

BYLAWS  
OF  
BUFFALO CREEK SUBDIVISION AT WELLINGTON  
HOMEOWNERS ASSOCIATION, INC.

ARTICLE I  
GENERAL

Section 1. Association. The Buffalo Creek Subdivision At Wellington Homeowners Association, Inc. (the "**Association**") is a nonprofit corporation organized under the Colorado Nonprofit Corporation Act.

Section 2. Purpose. The purposes of the Association are set forth in the Articles of Incorporation (the "**Articles**"). The general purpose for which the Association is formed is to govern the property (the "**Property**") which has been submitted to the provisions of the Declaration of Covenants, Conditions, and Restrictions for the Buffalo Creek Subdivision, Wellington, Colorado, executed by Timberline Development Group, Inc. ("**Declarant**"), recorded or to be recorded in the Larimer County, Colorado records, as the same may be further amended from time to time (the "**Declaration**").

Section 3. Definitions. Unless the content shall otherwise require or unless otherwise defined herein, all terms used in these Bylaws shall have the same definitions as set forth in the Declaration, the terms of which are incorporated herein.

Section 4. Owners Subject to Bylaws. All present or future Owners or any other person who might use in any manner the Property shall be subject to the provisions of the Declaration, the Articles and these Bylaws.

ARTICLE II  
MEMBERSHIP, VOTING, QUORUM, MAJORITY OF OWNERS, PROXIES

Section 1. Membership. Ownership of a Lot is required to qualify for membership in this Association. Any person or entity, on becoming an Owner of a Lot, shall automatically become a member ("**Member**") of this Association and be subject to these Bylaws; provided, however, that if more than one person or entity owns a Lot, such persons and/or entities shall aggregately be considered one member for the purposes hereof. Membership shall terminate without any formal Association action whenever any such person or entity ceases to own a Lot, but such termination shall not relieve or release any such former Owner from any liability or obligation to the Association or impair any rights or remedies which the Association may have against such former Owner arising out of or in any way connected with ownership of a Lot and membership in the Association. No certificates of stock or membership shall be issued by the Association, but the Board of Directors (the "**Board**") may, if it so elects, issue membership cards to the Owners. Such membership card shall be surrendered to the Association whenever ownership of the Lot designated thereon shall terminate.

Section 2. Voting. The Association shall have two (2) classes of voting members, as follows:

A. Each Lot owned by an Owner, other than Declarant, shall be allocated one (1) vote in the Association. When more than one person or entity owns an interest in a Lot, all such persons and/or entities shall aggregately be considered one member of the Association. The vote for such Lot shall be exercised as the Owners thereof among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot (in the event that the multiple Owners of a Lot cannot determine among themselves which Owner may cast the vote for the applicable Lot, the Association shall be entitled to rely on the vote of the first Owner named on the current recorded deed relating to the applicable Lot, or in the event of current multiple recorded deeds, the Association may rely on the vote of the first Owner named on the first of such multiple deeds which is recorded in the Larimer County, Colorado real estate records).

B. Each Lot owned by Declarant shall be allocated three (3) votes in the Association. Notwithstanding the foregoing, the Declarant's weighted vote shall cease and convert to one (1) vote per Lot upon the earlier of: (i) the conveyance of seventy-five percent (75%) of the Lots to Owners other than the Declarant, or (ii) on January 1, 2010.

C. Members shall be entitled to vote on all matters submitted to a vote of the membership of the Association. Cumulative voting shall not be permitted. Voting by mail shall be allowed in the manner provided in the Colorado Non-Profit Corporation Act. Votes by mail shall have the same effect as votes by written proxy.

Section 3. Quorum. Except as otherwise provided in these Bylaws, the Owners present in person or by proxy at any meeting of Owners, representing twenty percent (20%) of the votes in the Association, shall constitute a quorum at that meeting.

