

**BYLAWS**  
**OF**  
**TWILIGHT PEAKS HOMEOWNERS ASSOCIATION, INC.**

The name of the corporation shall be Twilight Peaks Homeowners Association, Inc., a Colorado non-profit corporation (the "Association").

**ARTICLE I**  
**OBJECT AND DEFINITIONS**

**1.01 Purpose:** The specific purposes for which the Association is formed are as set forth in the Articles of Incorporation of Twilight Peaks Homeowners Association, Inc., as filed with the Colorado Secretary of State on December 14, 1994, filing number 941139097, or as hereafter duly amended, (the "Articles") and the Declaration of Covenants, Conditions and Restrictions of Twilight Peaks Mountain Village Subdivision (recorded on the 5th day of December, 1994, at Reception No. 679693 in the records of the office of the Clerk and Recorder of La Plata County, Colorado), including any properly recorded amendments or supplements thereto, (the "Declaration") and to do everything necessary, proper, advisable, or convenient for the accomplishment of the purposes set forth therein and to do all other things incidental thereto.

**1.02 Assent:** All present and future Owners, tenants, future tenants, or any other person using the facilities of the Village in any manner are subject to the Declaration, the Articles, these Bylaws and the Architectural Guidelines and other rules and regulations adopted by the Board of Directors of the Association (hereinafter the "Board") pursuant hereto. The mere acquisition or rental of any of the Lots within the Village or the mere act of occupancy or use of any of said Lots shall constitute an acceptance and ratification of the Declaration, Articles, these Bylaws and the Association's Architectural guidelines and other adopted rules and regulations and an agreement to comply therewith.

**1.03 Definitions:** Unless otherwise specified, terms shall have the same meaning in these Bylaws as such terms have in the Declaration and are hereby incorporated herein by reference.

**ARTICLE II**  
**MEMBERSHIP**

**2.01 Membership:** The membership of the Association at all times shall consist exclusively of all Lot Owners as set forth in the Declaration. Every person or entity who is a record owner ("Owner") of a fee or undivided fee interest in any Lot within the Village which is subject to the Declaration and assessment by the Association, including any Supplementary Declarations and as such may be amended from time to time, shall be a Member of the Association, provided, however, that any persons or entities who hold an interest merely as security for the performance of an obligation shall not be a Member. The Owner of a Lot shall automatically, upon becoming the Owner of the same, be a Member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason. Membership

shall be appurtenant to and may not be separated from the ownership of a Lot, provided that any Owner may appoint, in writing to the Association, a delegate to exercise the rights of such Owner but not including the right to serve as an officer or member of the Board of Directors except as otherwise provided in the Declaration. Membership shall be held in accordance with the Declaration, the Articles, the Association rules and regulations and these Bylaws of the Association and the rights, duties and obligations of a Member shall be as set forth therein.

**2.02 Transfer of Membership:** Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way except upon the sale or encumbrance of the Lot to which it is appurtenant and then only to the purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance, of such Lot. Upon any transfer of title to an Owner's Lot, including a transfer on the death of an Owner, membership passes automatically with title to the transferee. On notice of a transfer, the Association shall record the transfer on its books. Any attempt to make a prohibited transfer is void. While still qualified to be a Member, no Member may resign or otherwise avoid or terminate his membership.

### **ARTICLE III MEETINGS OF MEMBERS**

**3.01 Place of Meeting:** Meetings of the Association Members shall be held at such place and time, within La Plata County, Colorado, as the Board of Directors may determine from time to time.

**3.02 Annual Meeting:** The first Annual Meeting of the Association Members, after the organizational meeting, shall be held within one year after the date of the adoption of these Bylaws. Thereafter, the Annual Meeting of the Association Members shall be held on a date and at a time selected by the Board of Directors in each successive year. The purpose of the Annual Meeting is for the election of members to the Board of Directors (hereinafter "Board Members"), which shall be by written ballot as herein provided, and the transaction of such other business of the Association as may properly come before the meeting.

**3.03 Special Meetings:** Special Meetings of the Association may be called by the President of the Association, by a majority of the Board of Directors, or at any time upon written request from Members who collectively own twenty (20%) of all Lots within the Village.

