

Amended By Laws of Mountain Springs Villa, Inc.



Updated March 17th, 2017

ARTICLE 1 - PURPOSE AND AFFILIATION

Section 1.1: PURPOSE - The purposes of Mountain Springs Villa, Inc., herein after referred to as the Corporation, shall be to own and operate a manufactured home community. This will be occupied by members of the Corporation as their primary residence who may also be involved in other corporation activities on a nonprofit basis for the benefit of the residents. Residents can gain control of occupancy costs, to keep the community affordable in the long term for low and moderate-income individuals and families in the future. Also for all other purposes in which a corporation under the Montana Nonprofit Corporation Act may be engaged.

ARTICLE II - OFFICES

Section 2.1: PRINCIPAL OFFICE - The principal office of the Corporation shall be located in the Community with a mailing address as designated in the company's most current annual report filed with the Montana Secretary of State. The Board of Directors may change the address of the principal office from time to time.

ARTICLE III - BOARD OF DIRECTORS

Section 3.1: GENERAL POWERS - All corporate powers shall be given to the Board of Directors to conduct business affairs of the Corporation. Herein after, the Board of Directors shall be referred to as the Board.

Section 3.2: NUMBER, TENURE AND QUALIFICATIONS - The Board shall consist of five members who are in good standing with the Community and whose home in the community is their primary residence. Officers shall be elected by the membership at an annual meeting of the Corporation or if necessary at a special meeting. The Board shall consist of the President, Vice-President, Secretary, Treasurer and at least one director elected at large. A director shall serve until his or her successor is duly elected and qualified. Each officer shall serve for a term of two years. The President, Treasurer and Director, will be elected in on the odd years. The Vice-President and the Secretary will be elected in on the even years. No Officer may serve for more than three consecutive two-year terms.

Section 3.3: REGULAR MEETINGS - The Board shall meet monthly, one of which shall be the annual meeting held immediately after the annual meeting of the members. All meetings of the Board are open to members of the Corporation, except where demands of individual privacy outweigh the right of members to attend. The Board may provide, by resolution, the time and place for the holding of additional regular meetings without other notice than such resolution. If no resolution is adopted all directors and members shall be provided notice by the Secretary at least two days prior to such meeting.

Section 3.4: SPECIAL MEETINGS - Special meetings of the Board may be called by or at the request of the President or any one director. The person authorized to call special meetings of the Board may fix the place for holding such meeting.

Section 3.5: NOTICE OF, AND WAIVER OF NOTICE FOR SPECIAL MEETINGS - Notice of special meetings stating the date, time, place and purpose shall be given to all directors and members at least two days prior to the meeting, either orally or in writing. In case of an emergency, in the Boards judgment, a special meeting may be called immediately. A hand delivered notice is effective when received.

Section 3.6: QUORUM - A majority of the total number of directors shall constitute a quorum for the transaction of business at any meeting of the Board, unless the articles require a greater number.

Section 3.7: OFFICERS - MANNER OF ACTING - An action taken by a quorum of the Officers shall be the act of the Board.

Any or all Officers may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all Officers participating may simultaneously hear each other during the meeting. An Officer participating in a meeting by this means is deemed to be present in person at the meeting.

An Officer who is present at a meeting of the Board or a committee of the Board, when corporate action is taken is deemed to have assented to the action taken unless:

- (a) The Officer objects at the beginning of the meeting (or promptly upon his or her arrival) to holding it or transacting business at the meeting; or
- (b) The Officer's dissent or abstention from the action taken is entered in the minutes of the meeting; or
- (c) He or she delivers written notice of his or her dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to an Officer who votes in favor of the action taken.

Unless required by the Montana Nonprofit Corporation Act, neither the business to be transacted at, or the purpose of, any special meeting of the Board must be specified in the notice or waiver of such meeting.

Section 3.8: MEETING MINUTES - Minutes of all director's meetings and resolutions shall be available to all members at their request.

Section 3.9: REMOVAL OF OFFICERS – An Officer may be removed by the members without cause only at a special meeting called for the purpose of removing the Officer. The meeting notice must state that the purpose or one of the purposes of the meeting is removal of the Officer. Except as provided below, an Officer may be removed only if 51% of the qualified members vote to remove the Officer. An Officer may be removed by a majority vote of the Officers then in office for failing to attend six meetings of the Board in any one year.

Section 3.10: VACANCIES - If a permanent or temporary vacancy occurs on the Board, the Board may fill the vacancy. The Officer appointed to serve a vacancy shall serve until a successor is elected, or the former Officer can return to his/her duties.

