

**AMENDED AND RESTATED BYLAWS  
OF THE  
KINGSWOOD ESTATES UNIT III, IV & V OWNERS ASSOCIATION, INC.**

**Adopted Effective: January 1, 2014**

Submitted for  
Association Approval,  
August 18, 2013

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**Approved at Annual Meeting**

**August 18, 2013**

**AMENDED AND RESTATED BYLAWS  
OF THE  
KINGSWOOD ESTATES UNIT III, IV & V OWNERS ASSOCIATION, INC.**

**Adopted Effective: January 1, 2014**

WHEREAS, the Kingswood Estates Unit III, IV & V Owners Association, Inc. (the “Association”) was incorporated as a nonprofit corporation in the State of Arizona on or about January 15, 1997;

WHEREAS, the Bylaws of the Association were initially adopted by the Board of Directors of the Association at the first meeting thereof (the “Original Bylaws”); and

WHEREAS, effective November 23, 2004, the Original Bylaws were amended and replaced with the Bylaws approved by the Members of the Association at a meeting of the Members held on such date (the “Amended Bylaws”); and

WHEREAS, pursuant to Section 1.6 of Article I of the Amended Bylaws, the Amended Bylaws may be amended at a regular or special meeting of the Members, by a majority (more than 50%) vote of the eligible Members present in person or by proxy, provided that at least 20% of the total membership is represented at the meeting, either in person or by proxy; and

WHEREAS, at a meeting of the Members, duly called and held August 18, 2013, at which at least 20% of the total membership was represented, either in person or by absentee ballot, at least 50% of the eligible Members present in person or by absentee ballot voted to amend and restate the Bylaws of the Association to provide as follows.

NOW THEREFORE, these Amended and Restated Bylaws of the Association are hereby adopted in their entirety as follows:

**ARTICLE I  
GENERAL PROVISIONS**

1.0. Principal Office. The principal office of this corporation on record with the Arizona Corporation Commission is the office of the Association, but Members and Directors meet in the Prescott Racquet Club or at other such reasonable place as may be stated in the notice of meeting.

1.1. Defined Terms. Except as otherwise defined herein, capitalized terms in these Bylaws shall have the meanings specified for such terms in the Amendment and Restatement of the Protective Covenants of the Kingswood Estates Units III, IV and V recorded with the County Recorder of Yavapai County, Arizona, (the “Covenants”), as amended from time to time.

1.2. Conflicting Provisions. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control, and in the case of any conflict between the Covenants and these Bylaws, the Covenants shall control.

1.3. Corporate Seal. The Association may have a seal in a form approved by the Board of Directors.

1.4. Designation of Fiscal Year. The fiscal year of the Association shall begin on the 1<sup>st</sup> day of July and end on the 30<sup>th</sup> day of June of the next consecutive year.

1.5. Books and Records. Subject to statutory exceptions, the books, records, and papers of the Association shall be available for inspection at no cost by any Member during reasonable business hours. The governing documents of the Association shall be available for inspection by any Member during reasonable business hours at the principal office of the Association, where members may purchase copies at reasonable cost, not to exceed the amount prescribed by statute.

1.6. Voting at meetings of the Membership. Every Member must be provided an absentee ballot for any meeting of the Members, i.e., annual meetings and special meetings of the membership of the Association. Proxy votes are prohibited. The absentee ballots shall be sent via hand delivery, US Mail or electronic means. Each ballot must comply with the requirements of applicable statutes. All votes received by absentee ballot count in computing the presence of a quorum, or in the case of an all-mail or all email vote, the ballots received must total at least the number of votes required to constitute a quorum. A vote or election may be conducted entirely by mail; however, the vote will be valid only if ballots are received from owners of at least 20% of the Lots in the Association. Mailed ballots are irrevocable. Voting eligibility and counting of votes are described in paragraph 2.5 of these Bylaws.

1.7. Amendment. These Bylaws may be amended, at a duly called and held regular or special meeting of the Members, by the affirmative vote of a majority (more than 50%) of the Members in good standing who are voting in person or by absentee ballot at the meeting of the Members.

