

BYLAWS

OF

WEST ELK TOWNHOUSES OWNERS ASSOCIATION

Amended January 2, 2014 by majority vote of the Board of Directors

ARTICLE I

Plan of Apartment Ownership

Section 1. Building Ownership. The project located in the Town of Mt. Crested Butte, County of Gunnison and State of Colorado, known as West Elk Townhouses hereinafter "the project", is organized pursuant to the Colorado Condominium Ownership Act, C.R.S. 1973 SS38-33-101 ff.

Section 2. Bylaws Applicability. The provisions of these Bylaws are applicable to the project and the operation of West Elk Townhouses Owners Association (hereinafter the "Association"). (The term "project" as used herein shall include the land).

Section 3. Personal Application. All present or future owners, tenants, future tenants, or their employees, or any other person who might use the facilities of the project in any manner, are subject to the regulations set forth in these Bylaws and to the Articles of Incorporation.

The mere acquisition or rental of any of the units (hereinafter referred to as "units") of the project or the mere act of occupancy of any of said units shall signify acceptance and ratification of these Bylaws.

ARTICLE II

Voting, Majority of Owners, Quorum, Proxies

Section 1. Voting. Voting shall be on a percentage basis and the percentage of the vote to which the owner is entitled is the percentage interest in the common elements assigned to each unit in the Condominium Declarations. Where any Condominium Unit has more than one owner, such owners shall designate in writing one of their number to be sole voting member.

Section 2. Majority of Owners. As used in these Bylaws the term "majority of owners" shall mean those owners holding 51% of the votes in accordance with the percentage ownership of common elements assigned in the Condominium Declarations.

Section 3. Quorum. Except as otherwise provided in these Bylaws, the presence in person, by telephone or by proxy of a "majority of owners" as defined in Section 2 of this Article shall constitute a quorum.

Section 4. Proxies. Votes may be cast in person, by telephone, electronic mail or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

### ARTICLE III.

#### Administration

Section 1. Association Responsibilities. The Owners of the units which constitute the Association will have the responsibility of administering the project, approving the annual budget, establishing and collecting regular and special assessments and arranging for the management of the project pursuant to an agreement, containing provisions relating to the duties, obligations, removal and compensation of the managing agent. Except as otherwise provided, resolutions of the Associations shall require approval by a majority of the owners.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the project or at such other suitable place convenient to the owners as may be designated by the Board of Directors.

Section 3. Annual Meeting. The first annual meeting of the Association shall be held during the last Saturday in December, 1981. Thereafter, The time, date at place of the annual meeting of the Association shall be determined at each prior annual meeting. At such meetings there shall be elected by ballot of the owners a Board of Directors in accordance with the requirements of Section 5 of Article IV of these Bylaws. The owners may also transact such other business of the Association as may properly come before them.

Section 4. Special Meetings. It shall be the duty of the President to call a special meeting of the owners as directed by resolution of the Board of Directors or upon a petition signed by a majority of the owners and having been presented to the Secretary.

The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths of the owners present, either in person or by proxy.

Section 5. Notice of Meeting. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each owner of record at least 30 days prior to such meeting. The mailing, including electronic mailing, of a notice in the manner provided in this Section shall be considered notice served.

Section 6. Adjourned Meetings. If any meeting of owners cannot be organized because a quorum has not attended, the owners who are present, either in person, by telephone or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 7. Order of Business. The order of business at all meetings of the owners of units shall be as follows:

- (a) Proof of notice of meeting.
- (b) Roll call/Establish quorum.
- (c) Reading of minutes of preceding meeting.
- (d) Manager's reports.
- (e) Reports of officers/committees.
- (f) Old business.
- (g) New business.
- (h) Election of directors.
- (i) Establish date of next meeting.
- (j) Adjourn.

#### ARTICLE IV

##### Board of Directors

Section 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of

three (3) persons, all of whom must be owners or stockholders of owners of units in the project.

Section 2. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the owners.

Section 3. Other Duties. In addition to duties imposed by these Bylaws or by resolutions of the Association, the Board of Directors shall be responsible for the following:

(a) Care, upkeep and surveillance of the project and the common areas and facilities, provided, however, that any expenditures in excess of \$2,500.00 shall be approved by a majority of unit owners.

(b) Collection of regular and special assessments from the owners.

(c) Hiring and firing of the personnel necessary for the management, maintenance, and operation of the project, the common areas and facilities and the restricted common areas and facilities.

(d) Adopting rules and regulations governing the operation and use of common elements.

Section 4. Managing Agent. The Board of Directors may employ for the Association a managing agent at a compensation established by the Board to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in Section 3 of this Article; provided, however, that nothing in this paragraph shall be deemed to relieve the Board of its responsibilities under the Declaration.

Section 5. Election and Term of Office. At the first annual meeting of the Association the term of office of one Director shall be fixed for three (3) years, the term of office for one Director shall be fixed at two (2) years, and the term of office for one Director shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term of (3) years. The Directors shall hold office until their successors have been elected and qualified.