Section 3.11: DIRECTOR COMPENSATION – An Officer will not receive compensation for serving on the Board.

Section 3.12: COMMITTEES CREATION AND APPOINTMENT - The Board may create committees as it deems necessary. The President shall appoint the chairperson of a committee from the membership of the Corporation, subject to the approval of the Board. A committee is comprised of two or more members who serve at the pleasure of the Board.

(A) **DUTIES OF THE CHAIRPERSON** - The chairperson shall develop a standard procedure specifying the duties of the committee with approval of the Board. The chairperson of each committee shall submit an annual report and such special reports as requested by the Board.

(B) **AUTHORITY** - Each committee may exercise only the authority conferred on the committee by the Board and are prohibited from:

- (1) Filling vacancies on the Board or on any of its committees.
- (2) Amending the Articles of Incorporation; or
- (3) Adopt, amend or repeal bylaws.

ARTICLE IV - OFFICERS

Section 4.1: NUMBER - The officers of the Corporation shall be a President, Vice President, Secretary, Treasurer and Director each of whom shall be elected by the members at the annual meeting. All officers shall be members of the Board. The Board may remove any officer at any time with or without cause.

Section 4.2: RESIGNATION AND REMOVAL - An officer may resign at any time by delivering notice to the Corporation. A resignation is effective when the notice is delivered, unless the notice specifies a later date. If a specified resignation date is accepted, the Board may fill the pending vacancy before the effective date, but the successor does not take office until the effective date.

Section 4.3: PRESIDENT - The President shall be the principal executive officer of the Corporation and subject to the control of the Board. The President shall, in general supervise and control all of the business and affairs of the Corporation. The President shall, when present, preside at all meetings of the Board and the membership. The President signs, with the Secretary or any other proper officer of the Corporation authorized by the Board any deeds, mortgages, bonds, contracts, or other instruments. Except in cases where the signing and execution delegated by the Board or by these bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise signed or executed.

Section 4.4: VICE PRESIDENT - The Vice President shall assist the President in the discharge of his/her duties. In the absence of the President or in the event of the Presidents death, inability, or refusal to act, the Vice President shall perform the duties of the President and when so acting, shall have all the powers of and be subject to all the restrictions upon the President.

Section 4.5: SECRETARY - The Secretary shall:

- (a) Keep the minutes of all meetings in one or more books provided for that purpose;
- (b) Arrange all notices duly given in accordance with the provisions of these bylaws or as required by law;
- (c) Be custodian of the corporate records;
- (d) When requested or required, authenticate any records of the Corporation and;
- (e) Perform all duties incident to this and such other duties as from time to time may be assigned by the President or by the Board.

Section 4.6: TREASURER - The Treasurer shall:

- (a) Be responsible for all funds and securities of the Corporation;
- (b) Receive and give receipts for moneys due and payable to the Corporation and deposit all moneys in the name of the Corporation in financial institutions as shall be selected by the Board;
- (c) Perform all duties incident to this office and such other duties as from time to time may be assigned by the President or by the Board.
- (d) If required by the Board, the Treasurer shall be bonded for the faithful discharge of his or her duties in such sum and with such sureties as the Board shall determine.

Section 4.7: DIRECTOR - The Director shall:

- (a) Support the Board in execution of their duties;
- (b) Manage day to day maintenance responsibilities;
- (c) Support the distribution of printed materials such as meeting Notifications and other printed materials as may become necessary;
- (d) Advise the Board on issues that affect the neighborhood;
- (e) Perform all duties incident to this office and such other duties as assigned by the President or Board.

ARTICLE V - MEMBERS

Section 5.1: MEMBERS - Membership in the Corporation is open to adult residents who own and reside in a manufactured home as their primary residence located on a lot in the community and are in good standing with the Corporation. A member in good standing is a person who has signed an occupancy agreement, whose lot fees and membership dues are current or has signed an agreement satisfactory to the Board to bring past due lot fees/other fees current **and abides by the covenants of the organization**. Only one membership interest will be assigned to a home and only one full vote may be exercised under a membership interest. A membership is non-transferrable.

Section 5.2: TRUST AS AN OWNER - A person is considered an owner if he or she owns or co-owns the beneficial interest in a home or the equitable interest in a home under a trust agreement.

