

11 PAGE DOCUMENT

**BRANDON ESTATES HOMEOWNERS
ASSOCIATION, INC.**

A COLORADO CORPORATION

BY-LAWS OF THE CORPORATION

ARTICLE I NAME AND LOCATION

The name of the corporation is the BRANDON ESTATES HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association", a nonprofit corporation organized under the Colorado Nonprofit Corporation Act. The principal office of the corporation shall be located at 988 Agate Court, Fruita, Colorado, 81521, but meetings of Members and directors may be held at such places within the State of Colorado as may be designated by the Board of Directors.

ARTICLE II PURPOSE

The purpose for which this Association is formed is to govern the Properties, exercise the rights, power and authority, and fulfill the duties of the Association, as provided in that certain Declaration of Covenants, Conditions, and Restrictions of Brandon Enterprises, LLC ("Declarant") for Brandon Estates Homeowners Association, Inc., and any amendments thereto, recorded or to be recorded in the office of the Clerk and Recorder of the County of Mesa, Colorado ("Declaration") (terms which are defined in the Declaration shall have the same meanings herein unless otherwise defined), and those certain Articles of Incorporation of the Association, and any amendments thereto, filed in the office of the Secretary of State of the State of Colorado ("Articles of Incorporation"). All present or future Owners, tenants and occupants of the Lots, located within the Subdivision as defined by the Declaration or any other person who may utilize in any manner the Subdivision or any facilities or appurtenances thereto or thereon, shall be subject in all respects to the covenants, conditions, restrictions, reservations, easements, regulations, and all other terms and provisions set forth in the Declaration, Articles of Incorporation and these Bylaws. The mere acquisition, rental or occupancy of any Lot, or any portion thereof, shall signify that all terms and provisions of the Declaration, Articles of Incorporation and these Bylaws are accepted, ratified and shall be complied with.

ARTICLE III MEETING OF MEMBERS

Section 1. Classes of Voting Membership. The Association shall have one class of voting membership.

(a) Members shall be all Owners of any Lot, including Declarant. Each Member shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any such Lot.

Section 2. Reservation. Notwithstanding the foregoing voting rights, Declarant hereby reserves the right to appoint the Board of Directors of the Association for the period hereinafter described. The Board of Directors shall have such powers and duties and shall serve for such terms of office as are set forth in the Articles of Incorporation and Bylaws of the Association. This reserved right shall terminate upon the first to occur of the following events:

(a) Sixty (60) days following the date when seventy-five percent (75%) of all Lots in the Properties have been conveyed by Declarant to the first owner thereof (other than Declarant);

(b) Two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business; or

(c) Two (2) years after any right to add new Lots was last exercised.

Section 3. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held in the same month of each year as the month in which the first annual meeting was held, the specific date and time thereof to be designated by the Board of Directors from time to time.

Section 4. Special Meetings. Special meetings of the Members may be called at any time by the President of the Association, by majority of the Board of Directors, or by Members having twenty percent (20%) or more of the votes in the Association.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing by the Member or his/her duly authorized Attorney In fact, filed with the Secretary, dated to avoid being void, and are valid only for eleven (11) months. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his/her Lot. In the event that a Lot has multiple Owners who desire to vote by proxy, such a proxy shall conform in all aspects with CCIOC, Section 38-33.3-310(2)(b), C.R.S.

Section 6. Quorum. A minimum of twenty (20) percent of the Members present who are entitle to cast a vote shall constitute a quorum for the transaction of business at a meeting of the Members. Every act or decision done or made by a majority of the members present at a duly held meeting of Members at which a quorum is present shall be regarded as the act of the Members.

ARTICLE IV RIGHTS OF THE ASSOCIATION

Section 1. Implied Rights. This Association may exercise any and all rights or privileges given to it under the Declaration, the Articles of Incorporation or these Bylaws, or as may otherwise be given to it by law, and every other right or privilege reasonably to be implied there from or reasonably necessary to effectuate any such right or privilege.

Section 2. Restriction of Rights. Notwithstanding the provisions of Section 1 of this Article, the Association shall not be empowered to do any of the matters itemized in the Declaration, unless it shall obtain the prior written approval of the required percentage of Members and First Mortgagees of the Lots as provided therein.

