

# BYLAWS OF EDGEWATER RESORT OWNERS ASSOCIATION

## Bylaw 1 NAME

The name of the corporation is the Edgewater Resort Owners Association, a Colorado Nonprofit Corporation, organized under the Colorado Revised Nonprofit Corporation Act (the "Act") and hereinafter referred to as the Association.

## Bylaw 2 PURPOSES

The purposes for which this Association is formed are as set forth in its Articles of Incorporation and in the Declaration of Covenants for Edgewater Resort (the "Declaration"). The words and terms used in these Bylaws will have the same meaning as in the Declaration.

## Bylaw 3 RIGHTS OF THE ASSOCIATION

This Association may exercise any and all rights or privileges given to it under the Articles of Incorporation, the Declaration, these Bylaws, or as may otherwise be provided by law, and may also exercise every other right or privilege reasonably to be inferred therefrom or necessary or convenient to effectuate any such right or privilege.

## Bylaw 4 MEMBERS; MEETINGS

**4.01 Qualifications and Rights.** There will be one class of membership and the qualifications and rights are set forth in the Declaration.

**4.02 Attendance at Meetings.** Any or all of the members may participate in an annual, regular, or special meeting of the members by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting. Any member desiring to attend by any method other than personal attendance will be responsible for making appropriate arrangements for such attendance, including paying the cost thereof.

**4.03 Annual Meetings.** The first meeting of the members will be held on or about September 2, 2006 and each subsequent regular annual meeting of the members will be held on or about the second day of September. Meetings may be held at such places within the State of Colorado as may be designated by the Board of Directors.

**4.04 Special Meetings.** Special meetings of the members may be called at any time by the President of the Association or by the Executive Board, or upon written request of at least twenty five percent of the members.

**4.05 Action by Written Ballot.** Actions by written ballot may be taken as provided by section 7-127-109 of the Act.

**4.06 Notice of Meetings.** Written notice stating the place, day and hour of the members' meeting and, in case of a special meeting of members, the purpose or purposes for which the meeting is called, will be delivered not less than ten (10) days nor more than fifty (50) days before the date of the meeting, personally, by fax, or by mail. As required by the Declaration, notice of the annual meeting will be accompanied by a copy of the proposed budget for the next year. Such notice will be delivered by or at the direction of the Executive Board and will go to each member of record entitled to vote at such meeting. If mailed, such notice will be deemed to be delivered when deposited in the United States Mail addressed to the member at his address as it appears on the membership books of the Association, with postage prepaid. Notice given by any method other than mail will be deemed delivered when sent or given. Failure to deliver such notice or obtain a waiver thereof will not cause the meeting to be lost, but it will be adjourned by the members present for a period not to exceed sixty (60) days until any deficiency in notice or waiver will be supplied. Meetings may be held by any electronic means determined to be reasonable by the Executive Board and designated in the notice of meeting.

**4.07 Quorum.** The presence at the meeting of members entitled to cast, or of proxies entitled to cast, twenty percent of the votes of the membership will constitute a quorum for any action, except as otherwise provided in these Bylaws. If a quorum is present at any time during a meeting it will be deemed present for the remainder of the meeting. If, however, a quorum is

not present or represented at any meeting, the members entitled to vote thereat will have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum will be present or represented. Unless otherwise specifically provided by the Declaration or by statute, all matters coming before a meeting of members at which a proper quorum is in attendance, in person or by proxy, will be decided by the vote of a majority of the votes validly cast at such meeting.

#### 4.08 Proxies.

- 4.08.1 A member entitled to vote may vote or otherwise act in person or by proxy.
- 4.08.2 Without limiting the manner in which a member may appoint a proxy to vote or otherwise act for the member, a member may appoint a proxy by signing an appointment form, either personally or by the member's attorney-in-fact.
- 4.08.3 An appointment of a proxy is effective against the Association when received by the Association. An appointment is valid for eleven months unless a different period is expressly provided in the appointment form.
- 4.08.4 Any complete copy, including an electronically transmitted facsimile, of an appointment of a proxy may be substituted for or used in lieu of the original appointment for any purpose for which the original appointment could be used.
- 4.08.5 An appointment of a proxy is revocable by the member.
- 4.08.6 Appointment of a proxy is revoked by the person appointing the proxy:
  - 4.08.6.1 Attending any meeting and voting in person; or
  - 4.08.6.2 Signing and delivering to the secretary or other Officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.
- 4.08.7 The death or incapacity of the member appointing a proxy does not affect the right of the Association to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other Officer or agent authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.
- 4.08.8 Subject to section 7-127-204 of the Act and to any express limitation on the proxy's authority appearing on the appointment form, the Association is entitled to accept the proxy's vote or other action as that of the member making the appointment.