**3.04 Notice of Meetings:** The Board shall designate by resolution and motion when such Annual and Special Meetings shall be held. Written notice shall be hand delivered or sent prepaid by United States mail to the registered mailing address, as it appears on the records of the Association, of the Owner of each Lot entitled to vote at such meeting not less than fourteen (14) nor more than fifty (50) days in advance of any meeting of the Members of the Association. If the Owner(s) of a Lot fails to provide the Association, in writing, with a different registered mailing address, then such notices shall be sent to the mailing address of the respective Lot. The notice of any meeting shall state the date, time and place of each meeting and items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove an officer or Board Member.

**3.05 Membership, Classes and Voting Rights:** The Association shall have a single class of voting membership. Members shall be all Owners, including the Declarant, and shall be entitled to one vote per each Lot owned. In the event more than one vote is cast per any Lot in any given vote, all of such votes shall be void if not cast consistent with C.R.S. 38-33.3-310 and, in such event, no vote shall be cast for such Lot in that particular vote. The Board may suspend the voting rights of any Owner for any period during which any Assessment or charge levied by the Association against such Owner or his Lot remains unpaid after the initial due date for such Assessment or charge regardless of whether the Board allows additional time to pay.

When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the multiple Owners of such Lot among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. If the multiple owners of a Lot fail to properly execute and file a proxy designating a single voting representative, as set forth in Section 3.07 herein, and if only one of the multiple Owners is present at a meeting of the Association, such Owner shall be entitled to cast all the votes allocated to that Lot. If more than one of the multiple Owners are present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of said Lot's Owners. There is majority agreement if any one of the multiple Owners casts the votes allocated to that Lot without protest being made promptly at the meeting by any of the other Owners of the Lot to the person presiding over the meeting.

**3.06 Proxies:** Votes may be cast in person or by proxy, but no proxy shall be valid after eleven months from the date of its execution unless otherwise provided in the proxy. All proxies must be in writing signed by the party granting the proxy. A copy of any proxy must be filed with the Secretary of the Association at the time of a meeting and the original of any proxy must be provided to the Secretary to be attached to the meeting minutes within at least thirty days of the date of final adjournment of any meeting where such proxies are voted. A proxy shall be deemed void if it is not dated or purports to be revocable without notice. A Lot Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association Members. The Secretary shall have the authority to reject any proxy the signature for which is improper or not verifiable from corporate or other external records and shall have the authority to request verification of authority to grant such proxy.

**3.07 Designation of Voting Representative - Proxy:** If title to a Lot is held by more than one individual, by a firm, corporation, partnership, limited liability company, association, trust, estate or other legal entity, or any combination thereof, a duly authorized proxy, and where applicable, the resolution authorizing such proxy, shall be executed and filed with the Association appointing and authorizing one person or alternative persons to attend all Annual and Special Meetings of the Association Members and thereat to cast the voting interest allocated to that Lot as provided in the Declaration. Such proxy shall be effective and remain in force unless voluntarily revoked, amended or sooner terminated by operation of law; provided, however, that within thirty days after such revocation, amendment or termination, the Owner or Co-Owners shall reappoint and authorize one person or alternate persons to attend all Annual and Special Meetings as provided by this section.

**3.08 Quorum:** Except as otherwise provided in these Bylaws, the presence in person or by proxy of persons possessing a sufficient voting interest to constitute more than fifty percent (50%) of the voting interests of all Members of the Association shall constitute a quorum and such persons present in person or by proxy shall constitute the Members entitled to vote upon any issue presented at a meeting at which a quorum is present. A majority vote of such Members present in person or by proxy shall be sufficient to make decisions binding on all Owners unless a different number or method of voting is expressly required by statute or by the Declaration, Articles or Bylaws.

If the business of the Association can not be properly conducted at any duly called meeting of the Association Members because the required quorum of more than fifty percent (50%) of the voting interests is not present, (i) the meeting may be temporarily adjourned and continued for no more than sixty (60) days, without further notice, until a quorum is obtained, or (ii) another meeting may be called subject to the original notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting (eg, the required quorum at such a subsequent meeting shall be met by the presence in person or by proxy of persons possessing a sufficient voting interest to constitute more than twenty-five percent (25%) of the voting interests of all Members), provided that no such subsequent meeting shall be held more than sixty (60) days following such preceding meeting.

