

BYLAWS

OF

THE ASHTON ESTATES COMMUNITY ASSOCIATION

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BYLAWS
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THE ASHTON ESTATES COMMUNITY ASSOCIATION

ARTICLE I

GENERAL

Section 1 - Purpose of Bylaws. These Bylaws are adopted for the regulation and management of the affairs of The Ashton Estates Community Association, a Colorado nonprofit corporation, organized to be the association to which reference is made in the Declaration for The Ashton Estates Community Association to perform the functions as provided in the Declaration and to further the interests of owners of privately owned lots within the area.

Section 2 - Terms Defined in Declaration. Capitalized terms in these Bylaws shall have the same meaning as any similarly capitalized terms in the Declaration.

Section 3 - Controlling Laws and Instruments. These Bylaws are controlled by and shall always be consistent with the provisions of the Colorado Nonprofit Corporation Act, the Declaration and the Articles of Incorporation of The Ashton Estates Community Association filed with the Secretary of State of Colorado, as any of the foregoing may be amended from time to time.

ARTICLE II

OFFICE AND REGISTERED AGENT

Section 1 - Principal Office. The principal office of the corporation shall be 1508 41st Avenue, Greeley, Colorado 80634. The Executive Board, in its discretion, may change from time to time the location of the principal office.

Section 2 - Registered Office and Agent. The Colorado Nonprofit Corporation Act requires that the Association have and continuously maintain in the State of Colorado a registered office and a registered agent whose business office is identical with such registered office. The registered office need not be the same as the principal office of the Association. The initial registered office and the initial registered agent are specified in the Articles of Incorporation of the Association but may be changed by the Association at any time without amendment to the Articles of Incorporation by filing a statement as specified by law in the office of the Secretary of State of Colorado.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1 - Membership in Association. There shall be one (1) class of members, to-wit:

X 1. Class A. Class A members shall be all owners of lots, and there shall be one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members, and the vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot. Class A members shall vote as provided in the Declaration to approve the annual budget or any supplemental or special assessment; to approve mergers, consolidations, or dissolution of the Association; to approve conveyance, or mortgaging of the Common Area; to approve amendments to the Declaration after the Declarant's rights to amend have terminated; to elect the Executive Board of the Association during the period of Declarant control as required by C.R.S. 938-33.3-(303); and to elect all members of the Executive Board after the period of Declarant control with the manner of election to be described in the Bylaws of the Association.

2. Each Class A member shall be entitled to one (1) vote for each lot owned, provided that (i) the Association may suspend any Class A member's voting rights in the Association during any period or periods that such member fails to comply with the Rules and Regulations of the Association adopted by the Executive Board or with any other obligation of the member under the Bylaws or the Declaration, (ii) no Class A member shall have the right to vote until (a) the Secretary of the Association has received from either the member or from a title company licensed to do business in the state of Colorado a certified copy of the recorded deed or other recorded instrument establishing record title to a lot, and (b) if the member shall be more than one (1) person or a corporation or a partnership, a written notice subscribed to by all such persons or by such corporation, as the case may be, designating one of such persons or an officer of such corporation as the person entitled to cast the votes with respect to such lot; but all of the other rights and all other obligations of the owner of such lot hereunder shall be unaffected including, without limitation, the right to use the Common Area and the obligation to pay assessments.

3. Members shall have no preemptive rights to purchase other lots or the membership appurtenant thereto.

Section 2 - Election of Directors.

X (a) Number of Directors. The Executive Board shall consist of a total of three (3) individuals. The Executive Board, upon majority vote of the Executive Board, may increase

the number to five (5) individuals either during the period of Declarant control or thereafter. After the period of Declarant control, all Board members shall be elected.

(b) Appointed Directors. During the period of time identified in the Declaration that the Declarant shall be entitled to appoint directors, the Declarant shall be allowed to appoint a maximum of three (3) directors until that right ceases in accordance with C.R.S. §38-33.3-303. Appointed directors need not be members of the Association.

