

WIPERS PETERS. 5/16

BYLAWS OF
PETERS-DEWEY TOWNHOMEOWNERS
ASSOCIATION

ARTICLE I
INTRODUCTION

These are the Bylaws of Peters-Dewey Townhomeowners Association (the "Association") which shall operate under the Colorado Nonprofit Corporation Act, as amended, and the Articles of Incorporation of the Association filed with the Colorado Secretary of State (the "Articles").

ARTICLE II
LOT OWNERS

2.1 Membership. Membership in the Association shall be as set forth in the Articles.

2.2 Annual Meeting. Annual meetings of Owners shall be held in December of each year within Garfield County, Colorado at such specific time, date and place set forth in the notice. The Executive Board shall be elected at such meetings by ballot of the Owners, in accordance with the provisions of Article III of the Bylaws. The Owners may ratify and adopt budgets and transact other business as may properly come before them at these meetings.

2.3 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 of not less than twenty-five percent (25%) of the votes in the Association.

2.4 Place of Meetings. Meetings of the Owners shall be held at a suitable place convenient to the Owners, as may be designated by the Executive Board or the president.

2.5 Notice of Meeting. The secretary or other officer designated by the Executive Board 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 or to the mailing address designated in writing by an Owner, not less than ten (10) nor more than fifty (50) days in advance of a meeting. No action shall be adopted at a meeting except as stated in the notice.

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

2.7 Adjournment of Meeting. At any meeting of Owners, a majority of the Owners who are present at that meeting, either in person or by proxy, may adjourn the meeting to another time not more than ten (10) days from the time for the original meeting.

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

- a. Roll call of Owners;
- b. Proof of notice of meeting;
- c. Inspection and verification of proxies;
- d. Reading of minutes of the preceding meeting;
- e. Reports;
- f. Election of Directors of the Executive Board (when required);
- g. Ratification of budget (if required and noticed);
- h. Unfinished business; and
- i. New business.

2.9 Voting. Subject to the provisions of the Articles:

a. If only one of several Owners of a Lot is present at a meeting of the Association, the Owner present is entitled to cast the vote allocated to that Lot. If more than one of the co-owners are present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the co-owners. There is majority agreement if any one of the co-owners casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by another co-owner of that Lot.

b. A 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 co-owner of such Lot may vote or register protest to the casting of a vote by the other co-owners of that 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 specifies a shorter term.

c. The vote of a corporation or business trust may be cast by any officer of that corporation or business trust in the absence of express notice of the designation of a specific person by the Executive Board of directors or bylaws of such corporation or business trust. The vote of a partnership may be cast by any general partner of such partnership in the absence of express notice of the designation of a specific person by such partnership. The vote of a limited liability company may be cast by any manager of such limited liability company in the absence of express notice of the designation of a specific person by such limited liability company. The moderator of the meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership, limited liability company or business trust is qualified to vote.

2.10 Quorum. Except as otherwise provided in these Bylaws, Owners present in person or by proxy at any meeting of Owners but not less than fifty percent (50%) of the Owners, shall constitute a quorum at that meeting.

2.11 Majority Vote. The vote of a majority of the Owners present in person or by proxy at a meeting at which a quorum is present shall be binding upon all Owners for all purposes except when a higher percentage vote is required in the Declaration, the Articles, these Bylaws or by law.

ARTICLE III EXECUTIVE BOARD

3.1 Election. The Association shall be governed by an Executive Board which shall consist of three (3) persons, the majority of home, excepting Directors appointed by Declarants, shall be Owners. If any Lot is owned by a partnership, trust, limited liability company or corporation, any officer, partner, manager or employee of such Owner shall be eligible to serve as a Director and shall be deemed to be an Owner for the purposes of the preceding sentence. Directors shall be elected by Owners. Cumulative voting shall not be allowed in the election of Directors. At any meeting at which Directors are to be elected, Owners may, by resolution, adopt specific procedures which are not inconsistent with these Bylaws, and the Articles or the Colorado Nonprofit Corporation Act for conducting the elections.

The terms of at least one-third of the Directors not appointed by Declarants shall expire annually, as established in a resolution of the Owners. Directors shall take office immediately upon election.

