

**AMENDED AND RESTATED  
BYLAWS  
OF  
WILD HORSE  
HOMEOWNERS' SUBASSOCIATION**

**ARTICLE I**

**GENERAL PROVISIONS**

1.1 Principal Office. The principal office of this corporation shall be located at the place as is designated in the Articles of Incorporation of Wild Horse Homeowners' Subassociation ("Articles") or such other place as Wild Horse Homeowners' Subassociation ("Association") may designate from time to time in accordance with the Arizona statutes governing nonprofit corporations, but meetings of members of the Association ("Members") and directors may be held at such other place within the State of Arizona, County of Cochise as may be designated by the board of directors of the Association ("Board").

1.2 Defined Terms. Capitalized terms used in these Amended and Restated Bylaws without definition shall have the meanings specified for such terms in (a) that certain Declaration of Covenants, Conditions & Restrictions of Wild Horse Subdivision dated as of March 13, 1996, and recorded as of April 4, 1996, at Fee No. 960408334 in the office of the County Recorder of Cochise County, Arizona, as amended by that certain First Amendment to Declaration of Covenants, Conditions & Restrictions of Wild Horse Subdivision dated as of September 4, 1996, and recorded as of November 5, 1996, at Fee No. 961130401 in the office of the County Recorder of Cochise County, Arizona, and as amended by that certain Second Amendment to Declaration of Covenants, Conditions & Restrictions of Wild Horse Subdivision dated and recorded as of July 11, 2002, at Fee No. 020721906 in the office of the County Recorder of Cochise County, Arizona, and as may be further amended in the future (collectively, "Wild Horse Declaration"), and (b) that certain Declaration of Covenants, Conditions & Restrictions of Wild Horse II Subdivision dated as of August 1996, and recorded as of May 16, 2002, at Fee No. 020515606 in the office of the County Recorder of Cochise County, Arizona, as amended by that certain Amendment to Declaration of Covenants, Conditions & Restrictions of Wild Horse II Subdivision dated and recorded as of July 11, 2002, at Fee No. 020721905 in the office of the County Recorder of Cochise County, Arizona, and as may be further amended in the future (collectively, "Wild Horse II Declaration"). The Wild Horse Declaration and the Wild Horse II Declaration may be referred to herein collectively as the "Declaration".

1.3 Association Jurisdiction. The Wild Horse Declaration encumbers certain real property known as Lots 1 through 77 Wild Horse Subdivision, and the Wild Horse II Declaration encumbers certain real property known as Lots 1 through 79 Wild Horse II

Subdivision. These Amended and Restated Bylaws and the jurisdiction of the Association includes all such real property so encumbered with the Wild Horse Declaration and the Wild Horse II Declaration. The Association is the "Association" as defined in the Wild Horse Declaration and the Wild Horse II Declaration.

1.4 Conflicting Provisions. In the case of any conflict between the Articles and these Amended and Restated Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Amended and Restated Bylaws, the Declaration shall control. These Amended and Restated Bylaws completely restate, replace and supersede the By-Laws of the Association dated April 15, 1996 ("Original Bylaws")

1.5 Corporate Seal. The Association may have a seal in a form approved by the Board.

1.6 Designation of Fiscal Year. The fiscal year of the Association shall begin on the 1<sup>st</sup> day of January and end on the last day of December of every year, except that the first fiscal year shall begin on the date of the incorporation of the Association and shall end on the 31<sup>st</sup> day of December thereafter.

1.7 Books and Records. To the extent required by applicable law, the books, records and papers of the Association shall be available for inspection by any Member during reasonable business hours. The Declaration, any rules made by the Association, these Amended and Restated Bylaws and the Articles, and any and all amendments thereof or of any of them (herein, collectively, the "Project Documents") shall be available for inspection by any Member during reasonable business hours at the principal office of the Association (or at the managing agent's office), where copies may be purchased at reasonable cost.

1.8 Amendment.

1.8.1 These Amended and Restated Bylaws may be amended by majority vote of the Board of Directors, or by a vote of a majority of a quorum of Members present in person or, if applicable, by absentee ballot at a regular or special meeting of the Members.

