710505
Page 1 of 14
Krystal Brown, Clerk & Recorder
Teller County, Colorado RP $0.00
09-26-2018 09:47 AM Recording Fee $78.00

AMENDED AND RESTATED
BYLAWS
OF
RAINBOW VALLEY PROPERTY OWNERS ASSOCIATION, INC.

The following Bylaws set forth the provisions of the Bylaws of the RAINBOW VALLEY PROPERTY OWNERS ASSOCIATION, INC. and were duly adopted pursuant to the Colorado Revised Non-Profit Corporation Act:

I
NAME, LOCATION AND DESIGNATED AGENT

The name of the corporation is the Rainbow Valley Property Owners Association, Inc. hereinafter referred to as the "Association". The principal office of the corporation shall be located at 111 Sportsmans Lane, Divide, Colorado, but meetings of members and Directors may be held at such places as may be designated by the Board of Directors, which shall also be known and referred to as the "Board". The Designated Agent representing the Association shall be the Board of Directors of the Association.

II
DEFINITIONS

All terms which are defined in the Declaration of Covenants, Conditions and Restrictions of the Association (hereinafter called the "Declaration" and incorporated herein by this reference) shall have the same meaning herein.

III
MEETING OF MEMBERS

Section 3.1 Membership and Voting Rights. Member – An owner of property in Rainbow Valley. However, only Members who are in good standing and are current with annual dues assessments and are not in arrears of any Association fees or penalty may participate in meetings and have voting rights.

Section 3.2 Annual Meetings. Annual meetings of the Members shall be held during the month of August each year at a place and time, within the State of Colorado, as the Board of Directors may determine.

Section 3.3 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of Owners of Lots to which at least twenty percent (20%) of the Members holding votes in the Association (based on one vote per Lot) are attached and presented to the Board of Directors.

Section 3.4 Notice of Meetings. The notice of the Annual Members meeting must be sent via regular United States Mail to every owner of record and must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration, Bylaws or Articles of Incorporation, budgets, and any proposal to remove any officer or member of the Board, if such Board member was elected by the members. Meeting notices must also be posted on the Community Bulletin Board and on the Website.

(a) The delivery of such Notice constitutes the provision of the right to vote in the business of the Association. Failure of the Members to attend such meetings or to duly appoint a proxy to vote on their behalf will still bind the Members to adhere to any and all amendments to the Association's governing documents as defined in Section 3.8 of these Bylaws.

(b) The Notice of such meetings wherein proposed amendments are included shall include sufficient references to the proposed amendments posted on the Association's website such that the Members may make an informed decision.

Section 3.5 Action by Written Ballot. Any action required or permitted to be taken at a meeting of the Members, may be taken without a meeting, if the Association delivers a written ballot to every Member entitled to vote on the matter. The written ballot shall state each proposed action and provide an opportunity for the Member to vote for or against each proposed action. The solicitation of votes by written ballot shall:

(a) Indicate the number of responses needed to meet the quorum requirement;

(b) State the percentage (%) of approvals necessary to approve each matter (other than the election of Directors);

(c) State the time by which a ballot must be received by the Association in order to be counted (no later than 60 days from the date of the mailing); and

(d) Be accompanied by written information sufficient to permit each Member casting such ballot to reach an informed decision. The Board shall take steps to preserve the secrecy of ballots in contested elections or matters to be decided by secret ballot. A written ballot may not be revoked after it is received by the Association.

Section 3.6 Voting. Only members in good standing, who are current in the payment of all dues, special assessments, or fees associated with violations to the Declaration or Bylaws, may vote in any business of the Association. Items up for vote at all meetings shall be decided by a simple majority of the Members present plus proxy, except for special votes required by statutes or determined by rule in the Declaration or Articles of Incorporation. Such rights will be automatically rescinded for any failure to pay assessments, until such delinquency is cured, but notice and opportunity for a hearing will be required for any suspension of such rights for alleged violations.

(a) If only one of the multiple Owners of a Lot is present at a meeting of the Association, such Owner is entitled to cast the votes allocated to that Lot. If more than one of the multiple Owners is present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority of the Owners. There is majority agreement if any one of the multiple Owners casts the votes allocated to that Lot without protest being made promptly to the person presiding over the meeting.