## ARTICLE IV BOARD OF DIRECTORS

**4.01 Number and Qualification:** The business and affairs of the Association shall be conducted, managed, controlled and governed by the Board of Directors (the "Board" or "Executive Board"). Except as may be provided in the Declaration, the Articles or these Bylaws, the Board may act in all instances on behalf of the Association. The Board shall be composed of three members. The names and addresses of the three persons who are to initially act in the capacity of Board Members until their successors are duly elected and qualified are as follows:

<u>Name</u>	<u>Address</u>
1. Robert W. Chamberlain	440 Glorietta Boulevard, Coronado, California 92118
2. Deborah S. Chamberlain	440 Glorietta Boulevard, Coronado, California 92118
3. Patricia Chamberlain	504 Glorietta Boulevard, Coronado, California 92118

**4.02 Election and Term of Office:** The original Board of Director seats maintained by Robert W. Chamberlain and Deborah S. Chamberlain shall be appointed and may be removed by Twilight Peaks, LLC, a Colorado limited liability company (hereinafter referred to as the "Declarant") or its successor until after the conveyance of seventy-five percent (75%) of the Lots within the Village to Owners other than the Declarant or two (2) years after the last conveyance of a Lot by the Declarant in the ordinary course of business, whichever takes place earlier (the "Control Date"). At the Annual Meeting of the Association Members held for the year 1995, the Members shall elect one Board Member, for the position occupied by Patricia Chamberlain, for a term of two years. In the following Annual Meeting, the original Board seats maintained by Robert W. Chamberlain and Deborah S. Chamberlain shall be subject to election, or appointment by Declarant if prior to the Control Date, for additional terms of two years each. Thereafter, on each odd numbered year, at the annual meeting, one Board Member shall be elected for a two year term and on each even numbered year, at the Annual Meeting, two Board Members shall be elected, or appointed by Declarant if prior to the Control Date, for two year terms.

The Board Members shall hold office until their successors have been elected and qualified. Nominations of candidates for the Board may be made by any Member of the Association, including present members of the Board. The candidate receiving the largest vote for a position on the Board shall be elected, and each position shall be filled by a separate vote of the Members entitled to vote. The terms of the Board Members and the total number of members on the Board may be changed from time to time by a vote of at least two-thirds of all Members of the Association, provided, however, that the number of members on the Board shall not be less than three (3) nor more than five (5).

**4.03 Removal of Members of the Board of Directors:** At any Annual or Special Meeting of the Members of the Association duly called and noticed, any one or more of the Board Members, other than any Board Member who was appointed by Declarant prior to the Control Date, may be removed with or without cause by a vote of more than two-thirds (2/3) of all persons present and entitled to vote, in person or by proxy, at such a meeting at which a quorum is present. Any Board Member whose removal has been proposed shall be given an opportunity to be heard at the meeting after the allegations, if any, against such Board Member and the facts supporting such allegations have been presented to such Board Member.

**4.04 Vacancies:** Any vacancy occurring on the Board prior to the expiration of the term for the respective seat, other than the seats subject to appointment by the Declarant prior to the Control Date, may be filled by affirmative vote of a majority of the remaining Board Members for the unexpired portion of such term. In the event that any Board Member shall be absent from three (3) consecutive regular meetings of the Board of Directors, the Board may, by action taken at the meeting during which said third absence occurs, declare the office of said absent Board Member to be vacant.

**4.05 Quorum of Members of the Board of Directors:** A quorum of the Board, for the transaction of business, is deemed present at any meeting of the Board if persons entitled to cast a majority of the total number of votes on the Board are present. Any action at a meeting by a quorum of the Board Members shall be deemed an action of the Board of Directors.

**4.06 Place and Notice of Board of Directors' Meetings:** Meetings of the Board, regular or special, may be held at such place within La Plata County, State of Colorado, and upon such notice as the Board may prescribe. There shall be two regular meetings of the Board each year, on the second Saturday of January and the second Saturday of July, or on such other dates as agreed upon among the Board Members and at the time of day and place as determined by the Board Members. Special meetings of the Board shall be held when called by an officer of the Association or by any two directors after not less than five (5) days' notice to each Board Member. Attendance of a Board Member at any meeting shall constitute a waiver of notice of such meeting except when a Board Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Before, at or after any meeting of the Board, any member of the Board may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the waiver of notice of such meeting. The Board 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 members of the Board. Any action so approved shall have the same effect as though taken at a meeting of the Board. Any Board Member(s) may participate in any meeting of the Board by any electronic means, including but not limited to a telephone conference call, which allows such member(s) to hear or read the deliberations of the other Board Members and vice versa.