1.8.2 The Board, without a vote of the Members, may amend these Amended and Restated Bylaws in order to conform these Amended and Restated Bylaws to any federal, state or local governmental agency whose approval of the plats of the Properties related to the Association (collectively, "Plat") or the Project Documents is required by law.

1.9 Indemnification. To the extent it has the power to do so under the Arizona Nonprofit Corporation Act, A.R.S. §10-3850, *et seq.*, the Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened,

pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Association, by reason of the fact that he is or was a Member, director, officer, employee or agent of the Association or is or was serving at the request of the Association as a Member, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, and against judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted, or failed to act, in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Indemnification of any such person shall be made in accordance with the procedures set forth in the Arizona Nonprofit Corporation Act.

## ARTICLE II

### MEETINGS OF MEMBERS

2.1 Annual Meeting. An annual meeting of the Members shall be held at least once every twelve (12) months at such time and place as is determined by the Board.

2.2 Special Meetings. Special meetings of the Members may be called at any time by the president or by the Board or upon written request signed by Members having at least one-tenth (1/10) of the total authorized votes in the Association.

2.3. Notice of Member Meetings. Written notice of each meeting of the Members will be given by, or at the direction of, the Secretary or person authorized to call the meeting by hand delivery, by email or by mailing a copy of each notice, postage prepaid, at least ten (10) days and not more than fifty (50) days before the meeting to each Member entitled to vote at that meeting addressed to the Member's address last appearing on the books of the Association or supplied by the Member to the Association for the purpose of notice. The notice must specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. The business transacted at any meeting of Members shall be limited to the purposes stated in the notice, unless waived by consent of two-thirds (2/3) of the Members present and entitled to vote, either in person or, if applicable, by absentee ballot. By attending a meeting, a Member waives any right he/she may have had to object to the meeting on the basis that the proper notice of the meeting was not given in accordance with these Amended and Restated Bylaws or Arizona law. The failure of any Member to receive actual notice of a meeting of the Members does not affect the validity of any action taken at that meeting.

2.4. Member Quorum and Voting. Except as otherwise provided in the Project Documents, the presence (at the beginning of the meeting) in person or, if applicable, by absentee ballot of Members entitled to cast ten percent (10%) or more of the total number of eligible votes in the Association constitutes a quorum for the purposes of holding a duly called and noticed meeting of the Members. If a quorum is not present at any

meeting, the Members eligible to vote at the meeting will have the power to adjourn the meeting and to reschedule the meeting to another date and time without additional notice other than announcement at the meeting. At any subsequent meeting, the presence (at the beginning of the meeting) in person or, if applicable, by absentee ballot of Members entitled to cast at least five percent (5%) of the total number of eligible votes in the Association constitutes a quorum for the subsequent meeting. If a quorum is not present at the subsequent meeting, the Members eligible to vote at the meeting will have the power to adjourn the meeting and to reschedule the meeting to another date and time without additional notice other than announcement at the meeting. Whenever the terms "eligible" votes or "eligible" Members are used in these Amended and Restated Bylaws, both terms describe those Members that are permitted to vote on the matter and whose voting privileges have not been suspended or revoked. All approvals must be affirmatively given and may not be made in the negative or based on non-responses. Any Member who fails to object to any perceived or actual irregularity at the meeting (whether procedural, parliamentary, substantive or technical) forever waives that claim.

2.5. Absentee Ballots. At all meetings of the Members, a vote may be cast in person or by absentee ballot. An absentee ballot will be valid only for the particular meeting designated in the absentee ballot. All absentee ballots must be filed with the Secretary at least twenty-four (24) hours before the beginning of the meeting for which the absentee ballot is given. An absentee ballot may not be revoked or changed once cast.

### **ARTICLE III**

#### **BOARD OF DIRECTORS**

3.1 Number. The affairs of this Association shall be managed by a board of at least three (3) directors and all directors must be Members and shall be elected by the voting Members. The Board may increase the number of directors on the Board but the number of directors must always be an odd number and shall not exceed nine (9) directors.