Section 5.3: MEMBERSHIP MANDATORY - An owner of a home on a lot in the community must be a member of the Corporation. A person seeking membership shall:

- (a) Apply for membership on a form prescribed by the Board;
- (b) Be approved for membership by a majority vote of the Board;
- (c) Pay in full any membership fee;
- (d) Execute an Occupancy Agreement as described in these by laws (sec 7.1)
- (e) Own or have a contract to buy and intent to occupy a home as their primary residence on a lot in the Community: and
- (f) Agree to comply with the purposes and policies of the Corporation including the covenants and these bylaws.

Section 5.4: CERTIFICATE OF MEMBERSHIP - A Certificate of Membership shall be issued to a member who has fully paid the annual membership fee and meets all other requirements specified in Section 5.3. Membership certificates are non-transferable.

Section 5.5: MEMBERSHIP FEES - The annual membership fee is Twenty-Five (\$25.00). Membership fees are non-refundable.

Section 5.6: LOT FEES - Any owner of a home in the Community must pay lot fees for the occupation of a lot within the community. Any exception must be in writing and be approved by the Board. Any violation of this written agreement will void the agreement. Lot fees, which are initially established by the membership of the Corporation, may be increased by a majority vote of the membership, upon recommendation of the Board. No lot fees shall exceed the limits published annually by the U.S. Department of Housing and Urban Development. The lot fee limits are equivalent to 40% of the two-bedroom Fair Market Rent determined by HUD for Carbon County. The Corporation must provide an owner with sixty (60) day notice of an increase in lot fees; [UNLESS fee increase is due to loss of membership \(see Section 5.7 - Loss of Membership\)](#).

Section 5.7: LOSS OF MEMBERSHIP - Any member who fails to pay their lot fees when due, violates the terms of the occupancy agreement, whose activity in the Corporation is contrary to the covenants or who endangers the effective operation of the Corporation may be expelled from membership in the Corporation by the Board. Loss of membership carries with it loss of privilege to lower lot fees charged to members. The Board may terminate the occupancy agreement with a person who is expelled from membership and may evict the person and his or her unit from the Community. This is in accordance to state law.

The Corporation shall provide a member, subject to expulsion from membership, fifteen (15) days written notice of the charges, and a reasonable opportunity for a hearing before the Board. The member shall have the right to appeal a decision to expel him or her to the membership and will be given a reasonable opportunity to be heard, either in person or by counsel. The appealing member may call a special meeting for this purpose in accordance with these bylaws. A member who intends to be represented by legal counsel regarding an issue at either the meeting of the Board or membership must provide notice of such representation to the president at least ten (10) days in advance of the respective meeting. Upon expulsion, the member's certificate shall be revoked.

An expelled member may re-apply for membership. Re-admission of an expelled person to membership requires a review from the Board and membership approval.

Section 5.8: ANNUAL MEETING - The annual meeting of the members of the Corporation shall be held at 6:30 p.m., on the third Thursday of January, in each year, beginning with the year 2009, or at such other time and date as decided by the Board. This will be for the purpose of electing officers/directors and for the transaction of other business that comes before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Montana, the meeting shall be held on the next succeeding business day.

Section 5.9: SPECIAL MEETINGS- Except as otherwise provided by law, special meetings of the members of the Corporation shall be held whenever called by the President or the Board. This shall be called by the President at the request of not less than one-tenth of all the members entitled to vote at the meeting.

Section 5.10: VOTING – 30% + 1 of the current membership shall constitute a quorum at a membership meeting. Voting by proxy is allowed and counts towards the quorum. The existence of a quorum shall be established at the beginning of each meeting and shall remain valid until the meeting is adjourned. If a quorum exists, any motions for consideration shall be approved by a majority vote of members present except for motions affecting the bylaws and covenants.

ARTICLE VI - ETHICS

Section 6.1: EXPECTATION OF COMMUNITY - The Community expects that all officers, committee members and residents engage in and promote honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest.

Section 6.2: CONFLICT OF INTEREST - Each officer and committee member shall avoid conflicts of interest and disclose to the Board any material transaction or relationship that reasonably could be expected to give rise to a conflict of interest, or the appearance of a conflict of interest.

Section 6.3: FINANCIAL CONDITION - Each officer and committee member shall perform their duties in a manner that ensures full, fair, accurate, timely and understandable disclosure of the financial condition and activities of the community.

Section 6.4: COMPLIANCE WITH LAW - Each officer and committee member shall comply with applicable governmental laws, rules and regulations that affect the community.

Section 6.5: REPORTING A VIOLATION - Each officer and committee member shall promptly report any possible conflicts of interest or other possible ethical violations by a director to the President or Vice-President of the community.

Section 6.6: ENFORCEMENT - The Board shall have the authority to admonish or remove any officer or committee member for violation of ethical rules.

