner or owners of a home or unit shall hold and share the membership-related to that home or unit in the same proportionate interest and by the same type of tenancy in which the title to the home or unit is held, provided always that there shall be only one membership per home or unit. No person or entity other than an owner of a home or unit may be a member of the corporation.

2. Each membership shall have the percentages vote as is set forth in the Declaration and any Supplements thereto on all matters in which members are entitled to vote.

3. A membership in the corporation and the share of a member in the assets of the corporation shall not be assigned, encumbered or transferred in any manner except as appurtenant to the transfer of title to the home or unit to which the membership pertains.

4. A transfer of membership shall occur automatically upon the transfer of title to the home or unit to which the membership pertains.

5. Members shall have the right to purchase other homes or units and the memberships appurtenant thereto as provided in the Declaration.

6. The corporation may suspend the voting rights of a member for failure to comply with the rules or regulations of the corporation or with any other obligations of the owners of any home or unit under the Declaration and By-Laws.

7. The By-Laws may contain provisions setting forth the rights, privileges, duties and responsibilities of the members.

### **ARTICLE III MEETING OF MEMBERS**

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held in the same month of each year thereafter at a date, time, and place within the State of Colorado selected by the Board of Managers of the Association.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board or upon written request of 35% or more of the Association Members.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by or at the direction of the Secretary or person authorized to call the meeting by mailing a copy of the notice, postage prepaid, not less than 10 nor more than 50 days before the meeting to each Member addressed to the Member's address last appearing on the books of the Association or supplied by the Member to the Association for the purpose of notice. The notice shall specify the place, day, and hour of the meeting. In the case of a special meeting, the notice shall state the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members or proxies entitled to cast 35% of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Declaration or these By-Laws. If such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall be present or be represented.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of the Member's Unit.

Section 6. Budget. At each annual meeting of the members, the Board of Managers or the Managing Agent shall present for approval thereby a proposed budget for the operation of the project during the forthcoming year. Said budget shall include such items of expense as shall be determined from time to time by the Board of Managers.

Within thirty (30) days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting at least 67% of all Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present.

In the event that the proposed budget is rejected, the periodic budget last ratified by the Unit Owners must be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board.

Section 7. Record Date. For the purpose of determining Owners entitled to notice of, or to vote at, any meeting of Owners or in order to make a determination of such Owners for any other proper purpose, the Board may fix, in advance, a date as the record date for any such determination of Owners. The record date shall be not more than 50 days prior to the meeting of Owners or event requiring a determination of Owners.

#### **ARTICLE IV BOARD OF MANAGERS**

Section 1. Number. Affairs of the Association shall be managed by a Board of Managers of three.

Section 2. Term of Office. The terms of office of the "initial Board Members," as defined in the Articles of Incorporation of the Association, shall be for the period until the first annual meeting of the Members at which their successors are elected. The terms of each Member, other than the initial Members, shall be for one year for one Member, two years for one Member, and three years for one Member, or until respective successors are elected in order that one Member shall be elected each year for a three-year term. Each Board Member, other than the initial Board Member, shall be elected at the annual meeting.

Section 3. Nomination and Election.

- (a) All aspects of nomination and election of Members of the Board of Managers shall be subject to the rights and obligations of Declarant and other Owners as set forth in Article III of the Declaration of Covenants, Conditions and Restrictions For Audubon Spring Homeowners Association, as recorded and as amended from time to time.
- (b) Nomination of Members of the Board of Managers shall be made by a nominating committee and may also be made from the floor at

the annual meeting. The nominating committee shall consist of a Chairman and two or more other persons, all of whom shall be Members appointed by the President of the Association prior to each annual meeting of the Members. The nominating committee shall make as many nominations as it shall in its discretion determine but not less than the number of vacancies to be filled. Nominations shall be made only from among Members.

- (c) Election to the Board of Managers shall be by written ballot with each Unit's ownership being entitled to one vote. Cumulative voting is not permitted. The persons receiving the largest number of votes shall be elected.
- (d) For purposes of eligibility for membership on the Board of Managers, the directors, officers and employees of Declarant shall be considered as Owners and eligible to serve as Managers.