**ARTICLE V
BOARD OF DIRECTORS SELECTION & TERM OF OFFICE**

Section 1. Number. The affairs of the Association shall be managed by a Board of Directors such that: (a) prior to conveyance of twenty five percent (25%) of the Lots, the Board of Directors shall consist of one (1) Director appointed by the Declarant; (b) not later than sixty (60) days after conveyance of twenty five percent (25%) of the Lots to owners other than Declarant, the Board of Directors shall consist of three (3) Directors with two (2) Directors appointed by the Declarant and one (1) Director elected by the Owners other than the Declarant; and (c) not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots to owners other than Declarant, the Board of Directors shall consist of three (3) Directors with two (2) Directors appointed by the Declarant and one (1) Director elected by the Owners other than Declarant. When Declarant relinquishes control of the Association to the Owners, the Association shall be managed by at least five (5) directors comprising the Board of Directors. Directors shall serve for a term of two (2) years. No person may serve as a director of the Association unless such person is a Member of the Association, or is an officer, director, employee, or agent of Declarant while Declarant is a Member.

Section 2. Term of Office. At the first annual meeting of the Association, the Members shall elect one director for a term of one year, one director for a term of two years, and one director for a term of three years, and at each annual meeting thereafter the Members shall elect the same number of directors as there are directors whose terms are expiring at the time of each election, for a term of three years. At the first annual meeting of the Association, the candidate for the Board of Directors who receives the largest number of votes shall be elected for a three-year term, the candidate who receives the next largest number of votes shall be elected for a two-year term, and the candidate who receives the next largest number of votes shall be elected for a one-year term. In the event that one or more successful Director candidates receive an equal number of votes, then the President of the Association shall determine the terms of those members of the Board of Directors receiving an equal number of votes.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a vote of sixty-seven percent (67%) of the Members present and entitled to vote at any meeting of the Members, provided that, so long as Declarant retains its reserved right as provided for in Article III, Section 2 herein, only Declarant may remove any director who is serving in such capacity as a result of being appointed by the Declarant. In the event of death, resignation or removal of a director, his/her successor shall be selected by the remaining member(s) of the Board, whether or not such remaining member(s) constitute a quorum, and shall serve for the un-expired term of his/her predecessors provided, however, that so long as Declarant retains its reserved right, the Declarant may appoint the successor of any director.

Section 4. Compensation. No director shall receive compensation for any services rendered to the Association. However, any director may be reimbursed for his/her actual expenses incurred in the performance of his duties.

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 all of the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE VI NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VII MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly at such place and hour as may be fixed from time to time by resolution of the Board. All such meetings shall be open to attendance by all Members and that agendas and notices for such meetings shall be made reasonably available for examination by all Members a reasonable period of time in advance. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday. Members rights at all meetings of the Board of Directors shall be governed by CCIOC, Section 38-33.3-308, C.R.S.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without Colorado, for holding any special meeting of the Board of Directors called by that person or persons.

Section 3. Notice. Notice of any special meeting of the Board of Directors shall be given at least seven (7) days previously thereto by written notice delivered personally or delivered by mail to each director at his/her business or home address or delivered by electronic means. If mailed, such notice shall be deemed to be so delivered nine (9) days after such notice is deposited in the United States mail so addressed, with postage thereon prepaid. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of the meeting, except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Both agendas for the

business to be transacted at the meeting and the purpose of any regular or special meeting of the board of directors shall be specified in the notice or waiver of such meeting.