(c) Elected Directors. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the lots that may be created to lot owners other than the Declarant, at least one (1) member, and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by lot owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the lots that may be created to lot owners other than the Declarant, not less than one-third (1/3) of the members of the Executive Board shall be elected by lot owners other than the Declarant. In accordance with the Colorado Common Interest Ownership Act, the period of Declarant control shall terminate no later than the earlier of: (i) sixty (60) days after conveyance of seventy-five percent (75%) of the lots that may be created to lot owners other than the Declarant; (ii) two (2) years after the Declarant has last conveyed a lot in the ordinary course of business; or (iii) two (2) years after any right to add to lots was exercised. The Declarant may voluntarily surrender the right to appoint and remove officers and directors of the Executive Board before termination of the period of Declarant control, but in that event, the Declarant may require for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Section 3 - Annual Meetings and Special Meetings.

(a) Annual meetings of the owners shall be held in September of each year, beginning in September of 1996 on such day in September and at such time of day as is fixed by the Executive Board of the Association and specified in the Notice of Meeting. The annual meetings shall be held to elect the Executive Board of the Association and to transact such other business as may properly come before the meeting.

(b) After the period of Declarant control, it shall be the duty of the President and, should the President fail to do so of the Vice President, to call a special meeting of the owners as provided in this section, or upon a petition signed by a majority of the owners of the Association having been

presented to the Secretary. The date of any special meeting being called upon such a petition shall be not less than fourteen (14) days nor more than thirty (30) days from receipt of such petition by the Secretary.

Section 4 - Quorum. A quorum shall consist of at least twenty percent (20%) of all owners entitled to vote, whether present or in person or by written proxy, except as otherwise provided in these Bylaws or in the Declaration. The question as to the presence of a quorum may only be raised immediately after the meeting has been called to order. If the presence of a quorum has not been questioned or if by count it appears that a quorum is present then the regularity of the proceedings or the validity of the transactions of the meeting shall in no way be affected by lack of a quorum or by change in the number present that may take place during the meeting. If no quorum be present, the presiding officer may adjourn the meeting to some other time, not later than seven (7) days from the date of such meeting, and such adjourned meeting shall have the same effect as if held on the day appointed.

When a quorum is present at any meeting, the vote of a majority of the owners present in person or represented by written proxy shall decide all questions and such vote shall be binding upon all owners, unless the question is one upon which by express provision of the Declaration, Articles of Incorporation, or these Bylaws a different vote is required, in which case such express provisions shall govern and control the decision of such question.

Section 5 - Waiver and Consent. Whenever the vote of owners at a meeting is required or permitted by any provision of the Declaration, Articles of Incorporation, or of these Bylaws to be taken in connection with any action, the meeting and vote of members may be dispensed with if all owners who would have been entitled to vote upon the action if such meeting were held shall consent, in writing, to such action being taken.

Section 6 - Place of Meetings. Meetings shall be held at a suitable place within the State of Colorado convenient to the owners as may be determined by the Executive Board.

Section 7 - Notice of Meeting. It shall be the duty of the Secretary, at least fourteen (14) but not more than thirty (30) days prior to each annual or special meeting, to mail a notice stating the purpose thereof as well as the time and place where it is to be held to each member.

Section 8 - Order of Business. The order of business at all meetings shall be as follows to the extent required:

- (a) Roll call;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of preceding meeting;

- (d) Report of officers;
- (e) Report of Executive Board;
- (f) Report of committees;
- (g) Election of inspectors of election (in the event there is an election);
- (h) Election of Executive Board (in the event there is an election);
- (i) Unfinished business;
- (j) Ratification of Association budget;
- (k) New business; and
- (l) Adjournment.

Section 9 - Record Date. The record date for determination of owners entitled to notice of or to vote at a meeting of the owners shall be the date on which the notice of the meeting is mailed or otherwise delivered.