Section 4. Removal. Any Board Member, other than a member elected or appointed by Declarant, may be removed from the Board with or without cause by a 67% vote of the Members of the Association present at an Association meeting at which a quorum is present. Declarant may at any time remove, and appoint the successor of, any Manager elected or appointed by the Declarant.

Section 5. Filing of Vacancies. In the event of a death, resignation, or removal pursuant to these By-Laws of a Member of the Board, a successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of the predecessor. A vacancy occurring in the Board of Managers may be filled by a vote of a majority of the managers remaining, even though they may represent less than a quorum.

Section 6. Compensation. No Member of the Board shall receive compensation for any service rendered to the Association. However, any Board Member may be reimbursed for actual expenses incurred in the performance of duties.

## **ARTICLE V**

### **MEETING OF BOARD OF MANAGERS**

Section 1. Regular Meetings. Regular meetings of the Board shall be held at least annually at such place and hour as may be fixed from time to time by resolution of the Board without the necessity of further notice.

Section 2. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association or by any two Members of the Board after not less than three days' notice to each Board Member.

Section 3. Notice of Special Meetings. Notice of a special meeting shall be given at least two days previously by notice delivered personally or five days if mailed to each association member at his/her given address.

Section 4. Quorum. A majority of the number of Board Members shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Board Members at a duly held meeting, at which a quorum is present, shall be regarded as an act of the Board.

Section 5. Members of the Board shall be permitted to vote at meetings of the Board of Managers by proxy.

Section 6. Order of Business. The order of business at any meeting of Owners shall be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; and (d) other business.

Section 7. Action Taken Without a Meeting. The Board Members 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 approval of all Board Members. Any action so approved shall have the same effect as though taken at a meeting of the Board.

## **ARTICLE VI**

### **POWERS AND DUTIES OF THE BOARD OF MANAGERS**

Section 1. The Board of Managers shall have the power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Areas, including any improvements and amenities located thereon and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof.
- (b) Suspend the voting rights and the right to use any recreational facilities located on any Common Area during any period in which the Members in default in the payment of any assessment levied by the Association; these rights may also be suspended for a period not to exceed 60 days for an infraction of published rules and regulations.
- (c) Exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the Members by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration.

- (d) Employ a manager, independent contractors, or other employees or contractors as they deem necessary, to prescribe their duties and to delegate such of the powers of the Board of Managers or officers as the Board of Managers may determine.

Section 2. It shall be the duty of the Board of Managers to:

- (a) Keep a complete record of all its acts and corporate affairs and present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such a statement is requested in writing by the holders of 25% of the Members.
- (b) Supervise all officers, agents, and employees of the Association and see that their duties are properly performed.
- (c) Fix, levy and collect assessments in the manner and for the purposes specified in the Declaration, and the members shall pay assessments as therein provided.
- (d) Designate an appropriate officer to issue upon demand by any person a certificate setting forth whether or not any assessment has been paid; a reasonable charge may be made by the Board for the issuance of these certificates. If the certificate states that an assessment has been paid, this shall be conclusive evidence of payment with respect to any person relying on the certificate.
- (e) Procure and maintain adequate liability and hazard insurance on Property owned by the Association.
- (f) Cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate.
- (g) Cause the Common Area to be maintained.

## **ARTICLE VII**

### **OFFICERS AND THEIR DUTIES**

Section 1. The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer. The President and Vice President shall at all times be Members of the Association and of the Board of Managers.

Section 2. The election of officers shall take place at the first meeting of the Board of Managers and thereafter at the first meeting of the Board of Managers following each annual meeting of the Members.

Section 3. The officers of the Association shall be elected annually by the Board and shall hold office for one year or until their successors are elected and qualified.

Section 4. The Board may elect such other officers as the affairs of the Association may require, with such term and such authority and duties as the Board may from time to time determine.

Section 5. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of the notice or at any later time specified in the notice, and acceptance of the resignation shall not be necessary to make it effective.