3.2 Powers and Duties. The Executive Board may act in all instances on behalf of the Association, except as provided in the Declaration, the Articles or these Bylaws. The Executive Board shall have, subject to the limitations contained in the Declaration, the powers and duties necessary for the administration of the affairs of the Association, including the power to:

- a. Adopt and amend Bylaws and Rules and Regulations;
- b. Adopt proposed budgets for revenues, expenditures and reserves. Within thirty (30) days after adoption of any proposed budget, the Executive Board shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all Lot Owners and shall set a date for the meeting of the Lot 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, a majority of all Lot Owners reject the budget, the budget shall be deemed ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by Lot Owners shall be continued until such time as the Lot Owners ratify the subsequent budget proposed by the Executive Board;
- c. Collect assessments for the Common Expenses from Owners;
- d. Elect officers of the Association;
- e. Hire and discharge managing agents;
- f. Hire and discharge employees, independent contractors and agents other than managing agents;
- g. Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Association's Declaration, Bylaws or Rules and Regulations in the Association's name, on behalf of the Association or two or more Owners on matters affecting the Townhomes.
- h. Make contracts and incur liabilities;
- i. Regulate the use, maintenance, repair, replacement and modification of the parking easements not designated for a specific Lot;
- j. Grant utility easements, including permanent utility easements on, through, over or under the Townhome Lots provided any such easement is to serve one or more Townhome Lots;
- k. Impose a reasonable charge for late payment of assessments and, after notice and hearing, levy a reasonable fine for a violation of the Declaration, Bylaws, Rules and Regulations of the Association;
- l. Provide for the indemnification of the Association's Officers and the Executive Board and maintain Directors' and Officers' liability insurance, if deemed necessary;

m. Exercise any other powers conferred by the Declaration, the Articles of Incorporation, the Bylaws, or the Colorado Common Interest Ownership Act, Sections 38-33.3-101 et seq., C.R.S.

n. Exercise any other power which may be exercised in the state by a legal entity of the same type as the association for the governance and operation of the Association; and

o. Establish committees to perform any of the Association's functions. All committees must give notice of their actions to Owners and the Executive Board. Actions taken by a committee may be appealed to the Executive Board by any Owner within thirty (30) days of notice of that action, and the committee's action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

3.3 Removal of Directors. The Owners, by a sixty-seven percent (67%) vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, with or without cause, may remove any Director of the Executive Board other than a member appointed by the Declarants pursuant to the Declaration of the Covenants and Section 38-33.3-303(5), C.R.S.

3.4 Vacancies. Vacancies in the Executive Board may be filled by a majority of the remaining Executive Board at a special meeting of the Executive Board for that purpose at any time after the occurrence of the vacancy, even though the Directors present at that meeting may constitute less than a quorum. Each person so elected or appointed shall be a Director for the remainder of the term of the Director so replaced.

3.5 Regular Meetings. The first regular meeting of the Executive Board following each annual meeting of the Owners shall be held within ten (10) days after the annual meeting. No notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, provided such Directors are present. The Executive Board may set a schedule of additional regular meetings by resolution, and no further notice shall be necessary to constitute scheduled regular meetings.

3.6 Special Meetings. Special meetings of the Executive Board may be called by the Present or by a majority of the Directors on at least three (3) business days' notice to each Director. The notice shall be hand-delivered or mailed and shall state the time, place and purpose of the meeting.

3.7 Location of Meetings. All meetings of the Executive Board shall be held within Garfield County, Colorado, unless all Directors consent in writing to another location.

3.8 Open Meetings. All regular and special meetings of the Executive Board, or any committee thereof, shall be open to attendance by all members of the

Association or their representatives. Provided, however, the members of the Executive Board or any committee thereof may hold an executive or closed door session and may restrict attendance to Executive Board members and such other person requested by the Executive Board during a regular or special announced meeting or a part thereof. The matters to be discussed at such an executive session shall include only the following matters:

- a. Matters pertaining to employees of the Association or involving the employment, promotion, discipline, or dismissal of an officer, agent or employee of the Association;
- b. Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
- c. Investigative proceedings concerning possible or actual misconduct;
- d. Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure; or
- e. Any matter that disclosure of which would constitute an unwarranted invasion of individual privacy.

Prior to the time the Executive Board or any committee thereof convenes in an executive session, the chair of the body shall announce the general matter of discussion as numerated above.

No rule of regulation of the Executive Board or any committee thereof shall be adopted during the executive session. A rule or regulation may be validly adopted only during a regular or special session following an executive session. The minutes of all meetings at which an executive session was held shall indicate that an executive session was held, and the general subject matter of the executive session.