Section 10 - Voting List. The officer or agent having charge of the records of the Association shall make, at least ten (10) days before each meeting of owners, a complete list of owners entitled to vote at such meeting or any adjournment thereof arranged in alphabetical order, together with the address of such owner, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the principal office of the Association and shall be subject to inspection by any owner at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection by any owner during the whole time of the meeting.

Section 11 - Proxies. At all meetings of the owners, an owner may vote by proxy executed in writing by the owner or by a duly authorized attorney-in-fact. Such proxy may be filed with the Secretary of the Association before or at the time of the meeting. No proxy shall be valid after six (6) months from the date of execution unless otherwise provided in the proxy.

ARTICLE IV

EXECUTIVE BOARD

Section 1 - Number, Qualifications and Term. The number of directors which shall constitute the whole Board shall be as set forth in Article III, Section 2 of these Bylaws.

All elected directors shall be owners or an officer of an owner, if the owner shall be a corporation, and any such director who ceases to be an owner shall automatically be deemed to have resigned. At the expiration of the initial term of office of each such respective director, a successor shall be elected to serve a term of one (1) year. All directors shall hold office until their successors have been elected and qualify. At such time as the

period of Declarant Control has terminated and the members of the Executive Board are elected by members of the Association, the Board may establish staggered terms of election regarding members of the Executive Board. Such staggered terms shall not be mandatory and shall be a policy decision to be determined by the Executive Board after the period of Declarant Control.

Section 2 - Vacancy and Replacement. If the office of any elected director or directors becomes vacant by reason of death, resignation, retirement, disqualification, removal from office, or otherwise, a majority of the remaining directors, though less than a quorum, at a special meeting of the directors duly called for this purpose, shall choose a successor or successors who shall hold office for the unexpired term with respect to which such vacancy occurred.

Section 3 - Removal. Elected directors may be removed with or without cause by an affirmative vote of two-thirds (2/3) of the members at any meeting of members when the notice therefor indicates the purpose. No elected director shall continue to serve on the Board if, during that term of office, the director shall cease to be an owner.

Section 4 - Initial Executive Board. The initial appointed Executive Board shall consist of three (3) persons designated as such in the Articles of Incorporation who shall hold office and exercise all powers of the Executive Board until the expiration of the period of Declarant control as provided for in the Declaration or C.R.S. § 38-33.3-303 regarding declarant control. Any or all of said directors may be replaced by the Declarant until the first annual meeting of owners described in Article III, Section 4 of these Bylaws.

Section 5 - Powers. The Board shall have general charge, management, and control of the affairs, funds and property of the Association and shall authorize and control all expenditures pursuant and subject to the Articles of Incorporation, the Declaration and these Bylaws. It shall have the powers granted to the Association in the Articles of Incorporation or Declaration and the duty to carry out the purposes of the Association according to law and as set forth in the Articles of Incorporation, these Bylaws and the Declaration.

Section 6 - Committees. The Executive Board may, by resolution or resolutions passed by a majority of the whole Board, designate one or more committees, each of such committees to consist of two (2) directors which, to the extent provided in said resolution or resolutions and subject to the limitations of Colorado law and of the Declaration, shall have and may exercise such powers of the Board in the management of the business and affairs of the project as the resolution or resolutions of the Board shall specifically provide. Such committee or committees

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shall have such name or names as may be determined from time to time by resolution adopted by the Executive Board. Committees established by resolution of the Executive Board shall keep regular minutes of their proceedings and shall report the same to the Board as required. The provisions of this Section 6 shall not apply to the Architectural Review Committee and shall not require a director as a member of that Committee.

Section 7 - Compensation. Directors and officers shall receive no compensation for their services as such.

Section 8 - Meetings.

(a) The annual meeting of each Executive Board newly elected by the owners shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable at the same place as the owners meeting, at which time the dates, places and times of regularly scheduled meetings of the Board shall be set.

(b) There shall be held at least two (2) regularly scheduled meetings of the Board each year without special notice to the directors.