**4.07 Annual Budget:** The Board shall annually propose a budget for the Association. Within thirty (30) days after the Board's adoption of any proposed budget, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget, including a determination of the General Assessment to be paid by each Owner, to all the Lot Owners and shall set a date for a meeting of the Members of the Association to consider ratification of the budget not less than fourteen (14) nor more than fifty (50) days after mailing or other delivery of the summary. Unless at that meeting a majority of all Members reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Members must be continued until such time as the Members ratify a subsequent budget proposed by the Board.

**4.08 Powers and Duties:** The Board shall have the powers and duties necessary for the administration of the affairs of the Association. The Board may do all such acts and things as are not by law or by the Declaration, Articles or these Bylaws directed to be exercised and done by the Members of the Association. Any powers or duties specifically set forth in C.R.S. 38-33.3-302 but not enumerated herein shall be included herein by reference and any powers set forth herein which may be in conflict with said statute shall be deemed modified as necessary and appropriate.

**4.09 Other Powers and Duties:** Without limiting the generality of the powers and duties set forth in the Declaration, the Articles or Section 4.08 of these Bylaws, the Board shall be empowered and shall have the following powers:

A. To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations, and all other provisions set forth in the Declaration.

B. To establish, make and enforce compliance with such reasonable rules and regulations as may be necessary or desirable for the operation, use and occupancy of the Village with the right to amend same from time to time and including the right to levy and collect fines or other charges associated therewith. A copy of such rules and regulations shall be delivered to or mailed to each Member

promptly upon the adoption thereof, and the current rules and regulations shall be delivered or mailed to each new Member upon receipt by the Association of a notice of a change of Lot ownership.

C. To own, acquire, build, improve, operate and keep in good order, condition and repair all Common Elements, including real and personal property and all improvements thereon, or other property interests held, owned, leased, operated, used or maintained by the Association, the use or enjoyment of which is necessary for or which would enhance the operation of, use of or enjoyment of the Common Elements by the Owners or the conduct of the Association's duties and operations. No approval of the Owners is required for expenditures for these purposes, provided, however, that in the event Capital Improvement Assessments exceed in the aggregate five percent (5%) of the budgeted gross expenses of the Association for that fiscal year or \$5,000.00, whichever is greater, the vote or written consent of a majority of the Owners subject to such assessments shall be required to approve such Capital Improvement Assessments. The Board may also convey or mortgage Common Elements or other real or personal property owned by the Association or pledge the same as security but only as permitted by C.R.S. 38-33.3-312 and subject to such other limitations or restrictions as may be set forth in the Declaration, the Articles or these Bylaws.

D. To insure and keep insured all the insurable Common Elements of the Village in an amount equal to the full replacement value, exclusive of land, foundation and other items normally excluded from coverage. Further, to obtain and maintain comprehensive liability insurance covering the entire premises in an amount not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence.

E. To fix, determine, levy, and collect the prorated General Assessments to be paid by each of the Members toward the Common Expenses of the Association, and to adjust, decrease or increase the amount of the assessments, subject to any limitations set forth elsewhere in these Bylaws or the Declaration, and to credit to the Members against the next succeeding assessment period any excess of assessments over expenditures and contributions to cash reserves.

Common Expenses shall be divided equally among all Lots included in the Village and subject to assessment by the Association, including Lots owned by the Declarant. There are initially 18 Lots in the Village, therefore, 1/18 of the Common Expenses shall be allocated to the Owner(s) of each Lot unless and until such time as the number of Lots included in the Village changes. The setting and adoption of the proposed annual budget for ratification by the Members and fixing and determining of the General Assessments pursuant thereto shall generally be accomplished within sixty days prior to or thirty days after the beginning of the Association's fiscal year.

F. To fix, determine, levy, and collect Capital Improvement Assessments whenever, in the opinion of the Board and subject to any limitations set forth elsewhere in these Bylaws or the Declaration, it is necessary to do so for the installation, improvement, construction or reconstruction of any capital improvements on any of the Common Elements which the Association may from time to time authorize as provided in the Declaration.

G. To fix, determine, levy, and collect Special Assessments against a particular Member, Owner or a Lot, whenever, in the opinion of the Board and subject to any limitations set forth elsewhere in these Bylaws, the Declaration or Articles, it is necessary to do so in order to reimburse the Association for costs incurred in bringing the Owner or the Lot into compliance with the provisions of the Declaration, Articles, Association rules and regulations, Design Guidelines or these Bylaws, or any other charge designated as a Special Assessment in the Declaration, Articles, Association rules and regulations, Design Guidelines or these Bylaws, together with attorney's fees and other charges payable by such Owner pursuant to the provisions of the Declaration, as provided in Article VI thereof. All Special Assessments shall be set forth in statement form showing the detail of the various expenses for which the assessments are being made.