Section 4. Majority of Owners. Unless otherwise required by law, the Declaration, the Articles, or these Bylaws, the affirmative vote of a simple majority of the votes of those Members present at a meeting where a quorum is in attendance, whether in person or by proxy, shall be necessary to transact business, take actions, and adopt decisions binding on all Owners.

Section 5. Proxies. Votes may be cast in person or by written proxy. Proxies must be filed with the Secretary of the Association before or at the appointed time of each meeting. All proxies must be in writing and may be either general or for a particular meeting. A proxy holder need not be an Owner. The Association shall be allowed to rely on a facsimile copy or photocopy of a proxy submitted by an Owner.

### ARTICLE III MEETINGS

Section 1. Place of Meeting. Annual and special meetings of the Members shall be held at such suitable place or places within the State of Colorado which are convenient for the Members, as determined by the Board.

Section 2. Annual Meetings. The annual meetings of the Association shall be held at a time designated by the Board on the first Thursday of April of each year. At such meetings, the Members shall transact such business of the Association as shall properly come before the meeting.

Section 3. Special Meetings. The President or the Board may call a special meeting of the Members at any time; and it shall be the duty of the President to call a special meeting within thirty (30) days after the receipt of written request(s) therefor signed by Declarant or by Owners representing at least twenty-five percent (25%) of the total votes of the Members. No business shall be transacted at a special meeting except as stated in the notice without the consent of the Owners representing at least a majority of the total votes of the Association.

Section 4. Notice of Meetings; Waiver of Notice. Written or printed notice of each annual or special meeting of the Members shall be given to each Owner of record, which notice shall state the day, place, and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called. A written waiver of notice signed before, at, or after any meeting of the Members shall be the equivalent to giving notice. The certificate of the Secretary that notice was properly given as provided in these Bylaws shall be prima facie evidence thereof. Notices shall be given at least ten (10), but not more than fifty (50), days in advance of any meeting. Notices shall be deemed given and received upon deposit thereof in regular United States mail, postage prepaid, addressed to the Members at their addresses appearing in the membership records of the Association.

Section 5. Adjourned Meetings. If any meeting of Members cannot be convened because a quorum has not attended, or if the business of the meeting cannot be concluded, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time without further notice, until a quorum is present or the business of the meeting is concluded, for a period not to exceed ten (10) days for any one adjournment. At such adjourned meeting at which a quorum is present or represented, any business may be transacted which might have been transacted at the meeting as to which notice was originally given.

Section 6. Action Without Meeting. Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all the Members of the Association entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Members and may be stated as such in any Articles or documents filed with the Secretary of State of Colorado under the Colorado Nonprofit Corporation Act.

#### **ARTICLE IV BOARD OF DIRECTORS**

Section 1. Association Responsibilities. The Owners of the Lots will constitute the Association, which will have the responsibility of administering the Association property through a Board of Directors.

Section 2. Performance of Functions by Declarant. The Board will be managed and governed by directors named by Declarant from time to time who need not be Owners, save and except that Declarant's right to appoint Board members shall terminate upon the earlier of: (i) the conveyance of seventy-five percent (75%) of the Lots to Owners other than the Declarant, or (ii) on January 1, 2010. After such termination, the directors shall be elected by the Members as provided in these Bylaws.

Section 3. Number and Qualification. The affairs of the Association shall be managed and governed by a Board composed of not less than two (2) nor more than nine (9) directors. The number of directors may be increased or decreased by amendment to these Bylaws. Except as otherwise herein provided, all directors elected by a vote of the Members shall be Owners of Lots or an agent of Owners that are entities.

Section 4. Powers and Duties. The Board shall have the powers and duties necessary or convenient for the administration and management of the affairs of the Association and its property and for the operation and maintenance of the Property. The Board may do and perform all such acts and things as are not by law, the Declaration, the Articles, or these Bylaws either specifically prohibited or directed to be exercised and done by the Members. In the event there develops a conflict in interpreting under the law, the Declaration, the Articles, these Bylaws or otherwise as to whether the Board or the Members may do or perform any act or thing, such matter shall be interpreted, as may reasonable be possible, to authorize the Board to do or perform such act or thing.