(b) Votes allocated to a Lot may be cast pursuant to a proxy duly executed by a Lot Owner.

(c) A vote on any matter of the Association wherein twenty percent (20%) of the Owners present plus Proxy request, or by direction of the Board shall be by secret ballot.

(d) Votes for contested election for positions on the Board of Directors shall be by secret ballot.

(e) Votes cast by secret ballot shall be counted by a neutral third party or by a committee of volunteers in an open meeting consisting of not less than two Members in good standing or by appointment of such committee by the Chair of such meeting.

Section 3.7 Proxies. Owners in good standing not able to attend Annual Members Meetings or Special Meetings of the Members may assign a Proxy to vote on their behalf.

(a) Proxy assignment must be duly recorded with the Secretary of the Board of Directors, by submitting the assignment in writing or electronic notification of such designation, in advance of such meetings.

(b) Members may appoint anyone of their choice by filling in that name, but any proxies left with a blank assignment line will appoint the Secretary of the Board of Directors, who will cast that vote in accordance with the instructions of the majority of the Board of Directors, unless a directed proxy is used;

(c) Owners have the option to use a directed proxy, to instruct their appointee how to vote, provided that in the event secret ballots are used, the use of a directed proxy indirectly waives that Owner's right to a secret ballot. Members casting ballots by directed Proxy are considered present at and waive the right to vote for candidates nominated if the directed Proxy is combined with an actual meeting.

(d) Proxy votes may be rejected if the Secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt of the validity of such vote.

(e) A Lot Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association, or by the attendance of such Lot Owner by his or her presence at such meeting. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months after its date, unless it provides otherwise.

Section 3.8 Quorums.

1. A quorum is deemed present at Annual Members Meetings or Special Meetings of the Members duly called, wherein Members present in person plus proxy have been counted without regard to any percentage of total membership, wherein, a notice of such meeting has been delivered by First Class Mail to all Members of the Association no earlier than fifty (50) days nor less than ten (10) days in advance of such meetings, and the notice of such meetings includes:

(a) The date, time, location, and agenda of such meetings;

(b) Changes to the Bylaws, Articles of Incorporation, and or Policies, Rules and Regulations adopted by the Board of Directors;

(c) Proposed special assessments, if any;

(d) Consideration to remove a Director of the Board, if any;

(e) The names of candidates for election of Board members, if any;

(f) Required date and time for return delivery of Proxy assignment or directed proxy voting to the Secretary of the Board of Directors, or such designated agent as defined by the Board of Directors.

2. On matters before the Association, wherein the Declaration, these Bylaws or Articles of Incorporation require a higher representation of Membership to decide the matter, a quorum is defined as the percentage of Members present plus Proxy (based on one vote per lot) sufficient to meet the voting percentages necessary to decide such matter, provided, that if less than the required Membership is represented, a majority of the members present plus proxy may adjourn the meeting from time to time for a continuation of the meeting at a time determined by the Board of Directors.

Section 3.9 Voting Percentages Required. An affirmative vote of greater than fifty percent (50%) (based on one vote per Lot) of the Members present in person plus proxy on matters of the Association other than voting on amendments to the Declaration, dissolution of the Association or removal of a Director, is required to approve such matters and shall be binding on all Members. An affirmative vote of two-thirds (2/3) of the Membership in good standing (based on one vote per lot) at a special meeting called for that purpose is required to dissolve the Association.

IV

BOARD OF DIRECTORS: SELECTION, TERM OF OFFICE

Section 4.1 Number of Directors. The affairs of the Association shall be governed by a Board of Directors which shall consist of not less than three (3) to no more than nine (9) Directors, to be elected or appointed as provided below. Co-Owners of individual units may not serve on the Board at the same time. In the case where through removal, disqualification or

resignation, the total number of Directors is less than three (3), the Board will be considered properly constituted until such vacancies are filled.

(a) Only one Owner per Lot who is eligible to vote, current in payment of assessments, and otherwise in good standing, may be elected to, or appointed to fill a vacancy on the Board.

(b) If any Lot is owned by a partnership, corporation or trust, any officer, partner or trustee of that entity shall be eligible to serve as a Director and shall be deemed to be a Member for the purposes of these Bylaws.