H. To collect delinquent assessments, fees or other charges by suit or otherwise and to enjoin and seek damages, including reasonable attorney's fees, from an Owner as is provided in the Declaration and these Bylaws. To enforce a late charge of not more than \$50.00 per month in connection with each assessment or other charge remaining unpaid more than thirty days from the due date for payment thereof and to collect interest at the rate of fifteen percent (15%) per annum, not to exceed the maximum rate allowed by law, on unpaid assessments or other charges in accordance with the Declaration.

I. To suspend the voting rights of any Owner for any period during which any Assessment or other charge levied by the Association against such Owner or his Lot remains unpaid after the initial due date; however, upon payment of all such assessments and charges, his rights and privileges shall be automatically restored.

J. To protect and defend the Association from loss or damage by suit or otherwise.

K. To borrow funds in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the Declaration and these Bylaws and to authorize the appropriate officers to execute all such instruments evidencing such indebtedness as the Board of Directors may deem necessary, and such indebtedness shall be the several obligations of all of the Owners in the same proportion as they share the Common Expenses; provided, however, that the Board shall not borrow more than \$10,000.00 or cause the Association to be indebted for more than \$10,000.00 at any one time without the prior approval by a majority vote of the members of the Association.

L. To enter into contracts within the scope of their duties.

M. To establish bank accounts for the treasury and for all separate funds which are required or may be deemed advisable by the Board.

N. To cause to be kept and maintained a complete record of all its acts and corporate affairs including full and accurate books and records showing all of the receipts, expenses or disbursements and to permit examination thereof by Lot Owners or their Mortgagees at convenient weekday business hours.

O. To prepare and deliver annually to each Member a statement showing a summary of all receipts, expenses and disbursements since the last such statement, including depreciation, current indebtedness and debt retirement schedules, and pertinent tax information.

P. To appoint, hire, contract with, designate and remove the personnel necessary for operation, maintenance, repair, and replacement of the Common Elements.

Q. On ten (10) days' notice and receipt of \$25 from any Owner or Mortgagee, or such other reasonable charge as may be set by the Board from time to time, to furnish a certificate of the Owner's account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

**4.10 Administrative Hearings:** In addition to the other powers contained in these Bylaws, the Declaration, the Articles and as may otherwise be granted to a nonprofit corporation under Colorado law, the Association, by action of its Board, shall have the right to suspend the voting rights of any Owner for any period during which any Assessment against his Lot remains unpaid and to levy fines, penalties and other charges for the violation of the Declaration, Bylaws, rules and regulations or Design Guidelines of the Association.

Prior to suspending the voting rights of an Owner or levying a fine, the Board shall hold an Administrative Hearing (hereinafter "Hearing"). The Owner, tenant or other party subject to such proposed action shall be notified in writing, at least thirty (30) days prior to such Hearing, of the proposed action and

the reasons therefor and shall be given an opportunity at the Hearing to present evidence and testimony as to why the proposed action should not be taken.

A quorum of the members of the Board, or a lesser number of members of the Board if the Board has delegated such responsibility to such member(s), shall be sufficient to conduct the Hearing and take action, including the suspension of voting rights for nonpayment of Assessments, levying of a fine for violations of the Declaration, the Bylaws or the rules and regulations of the Association, or such other action as may be appropriate under the circumstances.

**4.11 Manager:** The Board may employ for the Association a Manager or Managing Agent to perform such duties and services of the Association as the Board shall authorize, provided, however, that the Board in delegating such duties shall not be relieved of its responsibilities under the Declaration, these Bylaws or state statute; and provided further that the terms of such employment shall conform to the provisions of the Declaration. Such Management Contract shall be based upon an annually adopted budget at a compensation established by the Board pursuant to a written Management Contract with a real estate management company actively doing business in La Plata County, Colorado, or a certified public accounting firm doing business in La Plata County, Colorado, or a resident owner or such other qualified company or individual. The written Management Contract shall provide that the Manager shall have the ability to spend up to \$750.00 for repairs without the prior authorization of the officers of the association if the officers have not been reasonably available and the circumstances are such that immediate action is necessary.