### Bylaw 5 BOARD OF DIRECTORS

**5.01 Number.** The affairs of this Association will be managed by a Board of three Directors which is referred to herein and in the Declaration as the Executive Board. The only qualification for Directors appointed by the Declarant will be that the Declarant appoint them. With that exception, Directors will be members which, in the case of a business entity such as a corporation, limited liability company, partnership or the like, will include its partners, officers, directors, members, managers, employees and authorized agents. The Executive Board may change the number of Directors by amending these Bylaws. Notwithstanding the foregoing provisions of this section, until the first annual meeting of members the Board may consist of one director.

**5.02 Powers and Duties.** The Executive Board will have the powers and duties set forth in the Declaration, the Articles of Incorporation and otherwise provided by law.

**5.03 Term of Office; Nomination.** At each annual meet elect three Directors for a term of one year. Nomination for annual meeting and may also be made by any member it be received prior to the time the notice of meeting has been

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**5.04 Removal.** Notwithstanding any provision of the Declaration or Bylaws to the contrary, the unit owners, by a vote of sixty-seven percent of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the Declarant.

**5.05 Compensation.** No Director will receive compensation for any service rendered to or for the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of official duties.

**5.06 Delegation of Powers.** If the association delegates powers of the executive board or Officers relating to collection, deposit, transfer, or disbursement of association funds to other persons or to a managing agent, the following will be required:

- 5.06.1 That the other persons or managing agent maintain fidelity insurance coverage or a bond in an amount not less than fifty thousand dollars or such higher amount as the executive board may require;
- 5.06.2 That the other persons or managing agent maintain all funds and accounts of the association separate from the funds and accounts of other associations managed by the other persons or managing agent and maintain all reserve accounts of each association so managed separate from operational accounts of the association;
- 5.06.3 That an annual accounting for association funds and a financial statement be prepared and presented to the association by the managing agent, a public accountant, or a certified public accountant.

## **Bylaw 6 MEETINGS OF THE EXECUTIVE BOARD**

**6.01 Regular Meetings.** Regular meetings of the Executive Board will be held at least twice annually. One such meeting will be held, without notice, immediately following the annual membership meeting at the same location. The second required meeting will be held prior to the time that the notice of annual meeting is sent to members and will include approval of the next yearly budget to be considered by the members at the annual meeting. Additional regular meetings may be scheduled without notice, at such place and hour as may be fixed by resolution of the Board.

**6.02 Special Meetings.** Special meetings of the Executive Board will be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director.

**6.03 Action Taken Without a Meeting.** The Directors will have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the Directors. Any action so approved will have the same effect as though taken at a meeting. The Directors are expressly authorized to hold meetings by telephone conference call subject to the quorum requirements stated herein.

**6.04 Attendance at Meetings.** Any or all of the Directors may participate in an annual, regular, or special meeting of the Directors by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting. Any Director desiring to attend by any method other than personal attendance will be responsible for making appropriate arrangements for such attendance, including paying the cost thereof. Unless other arrangements have been approved for voting by the Executive Board, Directors attending electronically will be deemed to waive their right to vote secretly by written ballot if such voting is allowed or required; all Directors so attending will vote orally so the vote may be heard by all those in personal attendance.

**6.05 Quorum.** A majority of the number of Directors in office immediately before the meeting begins will constitute a quorum for the transaction of business. If a quorum is present at any time during a meeting it will be deemed present for the remainder of the meeting.

## **Bylaw 7 OFFICERS AND THEIR DUTIES**

**7.01 Enumeration of Offices.** The Officers of this Association will be a President and a Vice President, a Secretary, a Treasurer, and such other Officers as the Executive Board may from time to time by resolution create.

**7.02 Election of Officers.** The election of Officers will take place at the Annual Meeting of the Executive Board following the Annual Meeting of the members.

**7.03 Term.** The Officers of this Association will be elected annually by the Executive Board and each will hold office for one (1) year unless the Officer will sooner resign or be removed or will otherwise be disqualified to serve.

**7.04 Special Appointments.** The Executive Board may elect such other Officers as the affairs of the Association may require, each of whom will hold office for such period, have such authority and perform such duties as the Executive Board may, from time to time, determine. Any of the duties delineated in this Bylaw may be delegated by the appropriate Officers, subject to the prior approval of the Executive Board.