Section 5. Other Powers and Duties. The Board, on behalf of the Association, shall have the rights, powers, and duties described below, which are in addition to and not in limitation of any other power and duties of the directors:

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

(b) To establish, make, and enforce compliance with such reasonable Rules and Regulations as may be necessary for the operation, use, and occupancy of the Property, with the right to amend the same from time to time. Such Rules and Regulations shall be adopted, amended, or repealed upon an affirmative vote of a majority of the members of the Board. A copy of such rules and regulations shall be available for inspection by each Member;

(c) To provide for the indemnification of its officers and executive Board and executive committees, and maintain directors' and officers' liability insurance.

(d) To obtain and maintain to the extent possible all policies of insurance required or reasonable with respect to the Common Area or property of the Association;

(e) To periodically fix, determine, levy, and collect the prorated assessments to be paid by each of the Lot Owners toward the gross expenses of the Association; to adjust, decrease, or increase the amount of the assessments; to credit any excess of assessments

over expenses and cash reserves to the Owners against the next succeeding assessment period; and to levy and collect special assessments. All assessments shall be made and Owners notified in the manner as provided in the Declaration, shall be in statement form, and shall set forth in reasonable detail the various expenses for which the assessments are being made;

(f) To levy penalty assessments by imposing penalties and fines on an Owner for each violation of, or act of non-compliance with, the Declaration, Articles, Bylaws, or Rules and Regulations by such Owner, to collect delinquent assessments and interest charges thereon by suit or otherwise and to enjoin or seek damages from an Owner as is provided in the Declaration and these Bylaws; and to assess and collect attorneys' fees and court costs expended or incurred by this Association in enforcing the provisions of the Declaration, the Articles, these Bylaws, and the Rules and Regulations, if any.

(g) To protect and defend the Association and Common Areas from loss and damage by suit or otherwise;

(h) To borrow funds and to give security therefor in order to pay for any expenditure or outlay required pursuant to the authority granted by the Declaration, the Articles, or these Bylaws and to execute any instruments creating or evidencing such indebtedness or security therefor as the Board may deem necessary or desirable;

(i) To enter into contracts within the scope of their duties and powers;

(j) To establish bank accounts which are interest bearing or non-interest bearing, as may be deemed advisable by the Board;

(k) To keep and maintain detailed, complete, and accurate books and records showing in chronological order all the receipts, expenses or disbursements of the Association in appropriate specificity and itemization; to permit inspection thereof during convenient weekday business hours by any of the Owners, their Mortgagees or their respective authorized representatives; and, upon affirmative vote of Members representing a majority of the Lots, to cause a complete audit to be made of the books and accounts by a competent certified public accountant;

(l) To prepare and deliver to each Owner at least ten (10) days prior to each annual meeting of Members, a statement showing all receipts, expenses, and disbursements since the last such statement;

(m) To hire, designate, and remove the personnel necessary for the operation, maintenance, repair, and replacement of the Association property or Common Area;

(n) In general, to carry on the administration of the Association and to further the purposes of the Association as stated in the Declaration and the Articles, and to do all of those things necessary, convenient, or desirable in order to carry out the governing and operating of the Property.

(o) To create executive committees to assist the Board and the Association in the performance of their duties and to appoint and remove representatives of such executive committees.

Section 6. The Board may employ a Managing Agent or Agents for the Association (at such compensation established by the Board) to perform such duties and services as it shall authorize. Such Managing Agent(s) may be either an individual or a professional management company, whichever the Board determines to be able to best serve the interests of the Association. The Board may delegate to the Managing Agent(s) all or any of the powers and duties granted to the Board but, notwithstanding such delegation, the Board shall not be relieved of any responsibility under the Declaration. A Managing Agent under contract with the Association may be required to post a fidelity bond in such amount as determined by the Board as a condition of such management contract, if such contract requires handling of funds of the Association.