## **ARTICLE II**

### **MEETINGS OF MEMBERS AND OBLIGATIONS OF MEMBERS**

2.0. Annual Meeting. An annual meeting of the Members of the Association shall be held at 2:00 pm on the third Sunday of August each year or at such other time and place determined by the Board of Directors for the purpose of electing or announcing the results of the election of Directors and transacting such other business as may properly come before the meeting, provided that an annual meeting of the Members shall be held at least once every twelve (12) months.

2.1. Special Meetings. Special Meetings of the Members may be called at any time by the President or by the Board or upon written request (petition) signed by Members having at least one-fourth (1/4) of the total authorized votes of the Association. If a Special Meeting is required as a result of a petition of the Members, the Special Meeting must be called, noticed, and held within thirty (30) days after receipt of the petition.

2.2. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or other person authorized to call the meeting. The Board of

Directors shall mail (prepaid) a copy of each notice by first class U.S. mail, at least ten (10) days and not more than fifty (50) days before such meeting, to each Member entitled to vote at such meeting. The notices shall be sent to the Member's address last appearing on the records of the Association or supplied by such Member for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a Special Meeting, the purpose of the meeting. By attending the meeting, a Member waives any right he or 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 Bylaws or the statutes of the State of Arizona, unless he or she is attending solely for the purpose of objecting to the manner in which the notice was given.

2.3. Quorum. Except as otherwise provided in the Articles, the Covenants or these Bylaws, the presence in person or by absentee ballot of twenty percent (20%) of the Members entitled to vote at such meeting shall constitute a quorum at all meetings of the Members. If a quorum is not present at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than the announcement of adjournment at the meeting, until a quorum is present. A written notice to reconvene a previously adjourned meeting shall be sent to all members no fewer than fifteen (15) days before such meeting, and it shall be done in accordance with the procedures set out in Section 2.2 of these Bylaws

2.4. Absentee Ballots. At all meetings of the Members, any Member entitled to vote thereat may vote in person or by absentee ballot.

2.5. Voting. Subject to the provisions of 2.6, the Owner(s) of a Lot shall be entitled to one (1) vote on each matter submitted to a vote of the Members. The vote attributable to each Lot must be cast as a whole; no fractional votes shall be allowed. In the event that a Lot is owned by two (2) or more persons, the joint or common Owners shall designate to the Association in writing one of their number who shall have the right to cast votes with respect to such Lot. If multiple persons own a Lot and are unable to agree upon how their vote shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed that he/she was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast by a Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void. In the event that an Owner owns more than one (1) Lot, such Owner shall be entitled, subject to the provisions of Section 2.6, to one (1) vote for each Lot owned. If an Owner has re-platted two or more Lots on the records of the Yavapai County Recorder as one Lot, the Owner shall have one vote for the combined Lot Unit and shall pay only one assessment for such Lot Unit.

2.6. Elections and Ballots. For all matters to be voted upon by the Members, each Member shall be provided with an absentee ballot and a return envelope addressed to the Association at its business address. Each return envelope shall have the word "BALLOT" printed on it. Each ballot shall have signature, date and member address lines printed on it, preceded by this language: "This ballot must be signed and dated by the Member(s) entitled to cast it for it to be deemed valid and included in the vote count." All ballots cast in person at a Members' meeting shall contain the same language. The Board shall not count any ballot on which such required information and signatures do not appear.

Ballot envelopes may not be opened except at the related Members' meeting at which time all ballots may be inspected by any Member in attendance. Likewise, ballots cast in person may be inspected by any Member in attendance.

The Board shall retain and preserve all ballots cast for a period of no less than one year from the date of each election. Any Member, upon written request made to the Board, may inspect all ballots.

2.7. Good Standing. If a Member, otherwise entitled to vote is more than thirty (30) days delinquent in the payment of annual or special assessments, fines, penalties, interest, late charges, transfer fees, refinance fees, costs of collection, lien fees, attorneys' fees or other monies owed to the Association, or is not in compliance with the terms of the Governing Documents, and has failed to cure such noncompliance after written notice thereof from the Association, the Board of Directors may, in its sole discretion, certify that such Member is not in good standing and such Member's right to vote shall be suspended until the delinquency, breach or violation is paid in full, cured or corrected.