Section 6. Vacancies. Vacancies on the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled by vote of the majority of the remaining Directors even though they may constitute less than a

quorum; and each such person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

Section 7. Removal of Directors. At any regular or special meeting duly called, any one or more of the Directors may be removed with or without cause by a majority of the owners and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting.

Section 8. Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, providing a majority of the whole Board shall be present.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such times and places as shall be determined, from time to time, by a majority of the Directors, but at least one such meeting shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, electronic mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

Section 10. Special Meetings. Special meetings of the Board of Directors may be called by the President on three days notice to each Director, given personally or by mail, electronic mail, telephone or telegraph, which notice shall state the time and place (as hereinabove provided) and the purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three Directors.

Section 11. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the board shall constitute a waiver of notice of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice of the purpose of the meeting shall be required and any business may be transacted at such meeting.

Section 12. Board of Directors Quorum. At all meetings of the Board of Directors, a majority of Directors shall constitute a

quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13. Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

Section 14. Informal Action. Any action of the Board of Directors which could be taken at a meeting of the Board may be taken without any meeting of the Board upon the written approval of all members of the Board.

Section 15. Directors' Compensation. Directors shall receive no compensation, except for reimbursement of expenses actually incurred.

## ARTICLE V.

### Officers

Section 1. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by and from the Board of Directors. The Directors may appoint an assistant treasurer, and an assistant secretary, and such other officers as in their judgment may be necessary. (The offices of the Treasurer and Secretary may be filled by the same person.)

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board to hold office at the pleasure of the Board.

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

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association; he shall have charge of such books and papers as the Board of Directors may direct; and he shall, in general, perform all the duties incident to the office of the Secretary.

Section 7. Treasurer. The Treasurer shall have the responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.

## ARTICLE VI.

### Obligations of the Owners

Section 1. Assessments. All owners are personally obligated to pay all regular and special assessments imposed by the Association to meet all project common expenses, which may include a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of hurricane, fire, earthquake or other hazard. The assessments shall be made pro rata according to the value of the unit owned, as stipulated in the Condominium Declarations. Such assessments shall include monthly payments to a General Operating Reserve and a Reserve Fund for Replacements.

Delinquencies shall be managed per the Collection Policy on Exhibit 1, adopted by the Board of Directors on January 2, 2014.

Section 2. Maintenance and Repair.

- (a) Every owner must perform promptly all maintenance and repair work within his own unit, which, if omitted or delayed, would affect the project in its entirety or in a part belonging to other owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.
- (b) All the repairs of internal installations of the unit such as water, light, gas, power, sewage, telephones, air conditioners, sanitary installations, doors, windows, lamps and all other accessories belonging to the unit area shall be at the owner's expense.
- (c) An owner shall reimburse the Association for any expenditures incurred in repairing or replacing any common area and facility damaged through the owner's fault.

Section 3. Use of Units-Internal Changes. An owner shall not make structural modifications or alterations in his unit or installations located therein without previously notifying the Association in writing, through the managing agent, if any, or through the President of the Board of Directors, if no managing agent is employed. The Association shall have the obligation to answer within 30 days and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration.

Section 4. Use of Common Areas and Facilities and Restricted Common Areas and Facilities. An owner shall not place or cause to be placed in the lobbies, vestibules, stairways, elevators or other project areas and facilities of a similar nature, any furniture, packages or objects of any kind.

Section 5. Inspection of Records. Owners and their Mortgagees, or their representatives, shall have the right, during convenient weekday business hours, to inspect detailed, accurate records of receipts and expenditures affecting the common elements, which shall be maintained by the Board of Directors on a current basis. Additionally, upon ten days' notice to the Managing Agent or to the Board of Directors and payment of a reasonable fee, any unit owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such owner.



## ARTICLE VII

### Mortgages

Section 1. Notice to Association. An owner who mortgages his unit shall notify the Association through the Managing Agent, if any, or the President of the Board of Directors in the event there is no Managing Agent, the name and address of his mortgagee; and the Association shall maintain such information in a book entitled "Mortgagees of Unit."

Section 2. Notice of Unpaid Assessments. The Association shall at the request of a mortgagee of a unit report any unpaid assessments due from the owner of such unit.

## ARTICLE VIII

### Amendment

These Bylaws may be amended by vote of a majority of the members of the Board of Directors.

## ARTICLE IX

### Compliance

These Bylaws are set forth to comply with the requirements of the Colorado Condominium Ownership Act, C.R.S. 1973, SS38-33-101 ff. In case any of these Bylaws conflict with the provisions of said statute, the provisions of the statute will apply. Each requirement set forth in C.R.S. 1973, S38-33-106 shall always be embodied in these Bylaws notwithstanding the authority of the Members and Directors to amend the provisions hereof.

**EXHIBIT 1**

**TO THE**

**WEST ELK TOWNHOUSES OWNERS ASSOCIATION BYLAWS**

**COLLECTION POLICY**

The following Collection Policy was adopted on the 4<sup>th</sup> day of January, 2014, by the Board of Directors ("Board") of West Elk Townhouses Owners Association, a Colorado nonprofit corporation ("Association"), as additional rules and regulations of the Association pursuant to §§ 38-33.3-209.5, 38-33.3-316 & 38-33.3-316.3, Colorado Revised Statutes.