Section 7. Election and Term of Office. Except as provided in Section 2 of this Article IV, members of the Board shall be elected from among the Owners by a majority of the Owners voting at the annual meetings of the Members. The term of each director's service shall extend until his successor is duly elected and qualified or until he is removed in the manner hereinafter provided.

Section 8. Vacancies. Vacancies in the Board caused by any reason other than an increase in the number of directors or the removal of directors by a vote of the Members shall be filled by a vote of the remaining directors, even though they may constitute less than a quorum. Each director so elected shall serve for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by a vote of the majority of the Board for a term of office continuing only until the next election of directors by the Members.

Section 9. Removal of Directors. Subject to the right to the Declarant to remove directors from time to time consistent with, and during the time period described in Section 2 of this Article IV, at any duly called annual or special meeting of the Association any one or more of the directors may be removed, with or without cause, by Members representing a majority of Lots and a successor may then and thereby be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

Section 10. Annual Meeting. The annual meeting of the Board shall be held within ten (10) days after each annual meeting of the Members for the purpose of electing officers and conducting such other business as may come before the meeting. Notice of the time and place of each annual meeting shall be given to each director personally or by mail, telephone, or telegraph at least three (3) days prior to the meeting.

Section 11. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors but at least two such meetings shall be held each year. Notice of regular meetings of the Board need not be given.

Section 12. Special Meetings. Special Meetings of the Board may be called by the President on his own initiative upon three (3) days prior notice given personally, or by mail, telephone, or telegraph to the address of each director appearing on the books of the Association, which notice shall set forth the time, place, and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice upon receipt of a written request to call such a special meeting signed by at least one-third (1/3) of the directors.

Section 13. Waiver of Notice. Any director may in writing waive notice of any meeting of the Board, either before, at, or after 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 by him of the time and place thereof unless attendance is for the express purpose of objecting to the transaction of business because the meeting was not lawfully called or convened. 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 14. Board of Directors Quorum. At all meetings of the Board, a majority of the 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. If less than a quorum is present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 15. Compensation and Fidelity Bonds. The members of the Board shall serve without salary or compensation, provided that directors shall be reimbursed for all expenses incurred in their capacity as such which have been authorized by the Board. The Board may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds; the premiums and other costs for such bonds shall be paid by the Association. All actions of members of the Board taken in good faith and using reasonable care shall be without recourse by the Association or any Owner.

Section 16. Action Without Meeting. Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all the members of the Board. Such consent shall have the same force and effect as a unanimous vote of the Board and may be stated as such in any articles or documents filed with the Secretary of State of Colorado under the Colorado Nonprofit Corporation Act.

Section 17. Telephonic Meetings. Members of the Board or any committee designated by the Board may participate in any regular or special meeting of the Board or committee by means of a telephone conference or similar communications equipment, by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

## ARTICLE V OFFICERS

Section 1. Designation. The officers of the Association, all of whom must be Members (or an agent of Members that are entities) except for those elected by the Board during the period of time that Declarant is in control of the Board pursuant to Section 2 of Article IV, shall be a President, one or more Vice Presidents, a Secretary, and a Treasurer, all of whom shall be elected annually. In addition, the Board may elect or appoint an Assistant Secretary, an Assistant Treasurer, and such other officers and agents as the Board may deem appropriate. Any two or more offices may be held by the same person except the offices of President and Secretary.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board at the annual meeting of the Board and shall 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 any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purposes.

Section 4. President. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of the president of a nonprofit corporation including, but not limited to, the power to appoint, from time to time, committees from among the Members, as may be deemed appropriate to assist in the conduct of the affairs of the Association or as may be established by the Board or by the Members of the Association at any regular or special meetings. The President must be elected by and from the Board.