(c) Any Director who is more than 30 days delinquent in payment of any assessment shall not be qualified to serve on the Board.

(d) Any Director who has unexcused absences from three consecutive Board meetings shall not be qualified to serve on the Board. An absence will be excused if the absent Director notifies the Board President of the planned absence and the reason for the absence at least three days before the meeting, and the majority of the other Directors approve the absence.

(e) Any Director who is in violation of any provision of the Governing Documents of the Association for more than 30 days shall not be qualified to serve on the Board.

(f) Any Director who maintains an adversarial proceeding of any type against the Association shall not be qualified to serve on the Board.

(g) If a Director is not qualified to serve on the Board, the Director's position shall be deemed vacant.

Section 4.2 Term of Office. The term of office of Directors shall be three (3) years or until a successor is elected. At the expiration of a Director's term, if a successor cannot be elected for any reason, the existing Director shall continue to hold office and begin serving another term until his or her successor is elected to fill the remainder of such new term, or until he or she resigns.

Section 4.3 Resignation. Any Director may resign at any time by giving written notice of the resignation to the President or the Secretary. Unless otherwise specified in the written notice, the resignation shall take effect upon receipt. In the event of death or resignation of a Director, the

successor shall be selected by a majority of the remaining Directors and shall serve for the unexpired term of his predecessor.

Section 4.4 Removal. The Members, by a sixty-seven percent (67%) affirmative vote (based upon one vote per Lot) of all persons present and entitled to vote at a Special Meeting of the Members called for such purpose, may remove any Member of the Board with or without cause. In the event of removal of a Director, his successor shall be elected by a majority of the Members present at such meeting and shall serve for the unexpired term of his predecessor.

Section 4.5 Compensation. No Director shall receive compensation for any service he or she may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4.6 Action Taken Without a Meeting. Actions taken without a meeting by the Board of Directors shall be allowed upon written or electronic notice of such meeting and acceptance of such meeting is approved by the majority of the Board of Directors. The results of such actions taken by the Board of Directors without a meeting shall be the same as actions taken at regular meetings of the Board.

V

NOMINATION AND ELECTION OF DIRECTORS

Section 5.1 Nomination. Nominations for vacancies on the Board of Directors wherein a candidate for Directorship is not included in the notice of meetings sent to the total membership, shall be made from the floor at the annual meeting and must receive a second from the floor to be considered for election.

Section 5.2 Election. Election to the Board of Directors shall occur at the annual meeting. For open positions wherein there are less candidates than positions available, each candidate must receive greater than fifty percent (50%) of the votes present plus proxy (based on one vote per Lot) to be elected. For open positions wherein there are more candidates than open positions, the candidates with the least votes will be eliminated from consideration, then the candidates remaining will be voted on by secret ballot, and must receive greater than fifty percent (50%) of the votes present plus proxy to be elected (based on one vote per Lot).

Section 5.3 Appointment of a Director. An appointment of a Director may occur when vacancies exist and no nominations have been presented,

or to fill a vacancy resulting from the resignation, death, or removal of a Director. Such appointment must be approved by a two-thirds (2/3) majority of the remaining Directors.

VI

MEETINGS OF DIRECTORS

Section 6.1 Regular Meetings. Regular meetings of the Board of Directors shall be held with such frequency and at such times and places as shall be determined by a majority of the Directors.

Section 6.2 Organizational Meeting. The first meeting of a newly elected Board of Directors may be held immediately after the annual meeting, at which time the Officers of the Board shall be elected.

Section 6.3 Special Meetings. Special meetings of the Board of Directors may be called by the President of the Association, or by any two or more Directors, upon three days' notice to each Director, given personally, by mail, telephone or E-mail or other notice complying with Colorado State law. The notice shall state the time, place and the purpose of the meeting.

Section 6.4 Executive and Closed Session Meetings. An Executive or Closed Session Meeting may be called by the President or members of the Board during a regular meeting of the Board, or by notification of a special Executive or Closed Session Meeting via mail, email, telephone or other electronic means of communication scheduling such meeting, and such meeting being accepted by a majority of the Directors. Executive and Closed Meetings may only be called and an announcement of the purpose of such meeting prior to and in accordance with C.R.S. Title 38-33.3-308 (4). Minutes of such sessions are not available for inspection of the Members.