In addition to the requirements set forth in the Declaration, any agreement for professional management of the Village by the Declarant or any other contract providing for services by Declarant must provide for termination by either party without cause and without payment of a termination fee on ninety days' or less written notice, and any such contract shall have a maximum term of three years and may be renewable for successive three-year periods.

## **ARTICLE V OFFICERS AND THEIR DUTIES**

**5.01 Enumeration of Officers:** The officers of this Association shall be a President, Vice President, Secretary and Treasurer, and such other officers as the Board may from time to time by resolution create. The President must be a member of the Board of Directors and shall serve as Chairman of the Board of Directors, but the President may never simultaneously hold the office of Secretary.

**5.02 Election of Officers:** The officers shall be chosen by majority vote of the Board of Directors which shall take place at the first meeting of the Board following each Annual Meeting of the Association Members.

**5.03 Term:** The officers of this Association shall be elected annually by the Board and each shall hold office for one year unless he shall sooner resign, or shall be removed, or otherwise become disqualified to serve.

**5.04 Additional Officers:** The Board 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 may from time to time determine.

**5.05 Resignation and Removal:** Any officer may be removed from office, with or without cause, by a majority vote of the Board after a duly called meeting of the Board, consistent with Section 4.06 herein, at which a quorum is present. Any officer may resign at any time by giving written notice to the Board, 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 the acceptance of such resignation shall not be necessary to make it effective unless otherwise specified therein.



**5.06 Vacancies:** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**5.07 Multiple Offices:** The offices of Secretary and Treasurer 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 5.04 of these Bylaws.

**5.08 Duties:** The duties of the officers are as follows:

**A. President:** The President shall preside at all meetings of the Association members and the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and other instruments; and shall co-sign all promissory notes. The President is hereby authorized to prepare, execute, and record amendments to the Declaration as such may be approved by the Members in accordance with the procedures for making such amendments as set forth in the Declaration.

**B. Vice President:** The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

**C. Secretary:** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it to all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with addresses; and shall perform such other duties as required by the Board consistent with the purposes of the Association and powers of the Board. The Secretary shall certify any amendments to the Declaration duly approved by the Members.

**D. Treasurer:** The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board of Directors, provided, however, that a resolution of the Board shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board; shall sign all checks and promissory notes of the Association; keep proper books of account; in the event of a request by an individual Member, and at such Member's personal expense, cause an audit of the Association's books to be made by an independent certified public accountant; 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 summary of each to the Members.

## **ARTICLE VI**

### **INDEMNIFICATION OF OFFICERS AND MEMBERS OF THE BOARD**

**6.01 Indemnification and Fidelity Coverage:** The Association shall indemnify each officer and member of the Board of Directors against liability for judgments, settlements, penalties, fines or reasonable expenses, including attorney, accountant or other expert consultant fees, incurred in any proceeding, whether threatened, pending or completed action or suit, or whether civil, criminal, administrative or investigative and whether formal or informal, to the full extent permitted by Colorado law, including without limitation, C.R.S. 7-3-101.5, the provisions of which are incorporated herein by reference for indemnification and directors' and officers' liability insurance purposes.

The Board at its discretion may provide, or if C.R.S. 38-33.3-306 or any other part of Article 33.3 of Title 38 so requires, the board shall comply with the provisions of said statute and specifically provide, fidelity insurance coverage or a fidelity bond for any and all agents, contractors or employees to whom any powers have been delegated to handle funds of the Association.

## **ARTICLE VII COMMITTEES**

**7.01 Architectural Review Committee:** The Architectural Review Committee shall be a standing committee and consist of three members appointed by the Board. The Committee shall promulgate Design Review Guidelines concerning structure design and appearance along with landscaping and site improvement standards and any other relative design and enforcement matters and perform such other functions as specified in the Declaration and as directed by the Board.

**7.02 Other Committees:** The Board may establish, and appoint persons to, such other committees as it deems appropriate in carrying out its purposes.