(c) Special meetings of the Board may be called by the President on seven (7) days notice (except in emergency when less notice may be given) to each director, either personally or by mail or telegram, except in the event of an emergency when less notice may be given. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of at least two (2) directors. All such notices of special meetings shall state the purpose thereof.

(d) At all meetings of the Board, a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and an act of the majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, except as may otherwise specifically be provided by Statute, Articles of Incorporation, Declaration or by these Bylaws. If a quorum shall not be present at any meeting of directors, the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

(e) Before, at or after any meeting of the Executive Board, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by the

Director of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 9 - Meetings Open to Owners. Meetings of the Executive Board shall be open to all owners and institutional mortgagees.

Section 10 - Management Agent. The Executive Board may employ under a term contract or otherwise at a compensation established by the Executive Board a management agent to perform such duties and services as the Board shall authorize subject to the provisions and limitations set forth in the Declaration.

Section 11 - Limited Liability; Indemnification. Neither Declarant, the Association or the Executive Board shall be liable to the Association or any owner for any action or for any failure to act with respect to any matter, so long as such person or entity was not guilty of fraud or misconduct in taking such action or failing to act.

The Executive Board, the Declarant or the Association shall not be liable, individually or as a group, to owners, members or other interested persons for errors in judgment, negligence or otherwise, unless guilty of willful misconduct, bad faith or malicious intent. The Association shall indemnify, defend and hold the Declarant, any member of the Board and any employee or agent of Declarant or the Association harmless against any liability or claims made by any owner, member or other interested person, unless and until it is determined that any of them acted in bad faith, with malicious motive or engaged in willful misconduct. Should any of the latter be determined, then the Association's responsibility as to any person so acting shall terminate, and if any expenses or other payments have been made pursuant hereto for the benefit of any person who so acted, then the Association shall have a cause of action against that person for reimbursement for all such payments.

The indemnification authorized by this Article IV, Section 11 shall include payment of (i) reasonable attorney's fees or other expenses incurred in settling any action or proceeding, or threatened action or proceeding, or incurred in any finally adjudicated legal action or proceeding, and (ii) expenses incurred in the removal of any liens affecting any property of the indemnitee. Indemnification shall be made from assets of the Association, and no owner shall be personally liable for any indemnitee.

Section 12 - Telephone Communication in Lieu of Attendance. An Executive Board member may attend a meeting of the Executive Board by using an electronic or telephonic communication method whereby the Board member may be heard by the other members and may hear the deliberations of the other members on any matter properly

brought before the Executive Board. The Executive Board member's vote shall be counted and the presence noted as if that Executive Board member were present in person on that particular matter.

ARTICLE V

OFFICERS

Section 1 - Elective Officers. The Board shall elect at its annual meeting each year a President, a Vice President, a Secretary and a Treasurer. All officers (other than those selected by the declarant) must be owners.

Section 2 - Term. Each officer shall hold office until his or her successor is elected and shall qualify, but any officer may be removed and/or replaced, with or without cause, at any time by the affirmative vote of a majority of the whole Executive Board.

Section 3 - The President. The President shall be the Chief Executive Officer of the Association. He or she shall preside at all meetings of the Association and the Executive Board, shall be an ex-officio member of all standing committees except any nominating committee, and shall perform such other duties as are incident to the office or properly required by the Board.

Section 4 - The Vice President. The Vice President shall perform such duties as are properly required by the Executive Board and, in the absence or disability of the President, take the place and perform all duties of the President.

Section 5 - The Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Executive Board in a businesslike manner and shall issue all general notices. He or she shall make such reports and perform such other duties as are incident to the office or are properly required by the Board. The minutes of all such meetings shall be available for inspection by owners at all reasonable times.

Section 6 - The Treasurer. The Treasurer shall have the custody of the Association funds and securities and shall keep full and accurate chronological account of receipts and disbursements in books belonging to the Association, including the vouchers for such disbursements and shall deposit all monies and other valuable effects in the name and the credit of the Association in such depositories as may be designated by the Executive Board.