Section 4. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business of a directors meeting. Every act or decision done or made by a majority of the directors present at a duly held meeting of directors at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VIII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

(a) adopt, amend, publish and repeal rules and regulations governing the use of the Subdivision and facilities hereon and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) enter into, make, perform, or enforce contracts, licenses and agreements of every kind and description, including without limitation those certain agreements, contracts, licenses, leases, easements and/or rights of and do all other acts necessary, appropriate, or advisable in carrying out any purpose of this Association, with or in association with any person, firm, association, corporation, or other entity or agency, public or private;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) regular meetings of the Board of Directors during any one year period; and

(e) employ the services of a manager or managing agent, or both, and such independent contractors or other employees as they deem necessary, and delegate any of their duties to such persons; provided, however, when so delegated, the Board of Directors shall not be relieved of its responsibilities under the Declaration, the Articles of Incorporation or these Bylaws. In the event that powers relating to collections, deposits, transfers or disbursements of Association funds shall be delegated, it shall be required that: (1) the delegatee shall maintain fidelity insurance coverage or a bond in a minimum amount of fifty thousand dollars (\$50,000); (2) delegate shall maintain all funds and accounts of the Association separate from the funds of any other association managed by the same delegate; and (3) an annual accounting of Association funds and a financial statement shall be prepared and delivered by the delegate, a public accountant or a certificated public accountant.

Section 2. Duties. It shall be the duty of the Board of Directors to see that all of the duties and obligations of the Association, as set forth in the Declaration, are performed as required therein, including without limitation the duty to:

(a) cause to be kept a complete record of all its acts and corporate affairs and present a statement thereof to the Members at the annual meeting of Members, or any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote one-fourth (1/4) of the total number of votes of the membership of the Association;

(b) supervise all officers, agents, and employees of this Association and see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) periodically fix, calculate, levy, collect and enforce the assessments to be paid by each of the Members as provided for in the Declaration, and Article XII herein, subject to those limitations contained in the Declaration;

(2) to impose default interest and late charges upon delinquent assessments, and to use its judgment regarding actions to take to collect delinquent assessments, by suit, foreclosure or otherwise, and to apply such other remedies that the Association may have under the Declaration in order to collect such delinquent assessments;

(d) issue, or cause an appropriate officer or designated agent to issue, upon written demand by the Owner, First Mortgagee, junior mortgagee, prospective purchaser, prospective First Mortgagee or prospective junior mortgagee of each Lot a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Upon the issuance of such a Certificate signed by a member of the Board of Directors or an officer of the Association, or by the managing agent of the Association, the information contained therein shall be conclusive upon the Association as to all persons who rely thereon in good faith;

(e) notify in writing, any First Mortgagee, or any insurer or guarantor of a First Mortgage, upon written request, when the Owner thereof is in default in the payment of any assessment, or otherwise in default of an obligation under the Declaration, Articles of Incorporation or these Bylaws, and the Board of Directors has actual knowledge of such default, and said default remains uncured for a period of sixty (60) days.

ARTICLE IX OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices The officers of this Association shall be a President and Secretary, who shall at all times be Members of the Board of Directors and such other officers (Vice President and Treasurer) as the Board of Directors 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 Board of Directors following each annual meeting of the Members.

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

Section 4. Special Appointments. The Board of Directors may elect such other officers 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 of Directors may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer replaced.

Section 7. Multiple Offices The offices of President and Secretary may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties The duties of the officers are as follows:

PRESIDENT

(a) The President shall preside at all meetings of the Board of Directors and Members; shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds, and other written instruments; and shall cosign or authorize a designated agent to cosign all checks and promissory notes. The President shall be responsible for any the preparation, execution, certification or record amendments to the Declaration on behalf of the Association.

VICE PRESIDENT

(b) The Vice President shall act in the place and stead of the President in the event of the President's absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of the Vice President by the Board of Directors.

SECRETARY

(c) The Secretary or a designated agent shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members; shall keep the corporate seal of the Association and affix it on all papers requiring said seal; shall serve notice of meetings of the Board of Directors and of the Members; shall keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board of Directors.

TREASURER

(d) The Treasurer or a designated agent shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign or authorize a designated agent to sign all checks and promissory notes of the Association; shall keep proper books of account; shall cause an audit using GAAPs of the Association books to be made by an accountant selected by the Board of Directors at least once every two years or, at the option of the Board of Directors or as may be required by the Declaration, an annual review or audited financial statement may be required; 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 X COMMITTEES

The Association shall appoint a Nominating Committee as provided in these Bylaws and an Architectural Control Committee as provided in the Declaration. In addition, the Board of Directors may appoint other committees which it deems appropriate in carrying out its purpose.

