

**AMENDED AND RESTATED BYLAWS
OF
HYALITE FOOTHILLS LANDOWNERS' ASSOCIATION**

WHEREAS, on November 15, 1974, the developers (H.B. Landoe, Helen M. Landoe, F. Delbrook Lichtenberg, and Borghild J. Lichtenberg) adopted the Declaration of Reservations and Restrictive Covenants for Hyalite Foothills Subdivision ("Declaration"), which was subsequently recorded on February 3, 1975 in the Gallatin County Clerk and Recorder's Office as Document No. 15650. The Declaration authorized the creation of an association to govern Hyalite Foothills Subdivision;

WHEREAS, the entity formed to govern Hyalite Foothills Subdivision was called the Hyalite Foothills Subdivision Nos. 1 & 2 Homeowners Association, Inc. This entity was formed with the Montana Secretary of State on October 2, 1979. Bylaws were created and unanimously approved by the Board of Directors on November 20, 1979, and they were recorded on November 29, 1979 in the Gallatin County Clerk and Recorder's Office as Document number 69068;

WHEREAS, the Hyalite Foothills Subdivisions No. 1 and 2 Homeowners Association, Inc. was involuntarily dissolved by the Montana Secretary of State in 1984 or 1985; however, the owners in Hyalite Foothills Subdivision continued to conduct themselves as if the association existed and pursuant to the Bylaws;

WHEREAS, on November 8, 2011, the association incorporated again as the Hyalite Foothills Landowners' Association ("Association") and the Association and the Board have continued to conduct themselves and operate under the Bylaws approved on November 20, 1979 and recorded on November 29, 1979 as Document No. 69068;

WHEREAS, pursuant to § 35-2-217, MCA(1), the Board formally adopted and ratified the Bylaws approved on November 20, 1979 and recorded on November 29, 1979 as Document No. 69068 as the Bylaws for the Association;

WHEREAS, pursuant to Article X, Section 1 of the Bylaws, the Bylaws may be amended at a regular or special meeting of the members by a vote of 60% of the membership of the corporation present in person or by proxy; or, unless the Bylaws require a greater vote, pursuant to § 35-2-230, MCA (2011), by the approval of at least 2/3 of the votes cast or a majority of the voting power, whichever is less;

NOW THEREFORE, the members of the Hyalite Foothills Landowners' Association herein amend and restate the Bylaws as follows:

ARTICLE I

Definitions

1. "Association" means the HYALITE FOOTHILLS LANDOWNERS' ASSOCIATION, a nonprofit corporation, organized and existing under the laws of the state of Montana, and previously known as the Hyalite Foothills Subdivision Nos. 1 & 2 Homeowners Association, Inc. and also known as the Hyalite Foothills Homeowners Association.

2. "Bylaws" means the Bylaws recorded on November 29, 1979 in the Gallatin County Clerk and Recorder's Office as Document number 69068, as amended and restated by the Amended Bylaws of Hyalite Foothills Landowners' Association, and any subsequent amendments thereto.

3. "Covenants" or "Restrictive Covenants" mean the Declaration of Reservations and Restrictive Covenants for Hyalite Foothills Subdivision ("Declaration"), which were recorded on February 3, 1975 in the Office of the Clerk and Recorder for Gallatin County, Montana, as Document No. 15650, and any subsequent amendments thereto.

4. "Hyalite Foothills Subdivision" means that property known as the HYALITE FOOTHILLS SUBDIVISIONS NO. 1 AND 2 in accordance with the Subdivision Plat of Hyalite Foothills Subdivision No. 1, Plat J-3, on file in the office of the Clerk and Recorder of Gallatin County, Montana, and the Subdivision Plat of Hyalite Foothills Subdivision No. 2, Plat J-4, on file in the office of the Clerk and Recorder of Gallatin County, Montana.

5. "Lot" means a lot in the Hyalite Foothills Subdivision.

6. "MCA" means the Montana Code Annotated (2017).