2.8. Membership. Membership in the Association shall be limited to Lot Owners. Upon becoming an Owner of a Lot, the Lot Owner shall automatically be a Member of the Association and shall remain a Member until his/her ownership of the Lot ceases for any reason. When his/her ownership of the Lot ceases, his/her membership immediately ceases. A Lot Owner cannot resign his/her membership, nor can a Member transfer his/her membership to anyone except by sale of the Lot. Ownership of Lots shall be determined by the records of the Yavapai County Recorder.

2.9. Obligations of Members. Members are obligated to comply with the provisions of the Governing Documents. The Board of Directors shall establish enforcement procedures.

2.9.1. Leasing; Tenants. When a Member rents or leases his/her Lot to a tenant, it is the responsibility of the Member to notify the Association of such agreement within ten (10) days of the execution by the Member of the lease agreement. Such notice must include contact information for the tenant. When a Member rents or leases his/her property to a tenant, the Member is responsible to provide copies of all the Governing Documents to the tenant and to familiarize the tenant with the contents. If the Board determines that a rented or leased Lot or the tenant is not in compliance with the Governing Documents, the Board will mail a Notice of Noncompliance to the Member whose Lot or tenant is not in compliance with a copy to the tenant. The Member is responsible for ensuring that the tenant complies with the Governing Documents.

2.9.2. Financial Obligations of Members. Members are obligated to pay assessments in accordance with the terms of the Governing Documents.

2.9.3. Assessment. Each year, the Board of Directors will determine and assess the Uniform Annual Assessments and the Units IV and V Additional Annual Assessments in accordance with Article VI of the Covenants. The Association will mail or email notification for payment of annual assessments to each Member not later than thirty (30) days prior to the due date thereof, provided, however, failure to provide such notice shall not relieve the Member of his/her obligation to pay any assessment.

2.9.4. Special Assessments. Special Assessments may be assessed as set forth in Article VI of the Covenants. The Board will propose the amount and the terms of any such Special Assessment subject to the Member's approval thereof and determine the due dates thereof.

2.9.5. Late Fees. The late fee for delinquent dues or assessments is \$15 or 10% of the amount past due, whichever is greater.

2.9.6 Dues Notices, Collections and Reports.

2.9.6.1. Dues notices together with contact information forms shall be sent to all Owners by email on or before January 1 of each year except those Owners as to which the Association does not have an email address or who request in writing U.S. mail delivery.

2.9.6.2. Assessment payments are due in full on or before January 31st.

2.9.6.3. Dues receipts are logged in an Excel sheet by Lot number noting the Owner's check number, the amount paid and the date the deposit is made.

2.9.6.4. Owners who have not paid by January 20<sup>th</sup> may be sent a reminder email or letter.

2.9.6.5. Owners whose payments have not been received on or before January 31st will be sent a delinquency notice by email and/or US mail requesting payment plus a late fee.

2.9.6.6. Owners whose payments remain delinquent after March 1 will be sent a lien notice by both regular and certified US mail.

### **ARTICLE III BOARD OF DIRECTORS**

3.0. Number. The affairs of this Association shall be managed by a Board of Directors. The number of Directors of the Association shall not be fewer than three (3) or more than nine (9) as determined from time to time by the Board of Directors. If the number of Directors is reduced, all Directors whose terms have not yet expired and who are in good standing shall be allowed to serve the balance of their terms. All Directors must be Members in good standing of the Association in accordance with the provisions of Section 2.7 of these Bylaws, but need not be residents of the State of Arizona. If an Owner is a corporation, partnership or trust, an officer, partner, trustee or beneficiary of such Owner may serve as a Director. If a Director shall fail to meet the qualifications of good standing or membership at any time during his/her term, he or she will thereupon cease to be a Director and his/her place on the Board shall be deemed vacant. The immediate past President of the Association may continue to attend Board meetings as a non-voting participant for as long as determined appropriate by the Board. Immediately following the Annual Meeting, the newly elected Board members will hold a special Board meeting to elect officers of the Association. Any member of the Association may attend regular board meeting

3.1. Term of Office. Directors shall be elected to and shall serve one-year terms and until his successor shall have been elected and qualified, or until his earlier death, or until he shall earlier resign or shall have been removed in the manner hereinafter provided. Board members shall be elected at each Annual Meeting, or each year if voting is conducted by mail or email.