## **ARTICLE VIII SERVICES**

**8.01 Services:** The Association shall initially provide the following services, as determined by the Board of Directors, and the expenses thereof shall be deemed Common Expenses paid from Annual Assessments. The list of services may be amended or supplemented from time to time by vote of the Board, consistent with the requirements of the Declaration, the Articles, these Bylaws and statute:

- A. Maintenance and repair of the Common Roads and fire hydrants, including snow removal therefrom.
- B. Operation, maintenance and repair of the central water system and water storage pond(s) in compliance with the Water Decree (Case 93CW27, Water Division 7).
- C. Operation, maintenance and repair of the central sewer lines.
- D. Operation, maintenance and repair of other Common Elements.
- E. Acquisition of accounting and legal services.
- F. Approval of administrative and maintenance personnel payroll.
- G. Purchase of office supplies
- H. Acquisition of insurance for Common Elements.
- I. Acquisition of Officers' and Directors' liability insurance.
- J. Payment of management fees; and
- K. Provision of a reserve fund for maintenance, repair and replacement of Common Elements as may be required by the Declaration.

## **ARTICLE IX NON-PROFIT CORPORATION**

**9.01 Non-Profit Corporation:** This Association is organized as a non-profit corporation. No member of the Association or of the Board of Directors shall receive or shall be lawfully entitled to receive any pecuniary profit from the operations of this corporation and in no event shall any part of the funds or assets of the Association be paid as a dividend or be distributed to, or inure to the benefit of, any Member of the Board. The foregoing, however, shall neither prevent nor restrict the following: (i) reasonable compensation for services rendered in effecting one or more of the purposes of the Association may be paid to any member or Board Member acting as an agent or employee of the Association; (ii) a reasonable purchase price to acquire or otherwise use real or personal property necessary to effect one or more of the purposes of the Association may be paid to any Member or Board Member; and (iii) any Member or Board Member may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association if such expenses have been pre-approved by the Board.

## **ARTICLE X OBLIGATIONS OF THE OWNERS**

The purpose in enumerating the following obligations of each Lot Owner is to inform all purchasers of such obligations. The failure to enumerate any obligations of a Lot Owner herein below, whether an existing obligation or one created after the adoption of these Bylaws, shall not affect such obligations in any manner or the duty of the Lot Owner to perform.

**10.01 Use of Common Elements:** Each Owner shall use the Common Elements only in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Owners.

**10.02 Registration of Mailing Address:** All Owners of each Lot shall have one and the same registered mailing address to be used by the Association for mailing of notices, demands and all other communications and that address shall be registered, in writing, with the Secretary of the Association and in the absence of such registered address the Association may rely upon the mailing address of the respective Lot.

**10.03 Assessments:** Except as otherwise provided in the Declaration, all Owners shall be obligated to pay the General Assessments imposed by the Association to meet the Common Expenses and any Capital Assessments, Special Assessments, fines, penalties, or other charges properly levied by the Association. Unless otherwise determined by the Association, the General Assessments, and any Capital Improvement Assessments which are to be paid in monthly installments, shall be paid monthly in advance and shall be due and payable, without notice (except for the notice required by the Declaration), on the first day of each month to the Association at its principal office or as the Association may otherwise direct in writing. A Member shall be deemed to be in good standing and entitled to vote at any Annual or at a Special Meeting of Members, within the meaning of these Bylaws, if, and only if, he shall have fully paid, prior to the initial due date, all assessments, fines and other obligations levied by the Association against him or the Lot owned by him.

**10.04 Other Obligations Assumed by Lot Owner:** The obligations assumed by the Owner include the following:

**A.** The duties and obligations with respect to Lots and the use thereof as set forth more fully in the Declaration and pursuant to state law.

**B.** The duty of Owners as set forth in the Declaration to reimburse the Association for repair or replacement of Common Elements, when such repair or replacement is occasioned by the negligent or willful act or omission of said Owner, his family members, guests, agents, employees, invitees, or tenants.

**C.** The right of the Association, pursuant to the provisions of the Declaration, to construct additions to the Common Elements and apportion the cost of such elements among the Owners in the same manner as General Assessments.

**D.** The duty to pay all General, Capital and Special Assessments and other charges levied for any purpose authorized or otherwise provided for and governed by the Declaration, Articles, Association rules and regulations, Design Guidelines, these Bylaws or by statute.

**E.** The duty to pay any separately metered or assessed utility costs and ad valorem taxes and special assessments levied by the State of Colorado or any political subdivision thereof on an Owner's Lot.

F. The duty to indemnify and hold harmless each of the other Owners and the Association from liability arising from the claim of any mechanic's lien against an Owner's Lot or against the Common Elements.

G. The duty to adhere to and comply with all use restrictions set forth in the Declaration.

H. The burdens imposed by the easements set forth in the Declaration.

I. The restrictions, limitations and prohibitions relative to partitioning, severing ownership interests in the Common Elements, and leasing Lots as set forth in the Declaration.