He or she shall disburse the funds of the Association as may be ordered by the Board, making proper vouchers for such disbursements and shall render to the President and directors, at the regular meetings of the Board or whenever they may require it, an account of all transactions as Treasurer and of the financial condition of the Association.

He or she shall keep detailed financial records and books of account of the Association, including a separate account for each lot which, among other things, shall contain the amount of each assessment against such lot, the date when due, the amount paid thereon and the balance remaining unpaid.

He or she shall perform all other duties incident to the office or which may be properly required by the Board.

Section 7 - Agreements. All agreements and other instruments authorized by the Board shall be executed by the President and/or such other person or persons as may be designated by the Board. Any amendment to the Declaration on behalf of the Association shall be executed and certified by the President of the Association and no other member of the Board.

Section 8 - Vacancy and Replacement. If the position of any officer becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining officers, though less than a quorum, at a special meeting of the officers duly called for this purpose, shall choose a successor or successors who shall hold office for the unexpired term with respect to which such vacancy occurred.

Section 9 - Removal. Officers may be removed with cause by an affirmative vote of a majority of the members at any meeting of members when the notice therefor indicates the purpose or by a majority vote of the Executive Board at any regular or special meeting of the Executive Board. No officer shall continue to serve on the Board if, during the term of office, the officer shall cease to be an owner.

ARTICLE VI

NOTICES

Whenever, under the provisions of the Declaration or of these Bylaws, notice is required or permitted to be given to the Board, any director, member, Declarant, or owner, it shall not be construed to mean personal notice. Such notice shall be in writing and either delivered personally or mailed. Any notices given by mail shall be deemed effectively and sufficiently given when deposited in a United States Post Office or Letter Box in a postage paid sealed envelope, addressed to the Board, such Director, or owner at such address as appears on the books of the Association.

Whenever any notice is required to be given under the provisions of the Declaration, or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

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ARTICLE VII

ARCHITECTURAL REVIEW COMMITTEE

Section 1 - Composition. If activated by the Executive Board of the Association the members of the Committee shall include three persons appointed by the Executive Board and shall serve staggered three (3) year terms as determined by the Board.

Section 2 - Vacancies. Appointments to fill vacancies of unexpired terms to the Committee shall be made by the Board, and the individual selected shall complete the unexpired term if any vacancy is created.

Section 3 - Duties. The Architectural Review Committee shall regulate the external design, appearance and location of the properties and improvements thereon in such a manner to comply with the provisions of Article IX described in the provisions for architectural control in the Declaration of Covenants, Conditions and Restrictions of The Ashton Estates Community Association.

X Section 4 - Construction Period Exception. During the period of initial construction of living units, all actions regarding architectural control shall be decided by the Declarant without participation by the Executive Board of the Association. The Declarant may incorporate and utilize any or all of the provisions of Article IX of the Declaration of Covenants to arrive at its decision.

ARTICLE VIII

RULES AND REGULATIONS AND ENFORCEMENT

Reasonable uniform rules and regulations governing the use of the Common Area and the conduct of persons entitled to use such property may be adopted and amended from time to time by the Board. All owners shall obey the rules and regulations as promulgated by the Board.

The violation of any of the rules and regulations adopted by the Executive Board or the breach of any provision of the documents shall give the Executive Board the right, after notice and hearing, except in the case of emergency, in addition to any other rights set forth in these Bylaws:

(a) To enter the lot in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist in the living unit) that is existing and creating a danger to the common elements contrary to the intent and meaning of the provisions of the documents.

The Executive Board shall not be liable for any manner of trespass by this action; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

ARTICLE IX

MORTGAGEES

Section 1 - Notice to Association. An owner who mortgages his lot or the mortgagee shall notify the Association of the name and address of the mortgagee and shall file a conformed copy of the mortgage with the Association. The Association shall maintain such information in a book entitled "Mortgagees of Lots".