ARTICLE II

Location

The mailing address of the Association shall be P.O. Box 1994; Bozeman, MT 59771. The mailing address of the Association may be changed by the Board of Directors upon 30 days' written notice to the members.

ARTICLE III

Membership

1. Eligibility. The members of the Association are determined by the Covenants, which require each owner of a Lot to be a member of the Association. The rights of members are subject to: (a) ownership of an interest by fee or by contract in Hyalite Foothills Subdivision; (b) the Covenants; (c) the Bylaws; and (d) the payment of any assessments imposed by the Association.

2. Rights of Membership. Each member is entitled to the use and enjoyment of the Hyalite Foothills Subdivision in accordance with the Covenants. Such rights may be delegated to and exercised by all members and their families who reside in Hyalite Foothills Subdivision, any

tenants who reside there under a lease for a term of one (1) year or more, and the guests of any thereof.

3. Voting. Each Lot shall be entitled to one (1) vote. If ownership stands of record in the names of two or more persons, only the first vote received on behalf of the Lot shall be counted as the Lot's vote.

ARTICLE IV **Meetings of Members**

1. Annual Meetings. The annual meeting of the members shall be held at a place in Gallatin County, Montana that is designated in the Notice of Meeting, on or about the 2nd Tuesday in October of each year.

2. Special Meetings. Special meetings of the members for any purpose may be called at any time by the President, or in the absence of the President by the Vice President, or by any three (3) or more directors. In addition, the Secretary shall call a special meeting upon written request of the members who have a right to vote 25% of the voting power. The written request shall be valid only if it states the purpose for which the special meeting is being requested.

3. Notice. A Notice of Meetings shall be given to the members by the Secretary or the Secretary's designated representative. Notice may be given to the members either personally or by mailing a copy of the notice, postage prepaid, to the address appearing on the books of the Association. (Each Lot shall register with the Secretary or the Secretary's designated representative the name and mailing address for the person entitled to receive notice, and any changes in the name or address). Notice of Meeting, annual or special, shall be given not less than 10 nor more than 50 days in advance of the meeting. Notice by hand delivery is deemed effective at the time it is delivered; notice by mail is deemed effective two (2) days after it is mailed. Notice of any special meeting shall set forth the purpose of the meeting.

4. Quorum. At any membership meeting, the presence, whether in person, by telephone (if authorized by the Board), or by proxy, of members entitled to vote not less than 8% of the voting power, shall constitute a quorum for the transaction of business, EXCEPT THAT the quorum required to amend the Bylaws shall be not less than 60% of the voting power. Except as otherwise stated in the Covenants or these Bylaws, if a quorum is present then the affirmative vote of a majority of the voting power present at a meeting shall be the act of the members.

5. Proxy Voting All proxies shall be in writing, dated, signed and filed with the Secretary or the Secretary's designated representative at or before the commencement of the meeting. Any proxy shall be void if: (1) it is given by a person who is not a member as of the record date; (2) the person giving the proxy is present at the meeting in person or by telephone (if authorized by the Board); (3) the proxy is given more than eleven (11) months before the date of the meeting unless the proxy expressly provides a longer period on the proxy, except that no proxy shall be valid three (3) years after its date of execution.

6. Procedure. The Board of Directors shall devise a procedure to validate the voting at all meetings.

7. Record Date. Except as otherwise stated in the Bylaws, the record date for determining the members entitled to vote shall be the date the written Notice of Meeting is first personally delivered or mailed.

8. Action by Written Ballot. Any action that may be taken at any annual or special meeting of 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:

- (1) set forth each proposed action;
- (2) indicate the number of responses needed to meet the quorum requirement;
- (3) state the percentage of approvals necessary to approve each matter other than the election of directors;
- (4) provide an opportunity to vote for or against the proposed action; and
- (5) specify the time by which a ballot must be received by the Association in order to be counted.