3.9 Waiver of Notice. Any Director may waive notice of any meeting in writing. Attendance by a Director at any meeting of the Executive Board shall constitute a waiver of notice. If all the Directors are present at any meeting, no notice shall be required, and any business may be transacted at such meeting.

3.10 Quorum of Directors. At all meetings of the Executive Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute a decision of the Executive Board. If, at any meeting, there shall be less than quorum present, a majority of those present may adjourn the meeting. At any adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.11 Consent to Corporate Action. If all the Directors severally or collectively consent in writing to any action taken or to be taken by the Association, and the number of the Directors constitute a quorum, that action shall be a valid corporate action as though it had been authorized at a meeting of the Executive Board. The secretary shall file written consents with the minutes of the meetings of the Executive Board.

3.12 Telephone Communication in Lieu of Attendance. A Director may attend a meeting of the Executive Board by using an electronic or telephonic communication method whereby the Director 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 Directors' vote shall be counted and the presence noted as if that Director were present in person on the particular matter.

3.13 Compensation. Directors shall not be paid any compensation for their services performed as Directors unless a resolution authorizing such remuneration shall have been adopted by the Executive Board and ratified by resolution of the Owners. Directors may be reimbursed for actual expenses incurred in connection with their duties as Directors.

ARTICLE IV OFFICERS

4.1 Designation. The principal officers of the Association shall be the president, vice president, secretary and treasurer, all of whom shall be elected by the Executive Board. The president, vice president and treasurer shall be Directors. Any two offices may be held by the same person, except the offices of president and secretary. The office of vice president may be vacant.

4.2 Election of Officers. The officers of the Association shall be elected annually by the Executive Board at the organizational meeting of each new Executive Board. Officers shall hold office at the pleasure of the Executive Board.

4.3 Removal of Officers. Upon the affirmative vote of a majority of the Directors, any officer may be removed, 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 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 the 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 treasurer in the

absence of the treasurer. The president may cause to be prepared and may execute amendments, attested by the secretary, to the Declaration, the Articles and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

4.5 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 present 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.

4.6 Secretary. The secretary shall keep the minutes of all meetings of the Owners and the Executive Board. 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. The secretary may cause to be prepared and may attest to execution by the president of amendments to the Declaration and the Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

4.7 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. The treasurer 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. Except for reserve funds described below, the treasurer may have custody of and shall have the power to endorse for transfer, on the behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others. Reserve funds of the Association shall be deposited in segregated accounts or in prudent investments owned or controlled by the Association or as fiduciary for others. Reserve funds of the Association shall be deposited in segregated accounts or in prudent investments, as the Executive Board decides. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or money order, authorized by the treasurer, and executed by two Directors, one of whom may be the treasurer, if the treasurer is also a Director.

ARTICLE V ENFORCEMENT

5.1 Abatement and Enjoinment of Violations by Owners. The violation of any of the Rules and Regulations adopted by the Executive Board or the breach of any provision of the Declaration shall give the Executive Board the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in these Bylaws:

a. Without liability for any manner of trespass, to enter on the Lot on 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 which may exist on that Lot) which is existing and creating a danger to the Townhomes contrary to the intent and meaning of the provisions of the Declaration and the Rules and Regulations; or

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

5.2 Fine for Violation. By resolution, following notice and hearing, the Executive Board may levy a fine of up to \$25.00 per day for each day that a violation of the Declaration or Rules and Regulations persists after notice and hearing, but this amount shall not exceed that amount necessary to ensure compliance with the rule or order to the Executive Board.

ARTICLE VI LIENS

6.1 Nonpayment of Expenses. All sums due but unpaid for the share of common expenses chargeable to any Lot, or any fine imposed against a Lot Owner, late fees, other fees and charges, and attorneys fees and costs incurred in the collection of the same, including interest thereon at eighteen percent (18%) per annum, from a date thirty (30) days after such sums have been assessed, shall constitute a lien on such Lot superior and prior to all other liens and encumbrances, including any claim of homestead, except:

a. Liens and encumbrances recorded before the recordation of the Declaration;

b. A security interest on the lot which has priority over all other security interests on a lot and which was recorded before the date on which the assessment sought to be enforced became delinquent.

c. Liens for real estate taxes and other governmental assessments or charges against a lot.

A lien established under this Article is also prior to a security interest on the lot which has priority over other security interests as described in (b) above, to the extent of an amount equal to the common expense assessments based on a periodic budget adopted by the Association which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution, by either the Association or any party holding a lien senior to any part of the Association lien created under this Article, of an action or a nonjudicial foreclosure either to enforce or to extinguish the lien.