3.2. Removal. Board members may be removed by the Members in the manner provided by statute. At any meeting at which a Director is removed, the Members shall then and there elect a successor to fill the vacancy thereby created by the vote of the Members in attendance at the meeting, assuming that a quorum is present. A Director so elected shall be elected for the full

unexpired term of the Director removed. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting prior to the vote for removal.

3.3. Compensation. No Director shall receive compensation for any service he or she may render to the Association. However, every Director shall be reimbursed for all appropriate expenses incurred in the performance of his or her duties.

3.4. Action Taken Without a Meeting. Solely in emergency situations as determined by the Board, the Directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining written or electronic consent of all the Directors. Any such written or electronic consent shall be filed with minutes of the proceedings of the Board.

3.5. Vacancies. Vacancies on the Board caused by any reason other than the removal of a Director in accordance with the provisions of Section 3.2 of these Bylaws shall be filled by a majority vote of the remaining Directors. This action will be taken at the first regular or special meeting of the Board held after occurrence of such vacancy, even though the Directors present at such meeting may constitute less than a quorum. Each person so elected shall serve the unexpired portion of the former Director's term. Association members will be notified of the change.

3.6. Regular Meetings. Regular meetings of the Board will be held at such time and place as is determined by the Board. Except for emergency meetings, the date, time and place of meetings shall be provided to Members at least forty-eight (48) hours prior to the meeting date and time, in order that interested Members may attend. Except where the closing of a meeting is permitted by applicable statutes, all Board meetings will be open to attendance by Members or their representatives. Members are encouraged to attend Board meetings and see their Board at work. Non-Board Association Members will be allowed to speak at such meetings in accordance with applicable statutes and subject to the rules adopted by the Board.

3.7. Special Meetings. Special meetings of the Board may be called by the President on at least two days' notice to each Director, given by telephone, in writing, by hand delivery, US Mail, or email. The notice shall state the date, time, place, and purpose of the meeting. Upon the written or electronic request of at least two (2) Directors, special meetings of the Board shall be called in the same manner as if called by the President.

3.8. Quorum. A majority of the Directors then serving shall constitute a quorum for the transaction of business. Every act done or decision 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.

3.9. Powers and Duties. The Board shall have all the powers and duties necessary for the administration of the affairs of the Association and may do all acts and things as are not required by the Governing Documents to be exercised or done by the Members. In addition to the duties imposed by these Bylaws or by any resolution of the Members that may hereafter be adopted, the Board shall have the following powers and duties:

3.9.1. Determine whether to hire employees or contract work;

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

3.9.3. Make, or contract for the making of repairs, additions to, improvements or alterations of the Common Areas, in accordance with the Governing Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

3.9.4. In the exercise of its discretion, enforce by legal means the provisions of the Governing Documents;

3.9.5. Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair, or replacement of the Common Areas 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 in the performance of their duties;

3.9.6. Provide for the operation, care, upkeep and maintenance of all Common Areas and borrow money on behalf of the Association when required in connection with or relating to the operation, upkeep and maintenance of the Common Areas; provided, however, the Association shall not borrow in excess of \$5000 in any one instance, without the prior consent of a majority of Members voting in person or by absentee ballot at a duly called and held meeting of the Members at which a quorum is present.