The action will be deemed approved if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

ARTICLE V **Board of Directors**

I. Membership and Powers. The Association shall be governed by a Board of Directors. There shall be five (5) members on the Board of Directors. The Board of Directors shall have the following powers:

- (a) to call meetings of the Association and to give notice of the meetings;
- (b) to send notices of meetings, written consents, and/or written ballots;
- (c) to conduct elections of the Board of Directors and to elect among the directors the officers of the Association;

(d) to appoint and remove, for cause, professionals, agents, employees of the Association, prescribe their duties, fix their compensation and require of them security or fidelity bonds as it may deem expedient (nothing contained in these Bylaws shall be construed to prohibit the employment of any member, officer or director of the Association in any capacity whatsoever);

(e) to publish and enforce rules and regulations governing the use of Hyalite Foothills Subdivision and facilities when said rules and regulations have been properly adopted at a membership meeting;

(f) in the event any member of the Board of Directors shall be absent from three (3) consecutive meetings of the Board of Directors, the Board may by action taken at the meeting in which such third absence occurs declare the office of said absent Director to be vacant;

(g) to collect assessments when authorized by the Covenants and/or Bylaws;

(h) to pay for the expenses of the Association;

(i) to prepare an annual budget for the Association, including without limitation an amount for reserves;

(j) to enforce the Covenants, Bylaws, and/or rules and regulations of the Association by appropriate action, including without limitation assessing fines for violation, charging interest on any unpaid amount owed to the Association, filing liens to collect any unpaid amount owed to the Association, and filing an action to foreclose liens and/or to collect any amount owed by any person to the Association and/or for any other remedy available at law or in equity;

(k) to defend in the name of the Association any lawsuit wherein the Association is a party defendant;

(l) to enter into contracts with third parties to carry out the powers and duties of the Association and Board;

(m) to arrange, keep, maintain, and renew the insurance for the Association and the Officers and Directors of the Association;

(n) to exercise the corporate powers of the Association and to manage the day to day affairs of the Association; and

(o) in general, to act for and carry on the administration and affairs of the Association and to do all those things which are necessary and reasonable in order to carry out the governance and operation of the Association and to carry into effect the powers and duties specified by the Covenants and Bylaws.

2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a full, true and accurate record of 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 requested in writing by 25% of the voting power;

(b) supervise all officers, professionals, agents, and employees of the Association, and to see that their duties are properly performed; and

(c) supervise the voting procedure as set out below, for the adoption of all rules and regulations and assessments.

3. Adoption and Enforcement of Assessments. The Board of Directors may enforce only those assessments which have been properly adopted pursuant to the Covenants.

4. Share of Assessments. Upon adoption of an assessment requiring the imposition of assessments against members of the Association, such assessment shall be made by dividing the total assessment required by the number of Lots in Hyalite Foothills Subdivision.

5. Enforcement of Assessments. Enforcement of any assessment shall be, but is not limited to, any of following: filing liens against the Lot and foreclosing the lien; filing an action against the owner of a Lot personally for the amounts owed; injunctive relief, and/or damages. Assessment liens shall be governed by the mechanics lien law of the state of Montana, including the provisions therein providing for attorney's fees.

6. Vacancies. Vacancies on the Board of Directors shall be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board of Directors and any such appointed Director shall hold office for the unexpired term of his or her predecessor in office.

ARTICLE VI **Director Meetings**

1. Annual Meetings. The annual meeting of the Board of Directors shall be held immediately following adjournment of the annual membership meeting. The Board of Directors may, by resolution, hold regular meetings on such other days and hours.

2. Notice; Waiver. No notice need be given for the annual or any regular meeting of the Board. Notice of any special meeting shall be sufficient if personally delivered, mailed (postage prepaid), or emailed to each Director at his or her address or email address as they appear on the records of the Association. Notice by personal delivery must be given and notice by email must be sent at least twenty-four (24) hours before the meeting; notice by mail must be sent at least three (3) days before the meeting. Notice is waived by any Director who attends the meeting or by any Director who in writing (before or after the meeting) waives such notice.