Section 6.7: CONFIDENTIALITY- The Board shall be bound, with the offices they hold, to confidentiality when it comes to Mountain Springs Villa business.

ARTICLE VII - HOME SALES AND RENTALS OF UNITS

Section 7.1: OCCUPANCY AGREEMENT - Each owner of a home located within the community must execute an occupancy agreement with the Corporation, in which the home owner agrees that:

(a) The homeowner will obey and comply with all requirements of these bylaws and covenants and any resolutions duly passed by the Board;

- (b) The occupancy agreement is a security agreement for the payment of all fees and charges owing to the Corporation and the obligation to pay fees and charges is a lien on the home. In the event the member or owner does not pay all the fees and charges when due, the Corporation may file a Notice of Lien against the home with the County Clerk and Recorder if the home is considered an improvement to real property. If the home is considered personal property, the Corporation files a Financing Statement with the Montana Secretary of State.
- (c) The Home owner will pay any costs incurred by the Corporation, including reasonable attorney's fees in foreclosure of the lien referenced in subsection (b) above.

Section 7.2: NOTICE OF MOVE - An owner who plans to move his/her home out of the community shall provide thirty (30) days prior written notice to the Board. Failure to give notice will result in the assessment of 30-days additional lot fees.

Section 7.3: TRANSFER OF OWNERSHIP OF A HOME - The transfer of a home located on a lot within the community does not entitle the purchaser to retain possession of the lot (70-24-305, MCA). An owner who intends to sell a home in place must provide at least thirty (30) days prior written notice to the Board. This notice shall include the name, address, and telephone number of any purchaser, the estimated date of closing, and the name, address, and telephone number of the selling agent, if any. It is the responsibility of the owner to provide a potential transferee with the information regarding the restrictions and requirements on the home as its owner, contained in these bylaws and any covenants especially which the purchaser must become a member of the Corporation and reside in the home pursuant to the occupancy agreement.

A transfer of a home through probate, sale, provisions of any trust or any other means to a person that does not intend to reside in the home or otherwise does not qualify as a member, shall be given a reasonable period of time, in the sole discretion of the Board to qualify for membership and move into the home. If the transferee does not qualify for membership, a reasonable amount of time will be given to sell the home to a person who intends to reside in the home or remove the home from the community. All new residents need to be income-qualified, i.e. have incomes below 80% of Carbon County's area median income, as published annually by the U.S. Department of Housing and Urban Development.

Section 7.4: RELEASE OF LIEN - If the Corporation is owed money by the member or the member is in breach of any other obligation to the Corporation, the Board may provide a release of its lien against the home as requested by that member for the sale of the home. The Board may insist that the release of lien be transmitted directly to the escrow or closing agent with a Notice of Lien on the member's home for those amounts due and owing the Corporation.

Section 7.5: RENTAL OF A HOME - Rental of a home in the community is not allowed unless approved by the Board. The Board will not approve a rental unless:

- (a) The member writes a request stating the hardship and specifying the conditions of the hardship;
- (b) The Board determines that a hardship exists.

If an approval is granted, the decision must specify the hardship circumstances, the length of time of the approval and any conditions of approval.

ARTICLE VIII - INDEMNIFICATION OF DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES

Section 8.1: IDEMNIFICATION OF DIRECTORS -

- (a) The corporation shall not indemnify a director under this section unless:

- (1) **DETERMINATION** - A determination has been made in accordance with the procedures set forth in the Montana Nonprofit Corporation Act that the director met the standard of conduct set forth in subsection (b) below; and

- (2) **AUTHORIZATION** - Payment has been authorized in accordance with the procedures set forth in the Montana Nonprofit Corporation Act based on a conclusion that the expenses are reasonable. The Corporation has the financial ability to make the payment, and the financial resources of the Corporation should be devoted to this use rather than some other use by the Corporation.

- (b) Before indemnification is allowed the Director must show:

- (1) He or She conducted his or her self in good faith; and
 - (2) He or she is reasonably believed;

- (I) In the case of conduct in his or her official capacity with the Corporation, that his or her conduct was in its best interests;

- (II) In all other cases that his or her conduct was at least not opposed to its best interests; and

- (III) In the case of any criminal proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful.

- (c) The Corporation shall not indemnify a director under this section 8.1 of Article VIII:

- (1) In connection with a proceeding by or in the right of the Corporation in which the director was adjudged liable to the Corporation; or

- (2) In connection with any other proceeding charging improper personal benefit to him or her, whether or not involving action in his or her official capacity, in which he or she was adjudged liable on the basis that personal benefit was properly received by him or her.