3.2 Term of Office. The directors of the Board shall serve until their successors are elected and qualified. At the first annual meeting of the Members, all directors shall be elected to staggered terms, with one (1) or more director elected to a one (1) year term, and an equal amount of directors elected to a two (2) year term.

3.3 Removal and Vacancies. At any annual or special meeting of the Members, any one or more of the directors of the Board may be removed from the Board with or without cause by Members having more than fifty percent (50%) of the votes entitled to be cast by the Members present in person or, if applicable, by absentee ballot at the meeting or as otherwise provided by applicable law. In the event of the death, resignation or removal of a director, his successor shall be selected by the remaining directors of the Board and such successor shall serve for the unexpired term of his predecessor.

3.4 Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

3.5 Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the directors. Any such written consent shall be filed with the minutes of the proceedings of the Board.

3.6 Meetings

3.6.1 Meetings of the Board, regular or special, shall be held at least annually and may be held by means of conference telephone or other similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation at such meeting shall constitute presence in person at the meeting.

3.6.2 Regular meetings of the Board may be held with or without notice at such time and place as is determined from time to time by the Board.

3.6.3 Special meetings of the Board shall be held when called by the President of the Association, or by any two (2) directors, after not less than three (3) business days notice to each director, given in writing, by hand delivery, mail or email, which notice shall state the time, place and purpose of the meeting.

3.6.4 Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

3.7 Quorum. A majority of the directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board.

3.8 Powers and Duties. The Board shall have all of 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 other provisions of the Project Documents specifically reserved to the Members. In addition to the duties imposed by these Amended and Restated Bylaws or by any resolution of the Members that may hereafter be adopted, the Board shall have the following powers and duties, subject, however, to any limitations or contrary provisions of the Project Documents:

3.8.1 Open bank accounts on behalf of the Association and designate the signatories thereon;

3.8.2 Make, or contract for the making of, repairs, additions to, improvements to or alterations of the Common Elements/Common Element Easement, in accordance with the Project Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

3.8.3 In the exercise of its discretion, enforce by legal means the provisions of the Project Documents;

3.8.4 Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements/Common Element Easement and provide services for the Members, and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

3.8.5 Provide for the operation, care, upkeep and maintenance of all of the Common Elements/Common Element Easement and borrow money on behalf of the Association when required in connection with any one instance relating to the operation, upkeep and maintenance for the Common Elements/Common Element Easement; provided, however, the consent of Members, excluding Declarant, having at least two-thirds (2/3) of the total votes in the Association shall be obtained either in writing or at a meeting called and held for such purpose in accordance with the provisions of these Amended and Restated Bylaws in order for the Association to so borrow;

3.8.6 Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year;

3.8.7 Adopt and publish rules and regulations governing the use of the Common Elements/Common Element Easement and facilities and the personal conduct of the Members and their family members, guests, lessees and invitees thereon and establish penalties for the infraction thereof;

3.8.8. Suspend the voting rights of a Member and the right to use the Common Area by a Member during any period in which any assessment under the Declaration (an "Assessment") against such Member's Lot remains delinquent for a period not to exceed sixty (60) days for any infraction of the Project Documents, and for successive sixty (60) day periods if any such infraction is not corrected during any prior sixty (60) day suspension period;

3.8.9. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Members by other provisions of the Project Documents;

3.8.10. Declare the office of a director of the Board to be vacant in the event such director shall be absent from three (3) consecutive regular meetings of the Board;

3.8.11. Employ, hire and dismiss such employees as they deem necessary, and to prescribe their duties and their compensation;

3.8.12. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by any Member entitled to vote at such meeting;

3.8.13. Supervise all officers, agents and employees of the Association and see that their duties are properly performed;

3.8.14. Appoint committees as deemed appropriate in carrying out the purpose of the Association;

3.8.15. Levy, collect and enforce the payment of Assessments in accordance with the provisions of the Declaration;

3.8.16. Issue, or cause an appropriate officer to issue upon demand to any person, a certificate setting forth whether or not any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;

3.8.17. Procure and maintain adequate property, liability and other insurance as required by the Declaration;

3.8.18. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and set forth in the Declaration; and

3.8.19. Cause the Common Elements/Common Element Easement to be maintained as more fully set forth in the Declaration.

3.8.20. Cause the Association to perform all of its duties as established pursuant to the terms of the Articles or the Declaration.