Section 6.5 Notice of Meetings. Notice of regular and special meetings of the Executive Board of Directors or any committee thereof are not required, but agendas for such meetings shall be posted on the Association's website, and all such meetings are open to attendance by all Members in good standing of the Association or their representatives, and such attendance is governed by the Association's Policies, Rules and Regulations. Executive Sessions of the Board of Directors may be called at any time without notification to the Members of the Association, and must state the reason such meeting is called in accordance with C.R.S. Title 38.

Section 6.6 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 be a waiver of notice. 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 6.7 Quorum. A quorum for the Board of Directors is deemed present at regular, special meetings duly called, and executive sessions when greater than fifty percent (50%) of the Directors are present in person, by electronic communication, or by a proxy assignment in writing designating another Director to represent their absence to conduct business of the Association.

VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 7.1 Powers. The powers and duties of the Board of Directors shall be established or limited in the Declaration. In addition, the Board of Directors shall have power to:

(a) Adopt and publish rules and regulations and to establish penalties for any infraction for violations of any governing documents. A rule or regulation shall not be in conflict with the Declaration or these Bylaws. A copy of such rules and regulations upon adoption or amendment may be delivered by hand to each Property Owner or mailed to each Member or may be recorded in the real property records of Teller County, or posted on the Association's Website as a means for access by the Members of the Association;

(b) Rescind the rights of any Member not in good standing to vote and to receive Association services and privileges for any failure to pay assessments, and or violations of the Declaration and/or Policies, Rules and Regulations until such delinquency or violation is cured, but notice and opportunity for a hearing will be required for any rescinding of such rights for alleged violations;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to the Board or the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration, and as are necessary for the administration of the affairs of the Association;

(d) Incur such costs and expenses as may be necessary to perform the Association's duties;

(e) Declare the office of a Director of the Board of Directors to be vacant in the event such Director is absent from three (3) consecutive regular meetings of the Board of Directors;

(f) To set a reasonable assessment against each Lot and to collect any assessments by the same remedies for collection of fines set forth in the Declaration or as provided by law or statute;

(g) Cause all officers or employees having fiscal responsibilities to furnish adequate fidelity insurance or bonds as required by the Declaration. The premiums on such insurance or bonds shall be a common expense as may be deemed appropriate by the Board;

(h) Establish a bank account;

(i) Purchase, lease or otherwise acquire and own real property for the use and enjoyment of the members of the Association and or otherwise sell and dispose of real property owned by the Association;

(j) Set aside monies received through Annual Dues or special assessments to a Reserve account for the purposes of maintenance or acquisition of common property for the use and enjoyment of the Members of the Association.

Section 7.2 Duties. Subject to the Declaration, Articles of Incorporation, these Bylaws, statute and law, it shall be the duty of the Board of Directors to operate the Association in its reasonable business discretion.

Section 7.3 No Waiver of Rights. The omission or failure of the Association or any Member to enforce the Covenants, conditions, restrictions, easements, uses, limitations, obligations or other provisions of the Declaration, the Articles of Incorporation, the Bylaws or Rules and Regulations adopted pursuant thereto, shall not constitute or be deemed a waiver, modification or release thereof, and the Board of Directors, the Association or any Member shall have the right to enforce the same thereafter.

VIII

OFFICERS AND THEIR DUTIES

Section 8.1 Enumeration of Offices. The officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, and such other officers as the Board of Directors shall, from time to time, elect. All officers shall be Members of the Board of Directors. The office of Treasurer and Secretary may be held by the same person.

Section 8.2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 8.3 Term. Each officer of the Association shall be elected annually by the Board.

Section 8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may determine.

Section 8.5 Resignation and Removal. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein; the acceptance of such resignation shall not be necessary to make it effective. Any officer may be removed from office without cause by the Board with a majority vote of a quorum. A Director of the Board may be removed with or without cause by a majority of the Directors present at any meeting held for such purpose. To remove a Director elected by the membership, an affirmative vote of the membership present plus proxy at a special meeting called for such purpose is required. Directors may be removed by an affirmative vote of the membership plus proxy at the annual Members meeting providing such proposed removal was given in the notice of the annual Members meeting. A Director in violation of the Rules of Conduct for Board members may be fined and/or suspended from voting and participating in matters before the Board.

