

**BYLAWS FOR WATERS EDGE HOMEOWNERS ASSOCIATION**

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**September 18, 2015**

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# **BYLAWS OF WATERS EDGE HOME OWNERS' ASSOCIATION**

## **ARTICLE 1**

### **BYLAW APPLICABILITY/DEFINITIONS**

1.1 Purpose of Bylaws. These Bylaws are adopted for the regulation and management of the affairs of Waters Edge Home Owners' Association, a Utah nonprofit corporation (the "Association"), organized to be the association to which reference is made in the Declaration of Covenants, Conditions, Restrictions for the Waters Edge Subdivision, as amended or supplemented from time to time (the "Declaration"), to perform the functions as provided in the Declaration and to further the interests of "Owner(s)" of "Lots" within the Development.

1.2 Definitions. The capitalized terms used in the Bylaws shall have the same meaning given to them in the Declaration, unless otherwise specifically stated.

1.3 Bylaw Applicability. The provisions of these Bylaws are binding upon the Association and the Owners. All present and future Owners shall be subject to these Bylaws, as amended from time to time. Acquisition of any Lot constitutes an acknowledgment that the Owner has agreed to and ratified these Bylaws and will comply with them.

## **ARTICLE 2**

### **ASSOCIATION**

2.1 Composition. All of the Owners acting as a group in accordance with the Governing Documents shall constitute the Association. Except for matters specifically reserved for a vote of the Owners, the Board, on behalf of the Owners, shall administer the Association's affairs.

2.2 Annual Meeting. Annual meetings shall be held once a year. The Board shall determine the date, time, and place of the annual meeting. The Association shall send notice of annual meetings at least 10 days but not more than 60 days in advance of the meeting. At the annual meeting the Association shall conduct the following business in any order the Board sees fit:

- 2.2.1 Roll call and verification of quorum;
- 2.2.2 Approval of minutes from preceding annual meeting;
- 2.2.3 Reports of officers;
- 2.2.4 Special committee reports;
- 2.2.5 Election of Directors;
- 2.2.6 Review of reserve analysis;

2.2.7 Unfinished business from preceding annual meeting; and

2.2.8 New business.

2.3 Special Meeting of Owners. Special meetings may be held at any time for any purpose. A special meeting may be called by a majority of the Directors or upon petition of at least 20% of the Owners in good standing. The Association shall schedule and send notice of a special meeting within 30 days of request. The notice of a special meeting shall state the date, time, place, and purpose of the meeting. The Association shall send notice of a special meeting at least 10 days in advance of the meeting. No business may be transacted at a special meeting except as stated in the notice.

2.4 Place of Meeting. Meetings shall be held at a place designated by the Board and stated in the notice of meeting. Meetings shall be held in Utah County, State of Utah.

2.5 Conduct of Meeting. The President shall preside over all meeting of the Association. The Secretary shall keep the minutes of the meeting and take record of all resolutions adopted at the meeting.

2.6 Quorum. A quorum shall be the Owners present in person or by proxy at a meeting.

2.7 Voting. The Association shall initially have the following two classes of votes:

2.7.1 Class A. Class A Members shall be all Owners other than the Declarant until the Class B membership ceases. Class A Members shall be entitled to one vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.

2.7.2 Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to 2 votes for every Lot owned by Declarant plus 2 votes for every class A vote. The Class B Membership shall automatically cease and be converted to a Class A membership upon the sale of the last Lot of which Declarant is considered the Owner.

2.7.3 If a Lot is owned by more than one Person and multiple Owners are present at a meeting, the vote appertaining to that Lot shall be cast by agreement of a majority of the Owners of such Lot. If a Lot is owned by more than one Person and a single Owner is present at a meeting, the vote appertaining to that Lot shall be cast by the Owner present. The Association may conclusively presume the consent of all a Lot's Owners when a vote is cast by a Lot with multiple Owners.

2.7.4 Except where a greater number is required by the Governing Documents or the Nonprofit Act and elections of Directors, any decision requiring Owner consent shall be passed by majority vote of a quorum.

2.8 Good Standing. An Owner shall be in good standing if he has paid assessments levied against his Lot, including late fees, interest, fines, collection costs, and attorney fees. An Owner must have paid in full at least three days prior to the meeting or action.

2.9 Proxies. An Owner in good standing may vote or otherwise act by proxy. An Owner may appoint a proxy by signing a proxy appointment form. The proxy appointment form may be submitted to the Association in person, by mail, or electronically. The proxy appointment form must name a proxy, be dated, and signed by the Owner. Any proxy appointment form that does not contain a proxies name, date, or signature shall be void. A proxy appointment form is valid until revoked by the Owner's attendance at a meeting, a signed and dated revocation delivered to the Association, a subsequent proxy appointment, notice of death or incapacity of the Owner, or the passage of 11 months.