Section 2 - Notice of Default. The Association shall give notice to an owner of a default in payment of assessments of Common Area expenses or other default imposed by the terms and conditions of the Declaration, the Articles of Incorporation or Bylaws of the corporation, and if such default is not cured within sixty (60) days, the Association shall send a copy of such notice to each holder of a mortgage covering such lot if the name and address of such mortgagee has been previously furnished to the Association as provided in Section 1 of this Article.

ARTICLE X

AMENDMENT

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Amendments to these Bylaws may be adopted at a regular or special meeting of the members of the Association upon receiving the vote of 75% of the membership of the Association who are present at the meeting or who have provided proxies to be voted upon the proposed amendment; provided, that no amendments shall be adopted which would render these Bylaws inconsistent with the Declaration.

ARTICLE XI

NOTICE AND HEARING PROCEDURES

Section 1 - The Ashton Estates Community Association Enforcement Rights. In the event of an alleged violation by a member or a related user of a member ("Respondent") of the Declaration, these Bylaws or the Rules and Regulations of the Association, the Executive Board shall have the right, upon an affirmative vote of a majority of the Executive Board, to take any one or more of the actions and to pursue one or more of the remedies permitted under the provisions of the Declaration, these Bylaws, or the Rules and Regulations of the Association. If, under

the provisions of the Declaration, these Bylaws, or such Rules and Regulations, notice and hearing is required prior to taking action or pursuing remedies, the following provisions of Article XI of these Bylaws shall be applicable. The failure of the Board or the Review Committee to enforce the Rules and Regulations of the Association, these Bylaws or the Declaration shall not constitute a waiver of the right to enforce the same thereafter. The remedies set forth and provided in the Declaration, the Rules and Regulations of the Association or these Bylaws shall be cumulative and none shall be exclusive. However, any individual member must exhaust all available internal remedies of the Association prescribed by these Bylaws and the Rules and Regulations of the Association before that member may resort to a court of law for relief with respect to any alleged violation by another member of the Declaration, these Bylaws or the Rules and Regulations of the Association, provided that the foregoing limitation pertaining to exhausting administrative remedies shall not apply to the Board or to any member where the complaint alleges nonpayment of common assessments, special assessments, supplemental assessments or reimbursement assessments.

Section 2 - Written Complaint. A hearing to determine whether enforcement action under the Declaration, the Rules and Regulations of the Association or these Bylaws should be taken and shall be initiated by the filing with the President or the Executive Board of the Association of a written Complaint by any member of the Association, any officer, any member of the Executive Board or the Review Committee or any employee or agent of the Association. The Complaint shall contain a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the Respondent is charged and a reference to the specific provisions of the Declaration, these Bylaws or the Rules or Regulations of the Association which the Respondent is alleged to have violated. If the charges relate to a related user of a member, both the related user and the member shall be considered as Respondents.

Section 3 - Notice of Complaint and Notice of Defense. A copy of the complaint shall be served on each Respondent in accordance with the notice provisions set forth in the Declaration, together with a statement which shall be substantially in the following form:

Unless a written request for a hearing signed by or on behalf of a person named as Respondent in the accompanying Complaint is delivered or mailed to the Executive Board within fifteen (15) days after the Complaint is served upon you, the Executive Board may proceed upon the Complaint without a hearing, and you will have thus waived your right to a hearing. The request for a hearing may be made by delivering or

mailing the enclosed form entitled "Notice of Defense" to the Executive Board at the following address:

You may, but need not, be represented by counsel at any or all stages of these proceedings. If you desire the names and addresses of witnesses or an opportunity to inspect any relevant writings or items on file in connection with this matter in the possession, custody or control of the Executive Board, you may contact,

A Respondent shall be entitled to a hearing on the merits of the matter if the Notice of Defense is timely filed with the Executive Board. A Respondent may file a separate statement by way of mitigation, even if he does not file a Notice of Defense.

