

BYLAWS  
OF  
COLONY BILTMORE-GREENS HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the corporation is COLONY BILTMORE-GREENS HOMEOWNERS' ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 16625 S. Desert Foothills Parkway, Phoenix, AZ 85048~~1645 East Missouri, Phoenix, Arizona 85016~~, but meetings of members and directors may be held at such places within Maricopa County, Arizona~~the State of Arizona, County of Maricopa~~, as may be designated by the Board of Directors.

ARTICLE II

MEETING OF MEMBERS

Section 1. Annual Meeting. The Annual meeting of the members shall be held each year on a date between October 1<sup>st</sup> and December 15<sup>th</sup> of each year as determined by the Board of Directors at its September Board of Directors Meeting on the first Saturday in December.

Section 2. Special Meetings. Special Meetings of the members may be called at any time by the President or by a majority of the Board of directors, or upon written request signed by one-fourth (1/4) of the members of any either class.

Section 3. Electronic Meetings. The Board of Directors may, in its sole discretion, determine that any meeting of the members shall not be held at any place, but may instead be held solely by means of remote communication. Participation in such meeting held by remote communication shall constitute presence in person at the meeting for all purposes, including quorum and voting. Member attendance shall be documented by an officer assigned to the task or other person designated. The meeting minutes must be signed by the Secretary or other officer present.

Section 43. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the

meeting, by mailing a copy of such notice, postage prepaid, ~~at least 15~~not less than ten (10) days, but not more than fifty (50) days, before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association 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.

Section 54. Quorum. At the Annual Meeting or a special meeting of the members at which voting is occurring, a quorum will be twenty-five percent (25%) of those Owners eligible to vote in person, by mail in or electronic ballot, except as otherwise provided in the CC&Rs, Articles or these Bylaws. ~~The presence at a meeting of members entitled to cast, or proxies entitled to cast, one tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action, except as otherwise provide in the Articles of Incorporation, the Declaration or these by laws.~~ If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum ~~as aforesaid~~ shall be present or be represented.

~~Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.~~

Section 6. Voting-By Mail. When Directors are to be elected or any other matter is submitted to a vote of the members, such vote may be conducted ~~by mail~~ in such a manner as the Board of Directors shall determine, including ballots sent via mail, email, electronic voting, or a combination of these methods. ~~In the event that a vote is taken by mail, the return by members of ten percent (10%) of the eligible Class A ballots and ten percent (10%) of the eligible Class B ballots shall validate the vote and satisfy any quorum requirement. Unless otherwise required by statute, the Declaration, or these Bylaws, a majority vote of those voting by mail shall be required to elect Directors or carry a matter put to such vote.~~

### ARTICLE III

#### BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 1. Number. The Affairs of the ~~is~~ Association shall be managed by a ~~B~~board of from ~~three-five (5) to nine-seven (7)~~ directors as determined by the then current Board of Directors. ~~Eighty per cent (80%) of the directors must be members of the Association. Any calculation resulting in a real number ending in .4 or less shall be truncated to an integer; any calculation resulting in a real number ending in .5 or greater shall be rounded up to the next higher integer.~~

Section 2. Term of Office. ~~Commencing with the first annual meeting of the Members held after this amendment is duly adopted, the directors' terms shall be staggered as follows: a five person Board shall consist of three (3) two- (2) year terms, and two (2) one- (1) year terms; a seven person Board shall consist of four (4) two- (2) year terms, and three (3) one (1) year terms. After the fulfillment of the above-mentioned staggered terms, all subsequently elected directors' terms shall be two (2) years, until the director's successor is elected, designated or appointed and qualified, until the director's resignation or removal or until there is a decrease in the number of directors. Any increase in the number of Board members prior to an election must provide sufficient time to allow the Members to vote on any additional candidates.~~——

Section 3. Removal. Directors may be removed from office at any regular or special meeting, pursuant to Arizona law, which outlines the following procedure:

- A. Petition for Removal of Director Requirements: A petition must be presented to the board for removal of a Director that is signed by the number of persons who are entitled to cast at least 25% of the votes in the association;
- B. Special Meeting: The special meeting shall be noticed and held within 30 days after receipt of the petition for removal. The notice of this special meeting must be given to the Members at least ten (10) days prior to the meeting;
- C. Quorum: A quorum for the removal meeting purpose is met if at least 20% of the votes are present at the meeting in person or as otherwise permitted by law;
- D. Percentage Required to Remove Director: A member of the board can be removed from office with or without cause by a majority vote of the members entitled to vote and voting on the matter at a meeting of the members called for the removal purpose. A quorum must be present;
- E. Retention of Documents: The board must retain documents related to proposed removal for at least one year after the special meeting and shall permit inspection of these records by members;
- F. Only One Removal Attempt Per Term: A petition for removal of the same member of the board shall not be submitted more than once during each term of office for that member.

Section 4. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the vote of a majority of the remaining Directors though less than a quorum of the Board of Directors. A Director elected to fill the vacancy shall be elected for the unexpired term of his or her predecessor in office, but only until the next election.