**7.05 Resignation and Removal.** Any Officer may be removed from office with or without cause by the Executive Board. Any Officer may resign at any time by giving written notice to the Executive Board, the President, or the Secretary. Such resignation will 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 will not be necessary to make it effective.

**7.06 Vacancies.** A vacancy in any office may be filled by appointment of the Executive Board. The Officer appointed to such vacancy will serve for the remainder of the term of the Officer replaced.

**7.07 Multiple Offices.** Any two or more offices, except for the offices of President and Vice President, may be held by the same person.

**7.08 Duties.** The duties of the Officers are as follows:

**7.08.1 President** The president will preside at all meetings of the Executive Board and members, will see that orders and resolutions of the Executive Board are carried out, will sign all deeds and other written instruments; and will co-sign all promissory notes.

**7.08.2 Vice President** The Vice President will act in the place and stead of the President in the event of the President's absence, inability, or refusal to act and will exercise and discharge such other duties as may be required of the Vice President by the Executive Board.

**7.08.3 Secretary** The Secretary or a designated agent will record the votes and keep the minutes of all meetings and proceedings of the Executive Board and of the members; will keep the corporate seal of the Association, if any, and affix it on all papers requiring said seal; will serve notice of meetings of the Executive Board and of the members; will keep appropriate records showing the members of the Association together with their addresses; and will perform such other duties as are required by the Executive Board.

**7.08.4 Treasurer** The Treasurer, property manager or other designated agent, will receive and deposit in appropriate bank accounts all monies of the Association and will disburse such funds as directed by resolution of the Executive Board; will sign, or authorize a designated agent to sign, all checks and promissory notes of account; will cause an annual compilation report of the Association books to be made at the completion of each fiscal year or, at the option of the Executive Board or as may be required by the Declaration, an annual review or other financial statement as may be required; and will assist in the preparation of an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting.

## **Bylaw 8 BOOKS AND RECORDS**

**8.01 Record of Meetings.** The Association will keep as permanent records minutes of all meetings of its members and Executive Board, a record of all actions taken by the members or Executive Board without a meeting, a record of all actions taken by a committee of the Executive Board in place of the Executive Board on behalf of the Association, and a record of all waivers of notices of meetings of members and of the Executive Board or any committee of the Executive Board.

**8.02 Accounting Records.** The Association will maintain appropriate accounting records.

**8.03 Membership Records.** The Association will maintain a record of its members in a form that permits preparation of a list of the name and address of all members in alphabetical order showing the number of votes each member is entitled to vote.

**8.04 Form of Records.** The Association will maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

**8.05 Records to be Maintained at Office.** The Association will keep a copy of each of the following records at its principal office:

- 8.05.1 Its Articles of Incorporation
- 8.05.2 Its Bylaws
- 8.05.3 Resolutions adopted by its Executive Board relating to the characteristics, qualifications, rights, limitations, and obligations of members
- 8.05.4 The minutes of all meetings of members and records of all action taken by members without a meeting for the past three years
- 8.05.5 All written communications within the past three years to members generally as members
- 8.05.6 A list of the names and business or home addresses of its current Directors and Officers

- 8.05.7 A copy of its most recent corporate report delivered to the secretary of state under section 7-136-107 of the Act
- 8.05.8 All financial statements prepared for periods ending during the last three years that a member could have requested under section 7-136-106 of the Act.

#### **Bylaw 9**

### **STANDARDS OF CONDUCT FOR DIRECTORS AND OFFICERS**

**9.01 Discharge of Duties.** Each Director will discharge the Director's duties as a Director, including the Director's duties as a member of a committee of the board, and each Officer with discretionary authority will discharge the Officer's duties under that authority:

- 9.01.1 In good faith;
- 9.01.2 With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- 9.01.3 In a manner the Director or Officer reasonably believes to be in the best interests of the Association.

**9.02 Reliance.** In discharging duties, a Director or Officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- 9.02.1 One or more Officers or employees of the Association whom the Director or Officer reasonably believes to be reliable and competent in the matters presented;
- 9.02.2 Legal counsel, a public accountant, or another person as to matters the Director or Officer reasonably believes are within such person's professional or expert competence;
- 9.02.3 In the case of a Director, a committee of the Executive Board of which the Director is not a member if the Director reasonably believes the committee merits confidence.

**9.03 Good Faith.** A Director or Officer is not acting in good faith if the Director or Officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection 2 of this section unwarranted.

**9.04 Liability.** A Director or Officer is not liable as such to the Association or its members for any action taken or omitted to be taken as a Director or Officer, as the case may be, if, in connection with such action or omission, the Director or Officer performed the duties of the position in compliance with this section.