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

3.9.8. Adopt and publish rules and regulations, known as Community Policies, governing the use of the Common Areas and facilities; and the personal conduct of the Members and their family members, guests, lessees, tenants and invitees thereon; and such other rules as deemed necessary to maintain the property values and promote harmonious relations in Kingswood Estates; and establish penalties for the infraction thereof;

3.9.9. Adopt and publish rules and regulations, known as Architectural Guidelines recommended by the Architectural Committee, governing the construction, remodeling, landscaping of Lots within the Association deemed necessary to maintain the property values and promote harmonious relations in Kingswood Estates; and establish penalties for the infraction thereof;

3.9.10. Adopt and publish ~~rules and regulations~~ **recommendations**, known as ~~Defensible Space Practices Rules~~ **Wildland Fire Prevention Practices**, recommended by the Firewise Committee;

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

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

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

3.9.14. Hire or employ and dismiss a manager, whether as an independent contractor or as an employee, to perform such services and duties as the Board may direct;

3.9.15. 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 and any special meeting when such statement is requested in writing by any Member entitled to vote;

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

3.9.17. Levy assessments against the Lots in accordance with the Covenants and take such steps as the Board deems necessary and advisable to enforce payments of such assessments and all other amounts owed to the Association by the Members;

3.9.18. Issue, or cause the 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;

3.9.19. Procure and maintain property, liability and other insurance as required by the Covenants;

3.9.20. Cause all officers or employees of the Association having fiscal responsibilities to be bonded, as it may deem appropriate;

3.9.21. Cause the Common Areas to be maintained, as more fully set forth in the Covenants;

3.9.22. Establish, levy, collect and enforce by any lawful means a schedule of fines, penalties, transfer fees, refinance fees, administrative charges, late charges, interest, and costs of collection;

3.9.23. Appoint committees of the Board of Directors and to delegate to such committees the authority to carry out certain duties of the Board of Directors, to the extent permitted by statute and the Governing Documents; and

3.9.24. Do all other acts and things required by applicable law or statute or authorized in the Covenants but not explicitly set out above, and, in general, to do and perform such acts and things and to transact such business in connection with the foregoing objects and purposes as may be necessary or appropriate.

#### **ARTICLE IV** **OFFICERS AND THEIR DUTIES**

4.0. Enumeration of Officers. The officers of the Association shall be a President, one (1) or more Vice Presidents (the number thereof to be determined by the Board of Directors), a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect or appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it deems desirable, such officer to have the authority to perform the duties prescribed, for time to time, by the Board of Directors. All officers of the Association must be Members in good standing of the Association.

4.1. Election of Officers and Terms. The officers of the Association shall be elected annually by the Board of Directors following the annual meeting of the Association. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as convenient. New officers may be created and filled at any meeting of the Board of Directors. Each officer shall hold office until his/her successor shall have been duly elected and qualified.

4.2. Removal or Disqualification. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors with or without cause whenever in its judgment the best interests of the Association would be served thereby. Any officer who ceases to be a Member of the Association or who ceases to be in good standing shall be automatically removed from office.

4.3. Resignation. 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 specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.4. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve until his/her successor is duly elected and qualified.

4.5. Multiple offices. One person may not simultaneously hold more than one office.

4.6. Powers and Duties. The powers and duties of the officers shall be as follows. Additional powers and duties may be assigned by the Board as it determines appropriate.

4.6.1. President. The President shall be the chief executive officer of the Association. He/she shall establish the agendas for and preside at all meetings of the Board and of the Members; see that orders and resolutions of the Board are carried into effect; and manage the general business of the Association.

4.6.2. Vice-President. The Vice-President shall act in the place and stead of the President in the event of his/her absence, inability, or refusal to act and shall be responsible for the review of the provisions of the Governing Documents as to compliance with applicable statutes.

4.6.3. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members. He/she shall keep the Corporate Seal of the Association, if any, and affix it on all papers requiring said seal, serve notice of meetings of the Board and of the Members, and periodically publish or cause to be published by an appointed Member an Association Newsletter to maintain communication with the Members through the year.

4.6.4. Treasurer. The Treasurer shall: receive and deposit in appropriate bank accounts all monies of the Association and shall disburse funds for appropriate Association purposes as set forth in the Governing Documents; keep proper books of account; together with the Board, prepare the Annual Budget, and a Statement of Income and Expenses to be presented to the Members at the annual meeting; prepare or cause to be prepared all required tax reports and cause to be paid such taxes as may be due; report the current financial status of the Association to the Board at each Board meeting; notify all Members of the amount and date due of assessments, and collect and deposit the monies collected; initiate actions to collect overdue assessments; together with a three-member committee, conduct an annual review or compilation of the Association's financial records to ensure the accuracy and currency of the books of account; and maintain a current roster of all Members, with their Lot number, permanent address, telephone number, Kingswood address, and email address (if known) and periodically provide updated copies of such roster to each Board member and to all committees which have requested a roster.