Section 8.2: INDEMNIFICATION OF AGENTS AND EMPLOYEES WHO ARE NOT DIRECTORS - The Board may indemnify and advance expenses to any employee, or agent of the Corporation who is not a director of the Corporation, to any extent consistent with public policy, as determined by the general or specific action of the Board.

Section 8.3: MANDATORY INDEMNIFICATION – Notwithstanding any other provisions of these bylaws, the Corporation shall indemnify a director who was wholly successful on the merits or otherwise, in the defense of any proceeding to which the director was a party because he or she is or was a director of the Corporation, against reasonable expenses incurred by the director in connection with the proceeding.

ARTICLE IX – LIABILITY AND INDEMNITY

Section 9.1: CORPORATION LIABILITY - The Corporation shall not be liable for debt or damage claimed for injury to persons, including homeowners and their guests or for property damage from any cause related to homeowner's occupancy of the lot or pets, guests, family members or invitees of the homeowner. The Corporation shall not be liable for any damages due or occasioned by or from plumbing, gas, water, steam or other pipes or sewage, or the bursting, leaking or running of any pipe, tank, washstand, water closet or waste pipe, in, above, upon or about said lot or community premises. Not for any damage arising from acts of neglect of co-resident, or other occupants of the manufactured home community or of any homeowners, residents, occupants, owner of adjacent or contiguous lots and property. Homeowners shall pay for any expense, damage or repair occasioned by the stopping of waste pipes or overflow of water, and from any and all damages not occasioned by reasonable wear and tear, caused by their improper use thereof. Homeowners hereby covenant and agree to indemnify the Corporation and save it harmless from all costs and expenses including attorney's fees, liability loss or other claims or losses. Nothing herein shall be deemed to release the Corporation from gross negligence.

Except for gross negligence of Corporation, homeowners hereby release Corporation from any responsibility for any injuries or damages occurring upon or in any way connected with, the premises or nearby streets. Also, the Corporation is not responsible for claims or damages that may be caused by the re-entering and taking of possession by Corporation under conditions of these rules and regulations or the laws of the State of Montana.

ARTICLE X - CORPORATE SEAL

Section 10.1: CORPORATE SEAL - The Board provides a corporate seal which is circular in form and has inscribed thereon any designation including the name of the Corporation, Montana as the state of incorporation and the words "Corporate Seal".

ARTICLE XI - CONTRACTS, CHECKS and DEPOSITS; **SPECIAL CORPORATE ACTS**

Section 11.1: CONTRACTS - The President and Secretary or any other proper officer authorized by the Board may enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation. All original contracts and official papers must be kept on file with the Corporations Secretary.

Section 11.2: LOANS - No indebtedness for the borrowed money shall be contracted on behalf of the Corporation and no evidences of such indebtedness shall be issued in its name unless authorized by or under the authority of a resolution of the Board. Such authority may be granted or confined to specific instances.

Section 11.3: CHECKS, DRAFTS, ETC. - Officers of the Corporation shall sign all checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation. The Board by resolution can determine a change in persons signing checks, drafts, etc. The Board shall ensure that minimum safe bookkeeping practices are established for the Corporation in consultation with a Certified Public Accountant. The bookkeeping practices shall at a minimum require:

- (a) The signatures of two officers on all checks and legal documents;
- (b) No two signatories shall be husband and wife or members of the others immediate family or reside in the same home; and
- (c) Someone other than the signatories, such as, a finance committee, an audit committee, or a different officer must review the Corporations financial accounts, including bank statements, on a monthly basis

Section 11.4: DEPOSITS - All Corporation funds shall be deposited promptly in such banks or other financial institutions as selected by the Board.

ARTICLE XII - AMENDMENTS

Section 12.1: AMENDMENTS - A recommendation of the Board or a request of thirty (30%) of the members for amendment or repeal of the bylaws or covenants will be submitted to the Board. Amendment or repeal of the bylaws or covenants is effective upon adoption by a majority vote of the Board. The bylaws or covenants may be reviewed, and if needed, changed only with-in the 2nd and 4th quarters of the year.

DIRECTORS' CERTIFICATE TO BYLAWS

We the undersigned, collectively constituting the Board of Directors, do hereby certify that the forgoing bylaws are the amended bylaws of the Corporation as adopted at the March 2017 meeting of the Board of Directors dated this 17th day of March 2017.

_____ President

_____ Vice President

_____ Treasurer

_____ Secretary

_____ Director