**9.05 Trustee.** A Director, regardless of title, will not be deemed to be a trustee with respect to the Association or with respect to any property held or administered by the Association including, without limitation, property that may be subject to restrictions imposed by the donor or transferor of such property.

**9.06 Declarant Appointees.** If appointed by the Declarant, in the performance of their duties, the Officers and members of the Executive Board are required to exercise the care required of fiduciaries of the unit owners.

#### **Bylaw 10**

### **INDEMNIFICATION OF DIRECTORS AND OFFICERS**

**10.01 General Rule.** The Association will indemnify every Director or Officer to the full extent permitted by Colorado law. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason of or arising out of or in connection with the foregoing indemnification provision will be treated and handled by the Association as common expenses; provided, however that nothing in this Bylaw will be deemed to obligate the Association to indemnify any member who is or has been an Officer or Director of the Association with respect to any duties or obligations assumed or liabilities incurred by them as an individual owner and not as an Officer or Director of the Association.

**10.02 Insurance.** The Association may purchase and maintain insurance on behalf of a person who is or was a Director, Officer, employee, fiduciary, or agent of the Association or who, while a Director, Officer, employee, fiduciary, or agent of the Association, is or was serving at the request of the Association as a Director, Officer, partner, member, manager, trustee, employee, fiduciary, or agent of another domestic or foreign corporation, nonprofit corporation, or other person or of an employee benefit plan, against liability asserted against or incurred by the person in that capacity or arising from the person's status as a Director, Officer, employee, fiduciary, or agent, whether or not the Association would have power to indemnify the person against the same liability under section 7-129-102, 7-129-103, or 7-129-107 of the Act. Any such insurance may be procured from any insurance company designated by the Executive Board, whether such insurance company is formed under the laws of this state or any other jurisdiction of the United States or elsewhere, including any insurance company in which the Association has an equity or any other interest through stock ownership or otherwise.

**Bylaw 11  
AMENDMENT**

These Bylaws may be amended by majority vote at a regular meeting of the Directors, or at a special meeting of the Directors called for that purpose.

**Bylaw 12  
MISCELLANEOUS**

**12.01 Fiscal Year.** The fiscal year of the Association will be the calendar year.

**12.02 Conflict of Documents.** In case of any conflict between the Declaration and these Bylaws, the Declaration will control. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles will control. In case of any conflict between the Declaration and the Articles of Incorporation, the Declaration will control.

IN WITNESS WHEREOF, the Directors of Edgewater Resort Owners Association have approved and adopted these Bylaws effective the 10<sup>th</sup> day of June, 2006

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Paul Chavoustie

I DO HEREBY CERTIFY that I am the duly elected and acting Secretary of Edgewater Resort Owners Association, a Colorado Nonprofit Corporation. The foregoing Bylaws were adopted by the Executive Board and as of 10<sup>th</sup> day of June, 2006, are in full force and effect.

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Paige Chavoustie, Secretary

**RESOLUTION RECOMMENDING AMENDMENTS TO BYLAWS  
EDGEWATER OWNERS ASSOCIATION**

BE IT RESOLVED by the Board of Directors of the Edgewater Owners Association, a Colorado nonprofit corporation, that the following amendment to the Bylaws of the Association is recommended for adoption by the members at the 2012 annual meeting of members to be held October 20, 2012, Section 5.03 of the Bylaws shall be amended in its entirety to read as follows:

**5.03 Term of Office; Nomination;** Beginning at the 2012 annual meeting of the members, the members shall elect one (1) Director for a term of one (1) year and one (1) Director for a term of two (2) years and one (1) Director for a term of three years. Thereafter, Directors shall be elected for staggered three year terms, so that one (1) Director is elected at each annual meeting. Nomination for election to the Executive Board may be made from the floor at the annual meeting and may also be made by any member in writing addressed to the Executive Board, which nomination must be received prior to the time the notice of meeting has been sent to members. The Board may designate a nominating committee or other committee to make nominations or recommendations for the election of Directors. Any vacancy on the Board shall be filled by the majority vote of the remaining Director or Directors, even though they may constitute less than a quorum of the Executive Board. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office and shall hold such office until his successor is duly elected and shall qualify.

APPROVED AND ADOPTED at the annual meeting of the members held on Saturday, October 20, 2012.

EDGEWATER OWNERS ASSOCIATION,  
a Colorado nonprofit corporation

BY:   
President, *Steve Johnson*

ATTEST:

  
Secretary, *Steve McLaughlin*