## **ARTICLE V NEW MEMBERS**

5.0. Notification of Property Sale. When the Association is notified that a Lot is to be sold or has been bought, the Treasurer will obtain the name, address, telephone number, and email address of the new Owner, enter the information into the Association roster, and notify the Board members and all committees which have requested a roster.

5.1. New Owner Packet. A new Owner's packet will be prepared and provided to the new Member by the Secretary or the Hospitality Committee. If a Member intends to rent or lease a Lot to a third party, the Secretary or Hospitality Committee will provide the new Member packet to the Owner who must then provide a copy to the tenant. New Owner packets shall contain, at a minimum, copies of the current Governing Documents and information required by applicable statutes. These documents may be provided in electronic format.

## **ARTICLE VI INDEMNIFICATION**

6.0. Indemnification. No member of the Board, the Committee or of any other committee of the Association, no officer of the Association, and no manager or other employee of the Association shall be personally liable to any Member, or to any other person or entity, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, Committee, the manager, any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitation set forth in this Section shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct. The Association shall indemnify any past or present Director, officer, committee member, employee or agent against expenses, including, without limitation, attorneys' fees, judgments, fines and amounts incurred while acting within the scope of his or her authority as a Director, officer, committee member, employee or agent of the Association; provided that the Board of Directors shall determine in good faith that such person did not act, fail to act, or refuse to act, willfully or with gross negligence or with fraudulent or criminal intent with regard to the matters involved in the action.

6.1. Advancing Expenses. Expenses, including attorneys' fees incurred by an indemnified person in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of the action, suit or proceeding as authorized in the manner provided by these Bylaws. Such action is authorized upon receipt of an undertaking by or on behalf of the Director, officer, committee member, employee or agent to repay the advanced expenses unless it is determined that he/she is entitled to the indemnified by the Association as authorized in the Article.

6.2. Scope of Article. The indemnification provided by the Article is not exclusive of any other rights to which those indemnified may be entitled under any statute or any agreement, vote of the Members or by disinterested Directors, or otherwise. This applies both as to action in his/her official capacity while holding such office and shall continue as to a person who has ceased to be a Director, officer, committee member, employee or agent of the Association and shall inure to the benefit of their heirs, executors and administrators of such person.

## **ARTICLE VII ARCHITECTURAL CONTROL**

7.0. Function. The Committee shall monitor all new exterior construction, remodeling, and landscaping in the Project for compliance with the Governing Documents. The Committee shall be responsible for interpreting the standards provided in the Governing Documents and shall adopt, amend and publish the Architecture Committee General Guidelines (the "Guidelines") with the prior approval of the Board. The Governing Documents shall establish instructions for Members and their agents (architects, designers, contractors, and material suppliers) to follow in making alterations and constructing Improvements on the Lots. The instructions will provide a guide for builders and landscapers to meet the standards defined in the Governing Documents. The standards shall be designed to require that Improvements will be adapted to the mountainous, forested and wooded terrain of the Project, presenting in the opinion of the Committee designs pleasing to the eye and practical to live in, while incorporating defensive

measures against wildfire. The basic objective of the Committee shall be to ensure that all construction and landscaping in the Project enhances the value and safety of all of the property in the Project. When a new home or a major rebuild is to be constructed in the Project, the Committee may choose to authorize a design and construction review agent such as Hoamco to work with the Committee and owner to perform the design and construction reviews. In such a relationship, the Committee will ensure compatibility in the neighborhood and the adherence to the Governing Documents and the construction review agent such as Hoamco will be responsible for the technical design and construction reviews.

7.1. Authority. The Committee will oversee new construction, remodeling, expansion, and landscaping within the Project. The Committee must obtain the prior approval of the Board of Directors for any deviations from the Guidelines or the policies or procedures of the Committee.