Section 4 - Tribunal. The President shall appoint a Hearing Committee ("Tribunal") of three natural persons upon receipt of a written Complaint. In appointing the members of the Tribunal, the President should make a good faith effort to avoid appointing next door neighbors of the Respondent or any members of the Association who are essential witnesses to the alleged violation giving rise to the Complaint. The decision of the President shall be final, except that each Respondent may challenge any member of the Tribunal for cause, where a fair and impartial hearing cannot be afforded, at any time prior to the taking of evidence at the hearing. In the event of such a challenge, the Executive Board shall meet to determine the sufficiency of the challenge. If such a challenge is sustained, the President shall appoint another member to replace the challenged member of the Tribunal. All decisions of the Executive Board in this regard shall be final. The Tribunal shall elect a Chairman and appoint a hearing officer who shall take evidence and ensure that a proper record of all proceedings is maintained.

Section 5 - Notice of Hearing. The Tribunal shall serve a Notice of Hearing, as provided herein, on all parties at least 10 days prior to the hearing if such hearing is requested by a Respondent. The hearing shall be held no sooner than 30 days after the Complaint is mailed or delivered to each Respondent. The Notice of Hearing to each Respondent shall be substantially in the following form but may include other information:

You are hereby notified that a hearing will be held before a Tribunal appointed by the President of the

Association at _____

on the _____ day of _____, 19____, at the hour of _____ .m., upon the charges made in the Complaint served upon you. You may be present at the hearing, may but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross examine all witnesses testifying against you. You are entitled to seek the attendance of witnesses and to compel the production of books, documents or other items in the possession of the Association by applying to the Executive Board of the Association.

Section 6 - Hearing.

(a) Oral evidence shall be taken only on oath or affirmation administered by a member of the Tribunal. The use of affidavits and written questions and responses in lieu of oral testimony shall be encouraged by the Tribunal.

(b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross examine witnesses on any matter relevant to the issues; to impeach any witness; and to rebut the evidence against such party. If Respondent does not testify on his own behalf, he may be called and examined as if under cross examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil action. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitive evidence shall be excluded.

(d) Neither the person filing the Complaint nor the Respondent must be in attendance at the hearing. The hearing shall be open to attendance by any members of the Association to the extent of the permissible capacity of the hearing room.

(e) In rendering a decision, official notice may be taken at any time of any provision of the Declaration, these Bylaws, the Rules and Regulations of the Association or any

generally understood matter within the working of the Association. Persons present at the hearing shall be informed of the matters to be noticed by the Tribunal, and these matters shall be made a part of the record of proceedings.

(f) The Tribunal may grant continuances on a showing of good cause.

(g) Whenever the Tribunal has commenced to hear the matter and a member of the Tribunal is forced to withdraw prior to a final determination by the Tribunal, the remaining members shall continue to hear the case and the hearing officer shall replace the withdrawing member.

Section 7 - Decision. If a Respondent fails to file a Notice of Defense as provided in Section 3 of these Bylaws or fails to appear at a hearing, the Tribunal may take action based upon the evidence presented to it without further notice to the Respondent. However, the Respondent may make any showing by way of mitigation. The Tribunal will prepare written findings of fact and recommendations for consideration by the Executive Board. The Tribunal shall make its determination only in accordance with these Bylaws. After all testimony and documentary evidence has been presented by the Tribunal, the Tribunal may vote by secret written ballot upon the matter, with a majority of the entire Tribunal controlling. A copy of the findings and recommendations of the Tribunal may be posted by the Executive Board at a conspicuous place in the Association Area, and a copy shall be served by the President on each person directly involved in the matter and his attorney, if any, in accordance with the notice provisions set forth in the Declaration. Disciplinary action, levy of a reimbursement assessment or other action or remedies which require notice and hearing under the Declaration, these Bylaws or Rules and the Regulations of the Association shall be imposed only by the Executive Board of the Association and in accordance with the findings and recommendations of the Tribunal. The Executive Board may adopt the recommendations of the Tribunal in their entirety or the Executive Board may reduce the proposed penalty and adopt the balance of the recommendations. In no event shall the Executive Board impose more stringent enforcement action than recommended by the Tribunal. The decision of the Executive Board shall be in writing and shall be served and may be posted in the same manner as the findings and recommendations of the Tribunal. The decision of the Executive Board shall become effective ten (10) days after it is served upon each Respondent, unless otherwise ordered in writing by the Executive Board. The Executive Board may order a reconsideration at any time within 15 days following a service of its decision on the involved persons on its own motion or on petition by any party. However, no action against a Respondent arising from the alleged violation shall take effect prior to the expiration of the later of (a) 15 days after each Respondent's

receipt of the Notice of Hearing; or (b) five days after the hearing required herein.