Section 6. A vacancy in any office may be filled by appointment by the Board to serve the remainder of the term of the officer replaced.

Section 7. No two offices may be held by the same person except those of Secretary and Treasurer.

Section 8. The duties of the officers are as follows:

- (a) President. The President shall preside at all meetings of the Members and of the Board and see that orders and resolutions of the Board are carried out. The President shall have authority to sign all leases, mortgages, deeds, and other instruments.
- (b) Vice President. The Vice President shall act in place and stead of the President in the event of his absence, inability, or refusal to act and exercise and discharge such other duties as may be required of him by the Board. The Vice President shall likewise have authority to sign all leases, mortgages, deeds, and other written instruments.
- (c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association, together with their addresses; and perform such other duties as required by the Board.
- (d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and disperse these funds as directed by resolution of the Board; keep books of account; cause an annual audit of the Association's books to be

made at the completion of each fiscal year; prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy to each of the Members requesting the same.

#### **ARTICLE VIII COMMITTEES**

The Association shall appoint such committees as deemed appropriate in carrying out its purposes.

#### **ARTICLE IX BOOKS AND RECORDS**

Books, records, and papers of the Association shall at all times during reasonable business hours be subject to inspection by any Member. The Declaration, the Articles of Incorporation, the By-Laws of the Association, and other rules concerning the project shall be available for inspection by any Member or by holders, insurers, or guarantors of first mortgages on Units at the principal office of the Association where copies may be purchased at a reasonable cost.

#### **ARTICLE X CONTRACTS & BANKING ARRANGEMENTS**

Section 1. Contracts. The board may authorize one or more officers or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the association. The authority thus granted may be general or may be confined to specific circumstances.

Section 2. Loans. The association shall contract no loans or issue any evidence indebtedness in its name unless a resolution of the board so authorizes.

Section 3. Payment of Association Funds. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness shall be signed only by officers or agents designated by the board.

Section 4. Deposits in Checking and Savings Accounts. Funds of the association shall be deposited to the credit of the association in such banks or savings accounts or invested in such other ways as the board may direct.

#### **ARTICLE XI FISCAL YEAR**

The fiscal year of the association shall begin on the 1<sup>st</sup> day of January and end on the 31<sup>st</sup> day of December in each year unless otherwise designated by the Board.

**ARTICLE XII**  
**INDEMNIFICATION OF OFFICERS AND DIRECTORS**

The Association shall indemnify every director or officer, his or her executors and administrators, against expenses reasonably incurred in connection with any action, suit, or proceeding to which he or she may be made a party by reason of being or having been a director or officer of the Association, except in relation to matters as to which he or she shall be finally adjudged in the action suit or proceeding to be liable for negligence or misconduct. In the event of a settlement, indemnification shall be provided only in connection with those matters covered by the settlement as to which the Association has advised by counsel that the person to be indemnified did not commit a breach of duty. The foregoing right of indemnification shall not be exclusive of other rights to which he or she may be entitled.

**ARTICLE XIII**  
**STATE LAWS**

Section 1. The association shall have powers as set forth in the Colorado Common Interest Ownership Act, Part 3, Management of the Common Interest Community as set forth in C.R.S. 38-33.3-302.

Section 2. In any instance in which the By-Laws of this association conflict with the laws of the State of Colorado, the procedures prescribed by statute shall prevail.

**ARTICLE XIV**  
**AMENDMENTS**

These By-Laws may be amended in a manner provided by the Colorado Nonprofit Corporation Act as it exists at the time of the amendment at a regular or special meeting of the Members by the holders of two-thirds of the votes of the Members of the Association, present in person or by proxy, at a meeting at which the vote is taken.

Any amendment to the Declaration on behalf of the Association as provided in the Declaration may be prepared, executed, certified, and recorded by the President or Vice President and the Secretary of the Association.

**CERTIFICATION**

The undersigned elected and acting Secretary of Audubon Spring Homeowners Association, Inc. certifies that the foregoing By-Laws constitute the original By-Laws of the Association duly adopted by the Board of Managers.

Dated: May 3, 2004

  
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Terri Loeffel, Secretary