7.1.1. The Committee shall deliver to the Board, the application and drawings or plans of any new construction, remodeling, landscaping or other Improvement that the Committee has reviewed, and shall recommend to the Board the approval, disapproval or revision.

7.1.2. Despite such recommendation by the Committee, the Board shall make the final decision as to the approval, disapproval or revision of the application and communicate such decision to the applicant

7.2. Chairperson; Committee Composition. The Committee shall consist of at least three (3) members. The Chairperson of the Committee shall be elected by the membership at the annual meeting. The Chairperson of the Committee must be a member of the Board of Directors. In the event the Chairperson of the Committee shall cease to serve as the Chairperson for any reason, the vacancy in such position shall be filled by the Board and the person filling such vacancy shall serve until the next annual meeting of the Association. The Board shall appoint the other members of the Committee and shall fill all vacancies on the Committee. Committee members shall not be required to be an architect or to meet any other particular qualifications of membership, other than being a Member in good standing. Other than the Chairman, the Committee members need not be, but may be, a member of the Board or an officer of the Association. Committee members (other than the Chairperson) shall serve at the pleasure of the Board and shall have no set term of office. Any Committee member may resign at any time by giving written notice to the Board.

7.3. Appointment and Removal. The right to appoint and remove the members of the Committee (other than the Chairman) at any time shall be vested solely in the Board; provided, however, that the Board shall not remove any Committee member unless such removal is approved by the vote more than 50% of the Board members present at a duly called and held Board meeting.

7.4. Duties. When a Member proposes building, remodeling, landscaping a Lot or making any other Improvements, he/she shall notify the Committee in writing. The Committee shall meet with the Member and his/her agent, familiarize them with the Governing Documents, review the proposed construction/landscape plans, and determine whether to approve or disapprove the final plans and specifications. In accordance with applicable statutes, the Committee will periodically inspect the site and the plans and specifications to ensure that the Member is complying with the approved plans and the Governing Documents. The Committee will attempt to, but shall not be required to, resolve differences and disagreements during the construction or landscaping project. If major exceptions or revisions are necessary or an agreement with the Member cannot be reached, the Committee will present the application for approval to the Board, and the Board shall have the final authority to decide whether the plans will be approved.

7.4.1. If the Committee and the Board plan to approve any exceptions to the positioning of a Dwelling or other building on the Lot or to the height of the structure, the Board will notify the Owners of the Lots whose properties are contiguous to and directly across the street for the Lot to be built upon. The Owner who requested the exception will be charged for the mailing costs of such notices. The notified Owners will be given fifteen (15) days to comment on the proposed exceptions. If any of them oppose any exceptions, the Committee will ask the Member and the opponents to meet with a Committee representative and to attempt to reach a solution acceptable to the Board of Directors. If no solution is achieved, the matter will be referred by the Committee to the Board, who will determine whether to grant the exceptions. The decision of the Board shall be final.

7.5. Meetings and Records. The Committee shall meet from time to time as necessary to perform its duties. The Committee shall maintain a written record of its agreements with Members and their agents, and of all its actions. The Committee will maintain copies of all plans and other records involved in its monitoring of any construction or landscaping in the Project.

7.6. Precedents. Approval of one construction project does not require that a subsequent similar or even, identical, project be approved. Each construction project is decided on its own merits, independent of any other project.

7.7. Compensation. Members of the Committee shall not be entitled to compensation for their services; however, any appropriate expenses incurred by any Committee member in the performance of Committee duties will be reimbursed by the Association.

7.8. Security Deposit. Before construction of any Improvement begins, the Member or his/her contractor shall deposit with the Association a security deposit in an amount as determined from time to time by the Board. The Association Treasurer will establish a separate account for such security deposits in the bank used by the Association for its other financial matters, and the security deposit will be deposited in that account. The deposit will be maintained until the Committee determines that the Improvement has been completed in accordance with the approved plans. If the security deposit account requires the payment of fees to the bank, the Association and the Member or its contractor will equally share the cost of the fees. If the account earns interest, the interest will be deposited in the account and will be part of the security deposit that will be returned to the person who furnished the security deposit, upon completion of the construction. If the Association incurs any costs in requiring correction of errors or deviations from the approved plans and specifications, those costs will be deducted from the security deposit.