NOW, THEREFORE, BE IT RESOLVED, that the Association does hereby adopt its Collection Policy as additional rules and regulations of the Association, which shall be effective on the date first stated above, as follows:

1. Assessments. For purposes of this Collection Policy, "assessments" or "regular assessments" shall include regular and special assessments and any associated fees, charges, late charges, attorney's fees, fines and interest. Assessments shall be due monthly, quarterly or semi-annually, as determined by the Board, on or before the first (1<sup>st</sup>) day of the month when such assessment is due. If an assessment is not paid by the first (1<sup>st</sup>) day of the month when the assessment is due, the assessment is delinquent.

2. Late fees, Fines & Interest. If the full amount of any assessment is not received by the Association's managing agent by the first (1<sup>st</sup>) day of the month in which the assessment is due, the assessment shall be delinquent. Delinquent assessments shall bear interest at the rate of eighteen percent (18%) per annum from the date of delinquency until paid in full. The Association may also impose a \$25.00 late fee to any unpaid assessment and charge a \$25.00 fee for any bounced or returned check.

3. Prior to Referral to Legal Counsel. Prior to referring a delinquent account to the Association's attorney or to a collection agency, the Association shall mail the delinquent owner, via certified mail return-receipt requested, at the mailing address on file with the Association's managing agent, or if there is no such address on file with the Association, to the address listed with the Gunnison County, Colorado Assessor's Office, a notice of the delinquency that specifies:

a. The total amount due with an accounting of how the total was determined;

b. Whether the opportunity to enter into a payment plan exists pursuant to Section 4 below and instructions for contacting the Association to enter into a payment plan;

c. The name and contact information for the individual the owner may contact to request a copy of the owner's ledger in order to verify the amount of the debt; and

d. That action is required to cure the delinquency and that failure to do so within thirty (30) days may result in the following:

i. The owner's delinquent account being turned over to the Association's attorney or a collection agency;

ii. A lawsuit being filed against the owner;

iii. The filing and foreclosure of a lien against the owner's property;

iv. A court ordered receivership in favor of the Association against the owner's condominium unit; and/or

v. Any other remedies available under Colorado law.

#### 4. Payment Plans.

a. *Eligibility.* An owner is entitled to enter into a payment plan with the Association so long as the owner has not already entered into a payment plan pursuant to this Collection Policy. If an owner has previously entered into a payment plan with the Association pursuant to this Collection Policy, it is at the discretion of the Board whether to permit such owner to enter into another payment plan, or whether to pursue the legal remedies permitted under Colorado law for collection of delinquent Association accounts.

b. *Terms.* Any payment plan entered into between the Association and a delinquent owner shall permit the owner to pay-off the delinquency in equal installments over a period of at least six (6) months. The owner must also remain current with regular assessments as they come due during the payment plan time period. An owner's failure to remit payment of an agreed upon payment plan installment, or to remain current with regular assessments as they come due during the payment plan period, constitutes a failure to

comply with the terms of the payment plan. If an owner fails to comply with terms of a payment plan, the Association may pursue the legal remedies permitted under Colorado law for collection of delinquent Association accounts.

5. Application of Payments. Payments received by the Association shall be applied in the following order, as may be applicable:

- a. Attorney's fees and legal costs and expenses;
- b. Fines, late charges and interest;
- c. Returned check charges and other costs owing or incurred with respect to such owner; and
- d. Assessments due or to become due with application of the payment to the most long-standing delinquent assessment first.

6. Legal Remedies. In the event an owner does not comply with a payment plan or is not eligible for a payment plan, the legal remedies available to the Association to collect an owner's delinquent account are as follows:

- a. A lawsuit by the Association against the delinquent owner;
- b. The filing and foreclosure of a lien against the owner's property, but only if:
  - i. The balance of the assessments and charges secured by the Association's lien equals or exceeds six (6) months of common expense assessments based on a periodic budget adopted by the Association; and
  - ii. The Board has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific condominium unit and owner on an individual basis. The Board may not delegate its duty to act under this subsection to any attorney, insurer, manager, or other person, and any legal action filed without evidence of the recorded vote authorizing the action must be dismissed.

c. Referral of the delinquent account to the Association's attorney or a collection agency; and/or

d. The Association may apply to be a court-appointed receiver of the condominium unit.

7. Exceptions. In the event an owner does not occupy the condominium unit and has acquired the condominium unit as a result of a default of a security interest encumbering the condominium unit or by foreclosure of an Association lien, the Association shall not be required to offer a payment plan to such owner and may proceed directly to the legal remedies available under Colorado law.

8. Conflict of Laws. In the event of a conflict between this Collection Policy and the Association's Condominium Declaration, Bylaws, or any other policy, rule or regulation of the Association, this Collection Policy shall control.