## **ARTICLE XI FIRST MORTGAGEE REQUIREMENTS**

**11.01** Any First Mortgagee (which for this purpose includes the beneficiary of any first lien deed of trust) may register with the Association in the manner specified in the Declaration. The Association shall give any Registered First Mortgagee who so requests, upon receipt of payment by the Mortgagee for the Association's actual or estimated costs of providing such materials to the Mortgagee, written notification of any default in the performance of any borrower of any obligation under the Declaration, the Articles or these Bylaws, which default is not cured within sixty days after the same shall occur. Such written notification shall be sent to such address as the Mortgagee may designate in writing to the Association.

**11.02** Unless two-thirds (2/3) of the First Mortgagees (based upon one vote for each First Mortgage owned) and two-thirds (2/3) of the Owners of the individual Lots in the Project shall have given their prior written approval, the Association shall not be entitled to:

A. By act or omissions seek to dissolve or terminate the Association;

B. Change the formula used to determine the allocated interest or obligations of any individual Lot for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the allocated interest of each Lot in the Common Elements;

C. By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements; (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Project shall not be deemed a transfer within the meaning of this clause); and

D. In case of substantial loss to the Lots and/or to the Common Elements of the Village, except as otherwise provided in the Declaration, to use hazard insurance proceeds for losses to any portion of the Project (whether to Lots or to Common Elements) for other than the repair, replacement or reconstruction of such Lot or Common Elements.

**11.03** First Mortgagees shall have the right to examine the books and records of the Association at the principal office of the Association during reasonable weekday business hours, subject to assessment and payment of any costs resulting therefrom including, but not limited to, legal, accounting or copying costs.

**11.04** At each Annual Meeting, the Board of Directors shall estimate the amount necessary to provide an adequate reserve fund for maintenance, repair or replacement of those Common Elements that must be replaced on a periodic basis and shall provide that such amounts shall be payable as a part of the

regular General Assessments. The General Assessments provided by the Declaration shall be payable on a monthly basis.

**11.05** In the event of any damage or destruction to the Common Elements or if all or any part thereof shall be taken by exercise of eminent domain, such funds shall be applied to the repair or replacement of the damaged, destroyed or condemned Common Elements or distributed for the payment of general (ad valorem) property taxes, if any, as the Board of Directors may determine. Thereafter, any such funds shall be applied as determined by the Board and subject to the approval of two-thirds (2/3) of all First Mortgagees consistent with the provisions of the Declaration.

## **ARTICLE XIV MISCELLANEOUS PROVISIONS**

**12.01 Fiscal Year:** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of each year, except that the first fiscal year shall begin on the date of incorporation.

**12.02** 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, the Articles of Incorporation and the Bylaws of the Association, as well as any Management Agreements, shall be available for inspection by Members at the principal office of the Association, where copies may be purchased at reasonable cost. The Board, in its discretion, may require as a condition precedent to inspection that any Member pay any and all costs incurred in addition to copying charges, including legal and accounting fees, in connection with inspection of corporate records.

**12.03 Amendment:** These Bylaws may be amended by the Board of Directors subject to approval of such amendment by affirmative vote of two-thirds (2/3) of the Association Members present, in person or by proxy, at a duly constituted Annual or Special Meeting for such purposes, a quorum of the Members being present at said meeting. The notice of such meeting shall contain a summary of the proposed changes or a copy of the proposed changes. No amendment shall serve to shorten the term of any Board Member or conflict with the Colorado Non-Profit Corporation Act. Any proposed amendment to these Bylaws which would create a conflict with the Articles or effect a change in the Articles shall only be approved simultaneously and consistent with the requirements for amending the Articles, provided further that any matter stated herein to be or which is in fact governed by the Declaration, including any Supplemental Declarations and as such may be amended from time to time, may not be amended except as provided in such Declaration.

**12.04 Conflict Between Documents:** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control, and in the case of any conflict between the Declaration and these Bylaws or the Articles, the Declaration shall control, consistent with state statutes.

IN WITNESS WHEREOF, the undersigned, being all of the members of the Board of Directors of Twilight Peaks Homeowners Association, Inc., have approved and executed these Bylaws at Durango, Colorado, this 14th day of December, 1994.

Robert W. Chamberlain  
Michael J. Chamberlain  
Patricia Chamberlain