Section 5. Compensation. Directors and Officers as such shall receive no compensation for their services. However, any Director may be reimbursed for expenses incurred in the performance of his or her duties.

#### ARTICLE IV MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall as necessary to conduct association business, with four (4) days' notice to the Membership. Notice to Members of meetings of the Board of Directors is not required if emergency circumstances require action by the Board before notice can be given. Any such action will be reviewed at the next regular Board meeting and entered into the minutes of the meeting.

Section 2. Special Meetings. Special Meetings of the ~~B~~oard of ~~d~~irectors shall be held when called by the ~~P~~resident of the Association, or by any two directors, after not less than three (3) days' notice to each director. Notice of a special meeting may be waived in writing by all directors.

Section 3. Quorum. A majority of the directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the ~~B~~oard.

Section 4. Emergency Meetings. An emergency meeting of the Board of Directors may be called to discuss business or take action that cannot be delayed until the next regularly scheduled board meeting. The Board may only act on emergency matters at the emergency meeting. The minutes of the emergency meeting shall state the reason necessitating the emergency meeting. The minutes of the emergency meeting shall be read and approved at the next regularly scheduled meeting of the Board of Directors.

Section 5. Executive Sessions. The Board of Directors may meet in a closed session to discuss the following, or as authorized by A.R.S. Section 33-1804.

- A. Legal advice from an attorney for the board or the association. On final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, the board may disclose information about that matter in an open meeting except for matters that are required to remain confidential by the terms of a settlement agreement or judgment.
- B. Pending or contemplated litigation.
- C. Personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association, including records of the association directly related to the personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association.
- D. Matters relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the association or an individual employee of a contractor of the association who works under the direction of the association.
- E. Discussion of a member's appeal of any violation cited or penalty imposed by the association except on request of the affected member that the meeting be held in an open session.

~~Section 5. Action Taken Without A Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of all the directors.~~

## ARTICLE V

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The ~~b~~Board of ~~D~~Directors shall have power to:

- (a) In compliance with the CC&Rs, A~~a~~adopt and publish rules and regulations governing the use of the common area and facilities and the personal conduct of the members and their guests thereon and to establish penalties of the infraction thereof;

~~(a)~~(b) Make and contract for the repairs, additions, and improvements to or alterations to the Common Area in accordance with the CC&Rs and these Bylaws;

~~(b)~~(c) Ssuspend the voting rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

~~(c)~~(d) EExercise 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 these By~~L~~aws, the Articles of Incorporation, or the ~~Declaration~~CC&Rs;

~~(d)~~(e) Ddeclare the office of a member of the ~~B~~board of ~~d~~Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the board of directors; and

~~(e)~~(f) Employ a manager, independent contractor, or such other employees as they deem necessary and to prescribe their duties.

~~(g)~~ Aadopt, amend and rescind By~~L~~aws for the Association after a 30 day notification to all owners and publishing changes on the website for comment.

~~(f)~~ -

Section 2. Duties. It shall be the duty of the ~~B~~board of ~~D~~irectors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by any member entitled to vote.
- (b) supervise all officers, agents and employees of the Association and see that their duties are properly performed;
- (c) as more fully provided in the ~~Declaration~~CC&Rs, to:
  - (1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
  - (2) send written notice of each assessment to every owner subject thereto; and
  - (3) record a notice and claim of lien against any property for which assessments are not paid, and foreclose the same within a reasonable time and bring an action at law against the owner personally obligated to pay the same.

- (d) issue, or cause an appropriate officer to issue upon demand to any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
- (g) cause the common area to be maintained.

## ARTICLE VI

### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a ~~P~~resident and ~~V~~ice-~~P~~resident, who shall at all times be members of the ~~B~~oard of ~~d~~irectors, a ~~s~~ecretary, and a ~~t~~reasurer, and such other offices as the ~~B~~oard may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the ~~B~~oard of ~~D~~irectors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the ~~b~~oard and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

~~Section 4. Special Appointments. The board may elect such other offices as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the board may, from time to time, determine.~~

Section 54. Resignation and Removal. Any officer~~r~~ may be removed from office with or without cause by the ~~B~~oard. Any officer may resign at any time giving written notice to the board, the ~~P~~resident or the ~~S~~ecretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless

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

Section 56. Vacancies. A vacancy in any office may be filled by appointment by the ~~B~~board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 67. Multiple Offices. The offices of ~~P~~resident and ~~S~~ecretary may not be held simultaneously by the same person. One person may simultaneously hold more than one of any of the other offices, including special offices created pursuant to Section 4 of this Article.

Section 78. Duties. The duties of the officers are as follows:

President

- (a) The ~~p~~President shall preside at all meetings of the board of directors; shall see that orders and resolutions of the board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

- (b) The ~~V~~ice-President shall act in the place and stead of the ~~P~~President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the ~~B~~board.