3.8.21. Acquire, own and dispose of real and personal property.

3.9. Managing Agent. The Board may employ for the Association a "Managing Agent" at a compensation established by the Board. The Managing Agent shall perform such duties and services as the Board shall authorize, including, but not limited to, all of the duties listed in the Project Documents, except for such duties and

services that under said documents may not be delegated to the Managing Agent. The Board may delegate to the Managing Agent all of the powers granted to the Board or the officers of the Association by the Project Documents other than the power (i) to adopt the annual budget, any amendment thereto or to levy Assessments; (ii) to adopt, repeal or amend Association rules; (iii) to designate signatories on Association bank accounts; (iv) to borrow money on behalf of the Association; and (v) to acquire real property.

## ARTICLE IV

### OFFICERS AND THEIR DUTIES

4.1. Enumeration of Officers. The officers of this Association shall be a President, who shall at all times be a director on the Board, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create.

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

4.3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

4.4. 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, from time to time, determine.

4.5. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. 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, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. 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.

4.7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than (1) of any of the other offices except in the case of special offices created pursuant to Section 4.4 of this Article.

4.8. Powers and Duties. To the extent such powers and duties are not assigned or delegated to a manager pursuant to Section 3.9 of these Amended and Restated Bylaws, the powers and duties of the officers shall be as follows:



4.8.1. President. The President shall be the chief executive officer of the Association, shall preside in all meetings of the Board or the Members; shall see that orders and resolutions of the Board are carried into effect, and have general and active management of the business of the Association;

4.8.2. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, keep the corporate seal of the Association and affix it on all papers requiring said seal, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members together with their addresses, and perform such other duties as required by the Board; and

4.8.3. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association, disburse such funds for appropriate Association purposes as set forth in the Project Documents; keep proper books of account, prepare an annual budget and a statement of income and expenditures to be presented to the Members at its regular annual meeting and deliver a copy of each to the Members; and in general perform all the duties incident to the office of treasurer. Some or all of the duties of the treasurer may be delegated to any management agent from time to time engaged by the Association.

4.8.4. Delegation. The Board may delegate the duties listed above or other duties to a manager or managing agent, or other person or entity; provided, however, that such delegation shall not relieve any director of the Board of his responsibility for such duties.

## ARTICLE V ADOPTION BY DIRECTORS AND MEMBERS

These Amended and Restated Bylaws were adopted by unanimous vote of the Board on July 16, 2008, and by a vote of eighty percent (80%) of a quorum of Members present in person or by absentee ballot at a meeting held on July 16, 2008, as required by the Original Bylaws, as certified by the undersigned Secretary of the Association.

DATED this 22<sup>ND</sup> day of OCTOBER, 2008.

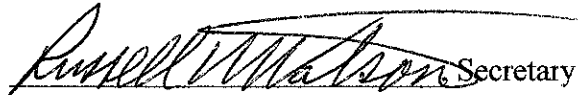
Richard C. Dierkes, Director  
L. E. Munnell, Director  
[Signature], Director  
[Signature], Director  
Russell [Signature], Director

**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Wild Horse Homeowners' Subassociation, an Arizona nonprofit corporation, and that the foregoing Bylaws constitute the original Amended and Restated Bylaws of said Association, as adopted by unanimous written consent of the Board, as of the **16<sup>th</sup> day of July, 2008**, and by a vote of eighty percent (80%) of a quorum of Members present in person or by absentee ballot at a meeting held on **July 16, 2008**, as required by the Original Bylaws.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22<sup>ND</sup> day of OCTOBER, 2008.

 Secretary