2.10 Mail-in Ballots. Any action requiring a vote of the Owners, except election of Directors, may be taken by mail-in ballots. Action by mail-in ballot shall comply with the procedures set forth in Nonprofit Act Section 16-6a-709, as amended from time to time. A combination of mail-in ballots, ballots collected electronically, and ballots cast in person may be used.

2.11 Written Consent in Lieu of Vote. Any action requiring a vote of the Owners, except election of Directors, may be taken by written consent. Action by written consent shall comply with the procedures set forth in Nonprofit Act Section 16-6a-707, as amended from time to time. Written consents may be collected electronically.

2.12 Record Date. The record date for determining which people are entitled to vote shall be the date notice of the meeting or action is sent. The Board may change the record date prior to sending notice of the action. The Owners shown on the records of the Association on the record date shall be the people entitled to vote on an action.

### ARTICLE 3

#### BOARD OF DIRECTORS

3.1 Number and Qualification of Directors. There shall be five Directors. Except for Directors appointed by Declarant, Directors must be Members in good standing.

3.2 Selection and Term of Directors. Prior to the Turnover Meeting, Directors shall be appointed by the Declarant. After the Turnover Meeting, Directors shall be elected by the Owners. Directors shall serve for a term of two years and shall serve until their successors have been elected. There is no limit on the number of terms an Owner may serve as a Director. Directors terms shall be staggered as follows: (i) two Directors shall be elected in years ending with an even number; and (ii) three Director shall be elected in years ending with an odd number. At the initial election of the Directors, the newly elected Directors shall determine their terms, but must do so such that this same staggering occurs.

3.3 Vacancies. After the Turnover Meeting, Director vacancies for any reason other than removal by vote of the Association shall be filled by vote of a majority of the remaining Directors. The Board shall conduct a special meeting for the purpose of filling the vacancy. The meeting shall be valid even if a quorum is not present. Each replacement Director shall serve until the next annual Owners' meeting, then the vacancy shall be filled by vote of the Owners.

The replacement Director elected by the Owners shall serve the remaining term of the replaced Director.

3.4 Removal of Directors. After the Turnover Meeting, a Director may be removed at a Special Meeting with or without cause by vote of a majority of all Owners. If the Owners propose to remove a Director, the Association shall give the Director and Owners at least 15 day written notice of the meeting and the purpose of the meeting. The Director shall be given an opportunity to be heard at the meeting prior to the vote to remove him. At any meeting where a Director is removed by the Owners, the Owners must vote to replace the Director. The replacement will serve the remaining term of the removed Director.

After the Turnover Meeting, any Director who allows his Assessments to become more than 90 days past due may be removed and replaced by vote of a majority of the Board. The Board shall give the Director 10 day written notice to cure the default prior to voting to remove the Director.

After the Turnover Meeting, any Director who fails to attend three successive Board Meetings may be removed and replaced by a vote of a majority of the Board. However, if any Director fails to attend three successive Board Meetings, but then attends a Board Meeting before a majority of the Board takes action to remove and replace that Director, the opportunity for removal based on those three successive absences terminates.

3.5 Organization Meeting. The Directors shall hold a meeting following the annual Owners meeting for the purpose of electing officers. Notice of the organization meeting shall be given verbally at the annual meeting. The organization meeting shall be conducted at the next regular meeting of the Board or may be conducted at a special meeting.

3.6 Regular Meetings. The Board shall hold regular meetings. The Board shall determine frequency, times, and locations of regular meetings. However, the Board shall conduct at least two regular meetings per year. Notice of regular meetings shall be given to each Director at least three days prior to the meeting.

3.7 Special Meetings of the Board. A Director may call a special meeting of the Board. Notice shall be given at least three days prior to the meeting. Notice shall state the time, place, and purpose of the meeting.

3.8 Conduct of Meetings. The President shall preside over all meetings of the Board. The Secretary shall take minutes of the Board meetings and shall make record of all resolutions.

3.9 Quorum. A majority of the Board shall constitute a quorum. A quorum shall be required to conduct business at a meeting. If less than a quorum is present at a meeting, the majority of those present may adjourn the meeting until such time as a quorum is present. Once established, a quorum will be present even if Directors leave. Directors may attend a meeting telephonically.