Secretary

- (c) The ~~S~~ecretary shall cause to be recorded the votes and ~~keep~~ the minutes of all meetings and proceedings of the ~~B~~board and of the members; ~~keep the corporate seal of the Association and affix it on all papers requiring said seal; serve~~ cause to be noticed of meetings of the ~~B~~board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the ~~B~~board.

Treasurer

- (d) The ~~T~~reasurer shall cause to be received and deposited in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the ~~b~~Board of ~~d~~irectors; shall sign all checks and promissory notes of the Association; keep proper books of account and shall prepare an annual budget and a



statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

## ARTICLE VII

### COMMITTEES

The Board shall appoint an Architectural Committee and a Financial Oversight Committee as provided in the CC&Rs. The Board of Directors may appoint other committees deemed appropriate in carrying out its purpose. The decisions of all committees are appealable to the Board within 30 days of mailing of the decision to the Owner (postmark or email date.) ~~The Association shall appoint an architectural committee as provided in the Declaration. In addition, the board of directors shall appoint other committees as deemed appropriate in carrying out its purpose.~~

## ARTICLE VIII

### ~~INDEMNIFICATION OF DIRECTORS, OFFICERS, ETC.~~

~~Section 1. Directors and Officers; Third Party Actions. The Association shall indemnify any director or officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending or completed actions, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was an authorized representative of the Association (which, for the purposes of this Article, shall mean a director, officer, employee or agent of the Association or a person who is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise) against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was lawful.~~

~~Section 2. Directors and Officers; Derivative Actions. The Association shall indemnify any director or officer of the Association who was or is a party or is threatened to be made a~~

party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was an authorized representative of the Association, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue or matter (as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the Superior Court of the county in which the principal office of the Association is located or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Superior Court or such other court shall deem proper.

~~Section 3. Employees and Agents.~~ To the extent that an authorized representative of the Association who neither was nor is a director or officer of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 and 2 of this Article or in defense of any claim, issue or matter therein, he shall be indemnified by the Association against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith. Such an authorized representative may, at the discretion of the Association, be indemnified by the Association in any other circumstances to any extent if the Association would be required by Sections 1 or 2 of this Article to indemnify such person in such circumstances to such extent if he were or had been a director or officer of the Association.

~~Section 4. Procedure for Effecting Indemnification.~~ Indemnification under Sections 1, 2 or 3 of this Article shall be made when ordered by court (in which case the expense, including attorneys' fees, of the authorized representative in enforcing such right of indemnification shall be added to and be included in the final judgment against the Association) and may be made in a specific case upon a determination that indemnification of the authorized representative is required or proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1 or 2 of this Article. Such determination shall be made:

- ~~(1) By the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or~~
- ~~(2) If such a quorum is not obtainable, or, even if obtainable a majority vote of a quorum of disinterested directors so direct, by independent legal counsel in a written opinion, or~~

~~Section 5. Advancing Expense.~~ Expenses (including attorneys' fees) incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding, upon receipt of an undertaking by or on behalf of a director or officer to repay such amount unless it shall

ultimately be determined that he is entitled to be indemnified by the Association as required in this Article or authorized by law and may be paid by the Association in advance on behalf of any other authorized representative when authorized by the board of directors upon receipt of a similar undertaking.

~~Section 6. Scope of Article.~~ Each person who shall act as an authorized representative of the corporation, shall be deemed to be doing so in reliance upon such rights of indemnification as are provided in this Article.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any agreement, vote of members or disinterested directors, statute or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office or position, and shall continue as to a person who has ceased to be an authorized representative of the Association and shall inure to the benefit of the heirs, executors and administrators of such a person.

## ARTICLE ~~IX~~VIII

### BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The ~~Declaration~~CC&Rs, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost. The CC&Rs, Articles and Bylaws shall be posted on the Association's website.

## ARTICLE ~~X~~

### ASSESSMENTS

~~As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid when due, the assessment shall bear interest from the date of delinquency at the rate of ten (10%) percent per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of each assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his Lot.~~

ARTICLE ~~XI~~

CORPORATE SEAL

~~The Association shall have a seal in a form approved by the board of directors.~~

ARTICLE ~~XII~~

AMENDMENTS

Section 1. These By~~I~~-Laws may be amended, at a regular or special meeting of the ~~B~~Board of ~~d~~Directors called for that purpose, by a vote of a majority of the votes entitled to be cast by the directors present, after the proposed Bylaws have been published on the Association's website for discussion at least 30 days prior.

Section 2.

The order of primacy for Association documents in case of any conflicts between them is as follows:

- CC &Rs (Declaration)
- Articles of Incorporation
- Bylaws
- Rules and Guidelines .

~~In the case of any conflict between the Articles of Incorporation and these By Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By Laws, the Declaration shall control.~~

ARTICLE ~~XIII~~

FISCAL YEAR

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

CERTIFICATION

I hereby certify that the foregoing By~~I~~-Laws were adopted by the ~~B~~board of ~~D~~irectors of the Association at a properly-noticed meeting called for that purpose on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

~~President~~Secretary