Recording of this Declaration shall constitute record notice and perfection of any lien established under this Article. No further recordation of any claim of lien for assessments is required. Any lien created by this Article shall attach from the date payment became due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid acceleration of installment obligations by the Association. Any lien created by this Article may be enforced by foreclosure on the defaulting Owner's lot in like manner as a mortgage on real estate. In any such foreclosure, the defaulting Owner shall be required to pay the costs and expenses of such proceedings, including all reasonable attorney's fees incurred in enforcement of the line, which shall also be included in such lien.

The Association shall have the power to bid on a lot at such foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Any mortgagee holding a lien on a lot may pay any unpaid common assessments, fees, or charges payable with respect to such lot, and upon such payment, such mortgagee shall be entitled to an assignment of such lien.

A lien established pursuant to this Article shall be extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of the assessments, fees or charges become due.

Nothing contained in this Article shall be construed to prohibit actions or suits to recover sums for which this Article creates a lien or to prohibit the Association from accepting a deed in lieu of foreclosure.

ARTICLE VII INDEMNIFICATION

The Directors and Officers of the Association shall have the liabilities, and be entitled to indemnification, as provided in Colorado Nonprofit Corporation Act, and the Colorado Common Interest Ownership Act, the provisions of which are incorporated by reference and made a part of this document.

**ARTICLE VIII
RECORDS**

8.1 Records and Audits. The Association shall maintain financial records. The cost of any audit shall be a Common Expense unless otherwise provided.

8.2 Examination. All records maintained by the Association or the Manager shall be available for examination and copying by any Owner, any holder of a lien on a Lot or its insurer or guarantor, 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.

8.3 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 \$1,000.00 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 designate 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 of the Association;

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 which violate any provisions of the Declaration of which the Executive Board has knowledge;

- j. A record of the actual cost, irrespective of discounts and allowances, of the maintenance of the Townhomes for which the Association is responsible;
- k. Balance sheets and other records required by law;
- l. Tax returns for state and federal income taxation, if necessary;
- m. Minutes of proceedings of the Owners, Directors, committees of Directors and waivers of notice; and
- n. A copy of the most current versions of the Declaration, Bylaws, Rules and Regulations and Resolutions of the Executive Board, along with any exhibits and schedules.

8.4 Statements of Unpaid Assessments. The treasurer, managing agent (if any), or in their absence, any officer having access to the books and records of the Association may prepare, certify and execute 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 Common Expense against the Lot for which the certificate or statement is furnished.

The Association shall furnish to a Lot Owner or such Lot Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's lot. The statement shall be furnished by the Association within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Executive Board, and every Lot Owner. If no statement is furnished to the Lot Owner or holder of a security interest or his or her designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the party, then the Association shall have no right to assert a lien upon the lot for unpaid assessments which were due as of the date of the request.

ARTICLE IX MISCELLANEOUS

9.1 Notices. All notices to the Association or the Executive Board shall be delivered to the office of the manager, or, if there is no Manager, to the office of the Association, or to such other address as the Executive Board may designate by written notice to all Owners and to all holders of liens, security interests in the Lots who have notified the Association that they hold such interest in a Lot. Except as otherwise provided, all notices to any Owner shall be sent to the Owner's address as it appears in the records of the Association. All notices to holders of liens or security interest in the Lots shall be

sent, except where a different manner of notice is specified elsewhere in this Declaration, by registered or certified mail to their respective addresses, as designated by them in writing to the Association. All notices shall be deemed to have been given when mailed, except notices of changes of address, which shall be deemed to have been given when received.

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

9.3 Waiver. No restriction, condition, obligation or 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.

9.4 Office. The principal office of the Association shall be as designated from time to time by the Executive Board.

9.5 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 expenses to be incurred in performing its maintenance obligations based upon, among other relevant factors, the age, remaining life and replacement cost of the Townhomes.

ARTICLE X AMENDMENTS TO BYLAWS

10.1 The Bylaws may be amended only by a vote of two-thirds of the members of the Executive Board, following notice to all Owners, at any meeting duly called for such purpose.

10.2 No amendment of the Bylaws of this Association shall be adopted which would affect or impair the validity or priority of any lien or security interest encumbering any Lot or which would change the provisions of the Bylaws with respect to liens and security interest of record.

ATTEST: Certified to be the Bylaws adopted by consent of the Directors of the Peters-Dewey Townhomeowners Association, dated _____, 1997.

Secretary