ARTICLE XII

RECORDS

Section 1 - Records and Audits. The Association shall maintain financial records. The cost of any audit shall be a Common Expense unless otherwise provided in the Documents.

Section 2 - Examination. All records maintained by the Association or the Manager shall be available for examination and copying by any Owner, any holder of a Security Interest in a Lot or its insurer or grantor, or by any of their duly authorized agents or attorneys, at the expense of the person examining the records, during normal business hours and after reasonable notice.

Section 3 - 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 mortgagee who has given notice to the Association that it holds a mortgage 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 fees payable by the Owner;
- (c) A record of any capital expenditures in excess of Three Thousand and no/100 Dollars (\$3,000.00) approved by the Executive Board for the current and next two succeeding fiscal years;
- (d) A record of the amount and an accurate account of the current balance of any reserves for capital expenditures, replacement and emergency repairs, together with the amount of those portions of reserves designated by the Association for a specific project;
- (e) The most recent regularly prepared balance sheet and income and expense statement, if any, of the Association;
- (f) The current operating budget adopted by the Executive Board;
- (g) A record of any unsatisfied judgments against the Association and the existence of any pending suits in which the Association is a defendant;

- (h) A record of insurance coverage provided for the benefit of Owners and the Association;
- (i) A record of any alterations or improvements to Lots or Limited Common Elements which violate any provisions of the Declaration of which the Executive Board has knowledge;
- (j) A record of any violations with respect to any portion of the Common Interest Community of the City of Greeley health, safety, fire or building codes or laws, ordinances or regulations of which the Executive Board has knowledge;
- (k) A record of the actual cost, irrespective of discounts and allowances, of the maintenance of the Common Elements;
- (l) Balance sheets and other records required by state corporate law;
- (m) Tax returns for state and federal income taxation;
- (n) Minutes of proceedings of incorporators, Owners, Directors, committees of Directors and waiver of notice; and
- (o) A copy of the most current versions of the Declaration, Bylaws, Rules and resolutions of the Executive Board, along with any exhibits and schedules.

ARTICLE XIII

MISCELLANEOUS

Section 1 - Severability. Should any of the covenants, terms or provisions herein imposed be void or be or become unenforceable at law or in equity, the remaining provisions of these Bylaws shall, nevertheless, be and remain in full force and effect.

Section 2 - Construction. Wherever the masculine singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine, or neuter, singular or plural, wherever the context so requires.

Section 3 - Rules of Procedure. The Rules of Parliamentary Procedure as set forth in Roberts' "Parliamentary Law" shall prevail at all meetings of members or directors of the Association.

Section 4 - Interpretations. In the event that any question arises with respect to the construction of any of the provisions of the Bylaws or the Rules and Regulations of the Association, the

decision of the Board with respect thereto shall be final and binding upon the Association and the owners.

Section 5 - Reserves. As a part of the adoption of the regular budget, the Executive Board shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of improvements to the Common Elements and those Limited Common Elements that it is obligated to maintain, based upon the project's age, remaining life and the quantity and replacement cost of major Common Element improvements.

THESE BYLAWS WERE ADOPTED BY THE EXECUTIVE BOARD OF THE ASHTON ESTATES COMMUNITY ASSOCIATION ON THE 10th DAY OF October, 1994.

David H. Moinat
DAVID H. MOINAT

Harriet M. Moinat
HARRIET MOINAT

Ron Waterman
RON WATERMAN