Section 5. Vice President. The Vice President, if any, shall have all the powers and authority and shall perform all the functions and duties of the President in the absence of the President or in the event of the President's inability for any reason to exercise such powers and functions or to perform such duties. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such duties as are imposed upon him by the President or the Board.

Section 6. Secretary. The Secretary shall keep the minutes of all the meetings of the Board and of all meetings of the Association. The Secretary shall have charge of such books and papers as the Board may direct and shall, in general, perform all the duties incident to the office of Secretary. The Secretary shall compile and keep up-to-date at the principal office of the Association a complete list of Members and their last known addresses as shown on the records of the Association. Such list shall also show opposite each Member's name the number or other appropriate designation of the Lot owned by such Member and the ownership interest attributable thereto. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours.



Section 7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities, shall keep the financial records and books of account of the Association, and shall be responsible for keeping full and accurate accounts of all receipts and disbursements of money 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.

## ARTICLE VI AMENDMENTS

Section 1. Bylaws. These Bylaws may be amended from time to time by the Members of the Association, but no amendment shall be effective unless approved, at a duly authorized meeting called for such purpose, by Members representing at least a majority of the votes present in person or by proxy and entitled to be cast, and each notice of any meeting therefor shall specify the nature and text of any proposed amendment or amendments; provided further, however, that if HUD/VA has insured or guaranteed any mortgages within the Property, amendment of these Bylaws shall require HUD/VA approval as long as Declarant has a weighted vote in the Association.

## ARTICLE VII MISCELLANEOUS

Section 1. Proof of Ownership. Every person or entity becoming an Owner shall immediately furnish to the Board or its Managing Agent the address of such person or entity for the purpose of receiving notices and a photocopy or a certified copy of the recorded instrument vesting in that person such ownership, which instrument shall remain in the files of this Association. A Member shall not be deemed to be in good standing nor shall he be entitled to vote at any annual or special meeting of Members unless these requirements are first met.

Section 2. Character of Association. This Association is not organized for profit. No Member, member of the Board, officer, or person from whom the Association may receive any property or funds shall receive any pecuniary profit from the operation thereof; and in no event shall any part of the funds or assets of the Association be paid as salary or compensation, be distributed to, or inure to the benefit of any of the directors, officers, committee members, or Members, except upon a dissolution of the Association; always provided, however, (i) that reasonable compensation may be paid to any Member, director, committee member, or officer while acting as an agent or employee of the Association for service rendered in effecting one or more of the purposes of the Association, and (ii) that any Member, director, committee member, or officer may from time to time be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

Section 3. Conveyances and Encumbrances. Association property may be purchased, conveyed, or encumbered for security of monies borrowed by authority of the Association or the Board. Conveyances or encumbrances shall be by instrument executed by the President or Vice President, and by the Secretary, the Treasurer, an Assistant Secretary

or an Assistant Treasurer, or executed by such other person or persons to whom such authority may be delegated by the Board.

Section 4. Inspection of Records. Any Owner or Mortgagee of a Lot may inspect the records of receipts and expenditures of the Association at convenient weekday business hours and upon ten (10) days notice to the Board, or Managing Agent if any. Upon payment of a reasonable fee, not to exceed Fifty Dollars (\$50.00), any Owner shall be furnished with a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner, or an estoppel certificate.

Section 5. Notices. Any notices, demands, or other communications required or permitted under these Bylaws shall be given in writing, delivered personally or sent by U.S. mail, postage prepaid, addressed to the person for whom intended at the address then appearing in the records of the Association for such person. Notice shall be considered given when personally delivered or upon deposit in the mail.

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned Secretary of the Association does hereby certify that the above and foregoing Bylaws were duly adopted by the Board of Directors of the Association as the Bylaws of the Association effective as of the \_\_\_\_ day of \_\_\_\_\_, 2003, and that they do now constitute the Bylaws of the Association.

\_\_\_\_\_  
Secretary