ARTICLE XI BOOKS AND RECORDS

The Association shall keep detailed, accurate and complete books and records of its receipts and expenditures (including receipts and expenditures affecting the Common Areas), shall keep minutes of the proceedings of the Board of Directors and Members, and shall keep at its registered or principal office in Colorado, a record of the names and addresses of the Members entitled to vote. During normal business hours and upon five (5) days' notice to the manager or managing agent of the Association, any Member shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Member. Current copies of the Declaration, Articles of Incorporation and Bylaws of the Association, rules and regulations governing the Association, and other books, records and financial statements of the Association, shall be made reasonably available during normal business hours upon prior notice of five (5) business days to Members, First Mortgagees, and insurers or guarantors of any First Mortgage. Current copies of the Declaration, Articles of Incorporation, Bylaws, rules and regulations, and the latest financial statement of the Association shall be available for examination by prospective purchasers of Lots. The word "available", as used herein, shall at least mean available for inspection, upon request, during normal weekday business hours or under other reasonable circumstances.

ARTICLE XII 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 not paid when due shall be delinquent. If an assessment or any portion thereof is not paid within

ten (10) days after the due date, the assessment shall bear interest from the due date at the rate of twenty one percent (21%) per annum or at such lesser rate as may be set from time to time by the Board of Directors, and the Association may assess a monthly late charge thereon. The Association may bring an action at law or in equity against the Member personally obligated to pay the same, or foreclose the lien against such Member's Lot and interest, late charges, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Member may waive or otherwise escape liability for the assessments provided for herein by nonuse or abandonment of his/her Lot.

ARTICLE XIII CORPORATE SEAL

The Association shall have a seal in circular form and within it circumference the words: BRANDON ESTATES HOMEOWNERS ASSOCIATION, INC.

ARTICLE XIV AMENDMENTS

Subject to the terms and provisions of the Declaration, these Bylaws may be amended, at a regular or special meeting of the Members, by a vote of more than seventy-five percent (75%) of a quorum of Members present in person or by proxy.

ARTICLE XV INDEMNIFICATION OF DIRECTORS AND OFFICERS

The Association shall indemnify every director, officer, agent or employee, and any former director, officer, agent and employee, against all loss, costs and expense, including counsel fees, reasonably incurred in connection with any action, suit, or proceeding to which such person may be made a party by reason of being or having been a director, officer, agent or employee of the Association, except for matters in which such person shall be finally adjudged in such action, suit, or proceeding to be liable for gross negligence or fraud. Any such indemnification shall be limited to and may only be paid out of the insurance proceeds provided by an insurer furnishing officers and directors errors and omissions insurance coverage and any other insurance protecting the Association from liability because of the negligent acts of its servants, including insurance covering motor vehicles or public liability, property damage, medical and other similar coverage, it being the intent and purpose of this provision to limit all payments or settlements in indemnification to the actual proceeds of insurance policies. No indemnification shall be provided for acts constituting gross negligence, fraud, and more reprehensible conduct. In the event of a settlement, the settlement shall be approved by the insurance carrier and paid for by the insurance carrier out of the insurance proceeds. The foregoing rights shall not be exclusive of other rights to which such director or officer may be entitled.

**ARTICLE XVI
MISCELLANEOUS**

Section 1. Fiscal Year. The fiscal year of the Association shall end on the last day of December every year, except that the first fiscal year shall begin on the date of incorporation.

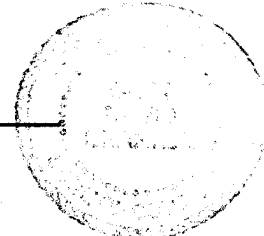
Section 2. Conflict of Documents. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; in case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in case of any conflict between the Articles of Incorporation and the Declaration, the Declaration shall control.

Revised and Dated this 15th day of August, 2006.

BRANDON ESTATES HOMEOWNERS ASSOCIATION, INC.

MEMBER: BRANDON ~~ENTERPRISES~~ ESTATES ~~LLC~~ ^{LLC}

By: 
Jarry Brandon, Manager



My Commission Expires 08/15/2009

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