3.10 Notice and Waiver of Meeting Notice. Notice to Directors may be personally delivered, mailed, or delivered by any available electronic mean, including, without limitation:

text, email, fax, or posting on the website. Directors may waive notice of meetings in writing. A waiver shall be deemed equivalent to notice. Attendance of a Director at a meeting will be considered a waiver of notice, unless the Director attends to dispute notice. If all Directors are present at a meeting, notice of the meeting is waived and any business may be conducted.

3.11 Action without Meeting. Any action by the Board may be taken without a meeting if all the Directors submit a written vote either for, against, or abstaining from the action. Written votes may be given in person, by mail, or electronically. The Association shall file the written votes with its record of minutes.

3.12 Powers and Duties. The Board shall manage the affairs and business of the Association. The Board is vested with all power and authority necessary to administer the affairs of the Association in accordance with the Governing Documents. The Board may do any act required or allowed by the Governing Documents, the Community Association Act, the Nonprofit Act, or any other rule of law. Subject to the limitations contained in the Declaration, Bylaws, or Community Association Act, the Board shall have the following authority:

3.12.1 Prepare an annual budget and establish what constitutes a Common Expense;

3.12.2 Adopt and amend rules, regulations, policies, and procedures governing the Common Areas, administration of the Association, and to enforce and interpret the Governing Documents;

3.12.3 Delegate authority to a managing agent to act on behalf of the Association;

3.12.4 Provide for the maintenance, repair, and replacement of the Common Areas and exterior of Living Units;

3.12.5 Hire, contract for, and terminate personnel or contractors necessary for the maintenance repair and replacement of the Common Areas, exterior of Living Units, and administration of Association business. Provide for the compensation of personnel. Purchase supplies, equipment, and materials for use in the Association;

3.12.6 Open and maintain bank accounts on behalf of the Association. Designate authorized signers for the bank accounts;

3.12.7 File lawsuits or initiate other legal proceedings on behalf of the Association;

3.12.8 Defend lawsuits, administrative actions, and other legal proceedings against the Association;

3.12.9 Enter into contracts on behalf of the Association;

3.12.10 Pay costs of any services rendered to the Project or multiple Owners, but not billed to the Owners individually;



3.12.11 Keep books with detailed accounts of the receipts and expenditures of the Association. Make the books available to the Owners as required by the Community Association Act and Nonprofit Act. The books shall be kept in accordance with generally accepted accounting practices. Upon resolution by the Board, retain an independent auditor to audit the books;

3.12.12 Grant easements, licenses, or permission over, under, and through the Common Areas;

3.12.13 Upon approval by 67% of the Members, to convey Common Areas;

3.12.14 Create committees;

3.12.15 Any other act allowed or required by the Governing Documents, the Community Association Act, or the Nonprofit Act;

3.12.16 Any act allowed or required to be done in the name of the Association.

3.13 Manager. The Board shall employ a manager to perform such duties and services as the Board shall authorize. The Board may delegate to the manager all powers granted to the Board and officers by the Governing Documents. However, the manager must obtain the Board's written consent to exercise the powers listed in Bylaw Sections 3.12.

3.14 Compensation. Directors shall not be compensated for their work. However, Directors may seek reimbursement for actual costs and mileage incurred during their service.

3.15 Limitation of Liability. The Directors shall not be liable to the Owners for any mistake of judgment, negligence, or other errors, unless it was by willful misconduct or criminal conduct. The Association shall indemnify and hold the Directors harmless against liability to third parties for actions taken on behalf of the Association, while acting in their capacity as Director, unless the action constitutes willful misconduct or criminal conduct.

## ARTICLE 4

### OFFICERS

4.1 Election and Term of Officers. The Board shall elect the officers of the Association. Officers shall be elected from the Directors. Officers shall serve one-year terms and shall serve until their successor is elected.

4.2 Removal of Officers. The Board may remove any officer with or without cause by affirmative vote of a majority of a quorum of the Board. If an officer is removed, the Board shall replace them.

4.3 Offices. The Association officers shall be president, vice president, secretary, and treasurer. The Board may appoint assistant officers, who need not be Directors, as it may deem necessary. Except for the president, the same person may hold two offices.

4.3.1 President. The president shall be the chief executive officer. He shall preside at meetings of the Association and the Board. He shall be an unofficial member of all committees. He shall have general and active management of Association business. He shall see that all resolutions and policies of the Association are executed.

4.3.2 Vice President. The vice president shall perform the duties and exercise the powers of the president in the absence or disability of the president. If the president and vice president are unable to act, the Board shall appoint a Director to fulfill the duties on an interim basis.