7.9. Construction Review Process. To begin the design review process, the Architectural Review form must be completed by the applicant Owner. This form can be found in the Guidelines or on the Association website. A preliminary review meeting must be scheduled by contacting the Committee Chairperson. For new Dwelling construction or a major rebuild of a Dwelling, the Committee may work with a construction review service provider such as Hoamco, and, if so, such provider would be introduced into the review process. Such provider will have their own fees (payable by the owner) and requirements. The Owner or Owner's agent shall be invited to the formal review meetings of the Committee and their construction review agent. If the plans are approved, the Committee and their agent will provide written acknowledgement that the approved plans, including any approved amendments, are in compliance with all rules and guidelines in effect at the time of the approval and that the refund of the security deposit requires that construction be completed in accordance with those approved plans. The final approval of the plans and construction by the Committee does not constitute a warranty that the plans or

construction comply with the applicable governmental requirements or engineering or safety standards.

There will be at least (2) formal onsite reviews during construction for the purpose of determining compliance with the approved plans. Within (5) business days after these meetings, a written report will be provided specifying any deficiencies, violations or unapproved variations from the approved plans observed by the Committee. Within (30) days of the final formal review, a written report will be provided the Member (Owner) or his/her agent. If no deficiencies or violations on the approved plans as amended are found, the balance of the security deposit will be promptly released. If deficiencies or violations are found, the security deposit will be withheld until corrected or up to (180) days, whichever is less and will be disbursed in accordance with applicable statutes.

## **ARTICLE VIII WILDLAND FIRE DEFENSE**

8.0. Owner Requirements. All Owners shall practice techniques and maintain the landscaping of their Lots in such manner as to mitigate the risk to life and structures from intrusion of fire from wildland fire exposures and fire exposures from adjacent structures, as well as to minimize the possibility of structure fires spreading to wildland fuels. The Board of Directors shall appoint and maintain a Wildland Fire Committee (the "Firewise Committee") which shall recommend mitigating techniques designed to minimize such conditions.

8.1. Defensible Space Practices. The Firewise Committee will propose and recommend to the Board for adoption by the Board the wildland fire prevention practices as the Firewise Committee determines appropriate and will propose revisions thereto from time to time for consideration and approval by the Board. The Board with the advice and counsel of the Firewise Committee will be responsible for promoting the defensible space practices.

## **ARTICLE IX MISCELLANEOUS**

9.0. Notices. All notices required or permitted to be sent to the Board of Directors will be sent by first class mail, postage prepaid, to the office of the Association as set forth herein, or to such other address as the Board may, from time to time, designate. All notices required or permitted to be sent to any Member will be sent first class mail, postage prepaid (or where permitted by applicable statutes electronically), to the address then on the records of the Association or to such other address as the Member may have designated in writing to the Board of Directors. All notices will be deemed to have been given when mailed (or where permitted by applicable statutes via email), except notices of change of address which will be deemed to have been given when received.

9.1. Waiver. No restriction, condition, obligation, or provision contained in these Bylaws will be deemed to have been abrogated or waived by reason of any failure to enforce it, irrespective of the number of violations and failures to enforce that may occur.

9.2. Invalidity. If any provision or provisions of the Bylaws is or are declared invalid, the invalidity will in no way impair or affect the validity, enforceability, or effect of the remaining provisions of these Bylaws.

9.3. Captions. Captions are inserted in these Bylaws for convenience and reference only, and will not be taken in any way to limit or describe the scope of these Bylaws or any provision thereof.

*CERTIFICATION*

*I hereby certify that the foregoing Bylaws were duly adopted by the Kingswood Estates Unit III Owners Association, Inc. Board of Directors on the 18th day of August, 2013 and by at least 50% of the eligible Members present in person or by absentee ballot and voting at a duly called and held Members' meeting held on the 18th day of August, 2013.*

*Attest:*

*Approved:*

\_\_\_\_\_  
*Val Ripley, Secretary*

\_\_\_\_\_  
*Tray Schreiber, President*