3. Special Meetings. Special meetings of the Board of Directors shall be called by the Secretary upon request by the President, or in the President's absence the Vice-President, or by three (3) of the Directors.

4. Voting. If a quorum is present, except as otherwise provided in the Declaration Bylaws, or by law, the action of a majority of the Board at any meeting shall be the act of the Board.

5. Quorum. At all meetings of the Board, the presence, whether in person or by telephone (if authorized by the Board), of three (3) members of the Board of Directors shall constitute a quorum for the transaction of business. In the event that a quorum is not present, no action may be taken.

6. Action Without a Meeting. Any action that may be taken at a meeting of the Board of Directors may be taken without a meeting if the action is taken by all Directors on the Board. The action must be evidenced by one or more written consents describing the action taken, be signed by each Director, and be included in the minutes filed with the corporate records reflecting the action taken.

ARTICLE VII **Election of Directors**

1. Qualification. Only members of the Association may serve on the Board of Directors.

2. Ballots. The election of Directors shall be by written ballot as provided in this section. At the annual members' meeting every year or at any special meeting called for the purpose of electing Directors, each member or the member's proxy may cast one vote per Lot multiplied by the number of directors to be elected at that election. The nominees receiving the largest number of votes shall be elected. In years when four or more directorships are to be filled, those persons ranking first, second and third in the voting shall serve for two years each and those ranking fourth and fifth shall serve for one year each. A Director's term shall start at the conclusion of the meeting in which he or she is elected and continue for two years except for those ranking fourth or fifth in an election as noted above. Any Director elected to fill a vacancy at a special meeting shall serve until the end of the term of the Director which he or she replaces.

3. Nominations. Nomination for election to the Board of Directors shall be made by the members of the Association at the meeting during which the election is held.

ARTICLE VIII **Officers**

1. Officers. The officers of the Association shall be a President, one or more Vice Presidents, a Secretary and a Treasurer. The Secretary and Treasurer may be the same person. The officers shall be members of the Board of Directors.

2. Election by Board of Directors. All officers shall be elected to serve for one year and each officer, except that each officer shall hold office until his or successor has been duly elected and qualified or until his or her death, resignation, or removal in accordance with the Bylaws. The officers shall be chosen by a majority vote of the Directors at each annual meeting of the Directors.

3. President; Duties. The President shall be the chief executive officer of the Association and as such shall have general supervision of the affairs and property of the Association and over its several officers, subject to the direction of the Board of Directors. The President shall, if present, preside over all meetings of the Board of Directors, and shall generally do and perform all acts incident to the office of President. He may sign in the name and on behalf of the Association all notes, leases, mortgages, deeds and all other written instruments authorized by the Board, except where the Board shall delegate the execution thereof to some other officer or agent of the Association.

4. Vice President; Duties. The Vice President shall perform all of the duties of the President in the event of his or her absence or disability, and when so acting shall have all of the powers and be subject to all restrictions placed upon the President.

5. Secretary; Duties. The Secretary shall act as secretary of the Board of Directors and shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. The Secretary shall keep the records of the Association. The Secretary shall record the names and addresses of all members of the Association and shall see that all notices are duly given as required by the Bylaws or applicable law.

6. Treasurer; Duties. The Treasurer shall receive and deposit, in bank accounts approved by the Board, all monies of the Association and shall disburse funds as directed by a resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for the disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall sign all checks of the Association. The Treasurer shall keep the proper books of account and cause an annual audit of the Association's books to be made by a certified public accountant at the completion of each fiscal year if the Board of Directors so instructs. The Treasurer shall prepare an annual budget and annual financial statements and the budget and financial statements shall be presented to the membership at its annual meeting. The Treasurer shall notify Members if there are unbudgeted expenses exceeding \$25,000 (in 2019 dollar, increase at CPI annually) incurred.

ARTICLE IX **Books and Papers**

Each member's rights to inspect the Association's records are set forth and subject to § 35-2-906 through -911, MCA (2017).