4.3.3 Secretary. The secretary shall attend all meetings and take minutes thereof. He shall also make record of all resolutions, rule, policies, and procedures. He shall give or cause to be given notice of all meetings. He shall compile or cause to be compiled a complete list of the owners and their contact information.

4.3.4 Treasurer. The treasurer shall oversee the finances of the Association. He shall be responsible to ensure that the Association has full and accurate records of income and expenses. He shall give financial reports at regular Board meetings and the annual Owners' meeting.

4.4 Delegation of Duties. The Association officers may delegate any of their duties to a manager or to committee. However, the officers shall be responsible to oversee and ensure that the duties so delegated are being properly discharged.

4.5 Compensation. Officers shall not be compensated for their work. However, officers may seek reimbursement for actual costs and mileage incurred during their service.

## ARTICLE 5

### NOTICE

5.1 Manner of Notice. All notices and other communications required under the Governing Documents shall be in writing.

5.1.1 Notices to Owners may be delivered using the following methods:

(a) By professional courier service or First-class U.S. mail, postage prepaid, to the address of the Lot or to any other address designated by the Owner in writing to the Association;

(b) By hand to the address of the Lot or to any other address designated by the Owner in writing to the Association;

(c) By posting on the Association website; or

(d) By facsimile, electronic mail, or any other electronic means to an Owner's number or address as designated by the Owner in writing to the Association.

5.1.2 Notice to the Association may be delivered using the following methods:

(a) By professional courier service or First-class U.S. mail, postage prepaid, to the principal office of the Association as designated in writing to the Owners; or

(b) By facsimile, electronic mail, or any other electronic means to the Associations official electronic contact as designated in writing to the Owners.

(c) Notices sent via courier or mail shall be deemed received 3 days after being sent. Notices hand delivered or sent via electronic means, including, but not limited to the Association website and shall be deemed received upon delivery or being sent.

5.2 Waiver of Notice. Whenever any notice is required under the Governing Documents, the Community Association Act, or the Nonprofit Act, an owner may waive notice in writing. The waiver may be signed before or after the time for notice. A waiver of notice shall be equivalent to notice.

## ARTICLE 6

### FINANCES

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year.

6.2 Checks, Agreements, Contracts. All checks, contracts, deeds, leases, and other instruments used for expenditures or obligations may be executed by any person authorized by the Board.

6.3 Availability of Records. Association financial records shall be available as provided by the Community Association Act and Nonprofit Act.

## ARTICLE 7

### AMENDMENT TO BYLAWS

7.1 Amendments. These Bylaws may be amended by the Board, unless it would result in changing the rights, privileges, preferences, restrictions, or conditions of a membership class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class. These Bylaws may also be amended at a Special Meeting by a majority vote of all Owners. Prior to the Turnover Meeting, the Declarant shall have the right to unilaterally amend these Bylaws, notwithstanding any other provision to the contrary.

7.2 Recording. Any amendment to these Bylaws shall become effective on the date it is recorded in the Utah County Recorder's Office.

**ARTICLE 8**

**MISCELLANEOUS**

8.1 Office. The principal office of the Association shall be located at any place within the State of Utah which may be designated from time to time by the Board.

8.2 Conflicts. The Bylaws are subordinate to any conflicting provisions in the Community Association Act, the Nonprofit Act, the Articles, the Map, or the Declaration. The Bylaws are superior to the rules, regulations, and policies of the Association.

8.3 Severability. If any provision of these Bylaws is held by a court of law to be invalid, the validity of the remainder of these Bylaws shall not be affected.

8.4 Waiver. No provision of these Bylaws shall be deemed to be waived because of a failure to enforce the provision.

8.5 Captions. The captions contained in these Bylaws are for convenience only. The captions shall not be used to interpret, limit, or enlarge the provisions of these Bylaws.

8.6 Gender, etc. Whenever the context so requires, the singular shall include the plural and vice versa. The use of any gender shall include all genders.

IN WITNESS WHEREOF, the Declarant has caused these Bylaws to be executed by its duly authorized officers.

DATED: \_\_\_\_\_

**DECLARANT:**

**FLAGSHIP DEVELOPMENT, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF UTAH )  
:ss.

County of \_\_\_\_\_ )

On this \_\_\_ day of \_\_\_\_\_, 2015, personally appeared before me \_\_\_\_\_ who being by me duly sworn, did say that they are the authorized agent of the Declarant authorized to execute these Bylaws and did certify that these Bylaws were approved by Declarant’s members.

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NOTARY PUBLIC