Section 8.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 8.7 Powers and Duties. The powers and duties of the officers shall be established or limited in the Declaration; the powers and duties of the officers are as follows:

(a) The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign on behalf of the Association all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes, unless performed by the Treasurer. Further, he shall have all of the general powers and duties which are usually vested in the office of president of a corporation.

(b) The Vice-President shall act in the place and instead of the President on the event of absence, inability or refusal to act, and shall exercise and discharge such other duties required of him by the Board.

(c) The Secretary shall record the votes and keep the minutes of all proceedings of the Board and of the Members, serve notice of any meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association together with their addresses, and perform such other duties as required by the Board.

(d) The Treasurer shall receive and deposit in appropriate governmentally insured accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall co-sign all checks and promissory notes of the Association, keep proper books of account, cause an annual accounting to be made, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting.

(e) The President and the Secretary shall prepare, execute, certify and record amendments to the Declaration, Articles of Incorporation and Bylaws on behalf of the Association following their adoption.

IX

NON-LIABILITY OF OFFICERS AND DIRECTORS

Section 9.1 Contracts or Other Commitments. Contracts and commitments made by the Board of Directors or officers shall be made as agent for the Association, and they shall have no personal responsibility on any such contract or commitment.

Section 9.2 Indemnification of Officers and Directors. Each officer and Director of the Association, now or hereafter serving in any such capacity, shall be indemnified by the Association against any and all claims and liabilities to which he or she has or shall become subject by reason of serving or having served in any such capacity or by reason of any action alleged to have been taken, omitted, or neglected by him or her in any such capacity, to the fullest extent allowable by law and statute, including without limitation, the Colorado Revised Nonprofit Corporation Act. The right of indemnification herein provided shall not be exclusive of any rights to which any Director or officer of the Association may otherwise be entitled by law or statute, provide however, this indemnification shall not reduce or impair any insurance coverage. No Director or officer shall be personally liable to the Association or its Members except as otherwise provided by the Nonprofit Act. Directors and officers shall be indemnified by the Association to the fullest extent allowed by the Declaration, Articles of Incorporation and these Bylaws and by law and statutes, including without limitation, C.R.S-7-129-101 through 107.

Section 9.3 Non-liability. The Directors, officers, employees and Members of the Association are not personally liable for the acts, debts, or obligations of the Association.

Section 9.4 Standards. Except as may be allowed by the Declaration and the Nonprofit Act, Directors and officers shall comply with the standards set forth in C.R.S. 7-128-401 and 7-128-501 and shall be indemnified as provided therein.

X

COMMITTEES

The Board of Directors may appoint such committees as deemed appropriate in carrying out its purpose, including, without limitation, an architectural control committee, which may be the Board itself.

XI

BOOKS AND RECORDS

The Association shall make available to Owners and Mortgagees, current copies of the Declaration, Bylaws, and other rules concerning the Association. "Available" means available for inspection upon request as defined in the Policies Rules and Regulations, and only such records as required to be made available by C.R.S Title 38-33.3-317.

XII
ASSESSMENTS

Assessments shall be determined and enforced in accordance with the provisions of the Colorado statute commonly known as the Colorado Common Interest Ownership Act (the "CCIOA"), including but not limited to C.R.S. 38-33.3-303 (4), 315 and 316. Any assessment that is not paid within thirty (30) days after the due date shall bear interest from the date of delinquency, and the Association may impose an administration fee, which both will be set forth in the Policies, Rules and Regulations.

XIII
AMENDMENT

The Board of Directors shall have the power to make, alter, amend or repeal these Bylaws, the Articles of Incorporation, or any part thereof, not inconsistent with the laws of the State of Colorado as they may deem proper for the management of the affairs of the Association, provided, however, a majority of the members present in person plus proxy, at the first regular meeting, upon motion duly made, seconded, and approved by sixty-seven percent (67%), vote to rescind such action by the Board.

By signature below, the undersigned certifies these Amended and Restated Bylaws were adopted by the Board of Directors on August 4, 2018.

Rainbow Valley Property Owners Association, Inc.
A Colorado Non-Profit

Attest:

By: Rick Ritchie
President, Rick Ritchie

Linda Yates
Secretary, Linda Yates