

Bylaws

ARTICLE I: Interpretation, Definitions, and Incorporation of 'Restrictive Covenant' & 'Encumbrance Agreement'

- 1.01 These Bylaws shall be construed with reference to the provisions of The Societies Act, R.S.A. 1980, c. S-18, as amended from time to time (or any subsequent governing legislation), and terms used in these Bylaws shall be taken as having the same respective meanings as they have when used in that Act. Notwithstanding anything else herein contained, these Bylaws shall be read subject to the restrictions upon their scope and effect contained in The Societies Act and other applicable statutes and rules of law and equity, and any provisions herein repugnant to such restrictions shall, wherever possible, be severed from these Bylaws, in order that the rest may stand.
- 1.02 In the interpretation of these Bylaws (including this Article 1.02), except where excluded by the context,
- a. words importing the singular number shall also include the plural, and vice-versa;
- b. words importing the masculine gender shall also include the feminine;
- c. words importing persons shall include corporations;
- d. the headings herein are given for convenience only, and shall not affect the interpretation of these Bylaws;
- e. these Bylaws shall be interpreted in a large and liberal sense so as to give effect thereto wherever possible;
- f. 'Act' shall mean the Societies Act R.S.A. 1980, c. S-18 as amended, and any statute that may be substituted therefore;
- g. 'Association' shall mean the Eagle Ridge Homeowners Association.
- h. 'the Board' means the Board of Directors of the Association;
- i. 'Melcor' means Melcor Developments Ltd.;
- j. 'By-laws' shall mean the By-laws of the Association as amended from time to time;
- k. 'Developer' means Melcor, Desa Stores Ltd. and Columbus Investment Corp. Ltd.;
- l. 'Director' shall mean any person who has been duly elected or appointed to the Board of Directors by whatever name called;
- m. 'Member' shall mean a member of the Association unless the context requires otherwise;
- n. 'Registered Office' shall mean the registered office for the Association.
- o. 'Restrictive Covenant' and 'Schedule 'A"' shall each mean either or both the Restrictive Covenant and Encumbrance Agreements bearing Land Titles Instrument Nos. 922 284 317 and 972 269 165, true copies of which are annexed hereto as Schedule 'A' ;
- p. Members' fees shall have the same meaning and intent as the 'Rent Charges' referenced in Schedule 'A';
- q. 'Persons' includes an individual, a property owner, a body corporate, a partnership, a joint venture or other association,
- r. Perimeter Fence means the perimeter fence constructed along the Rabbit Hill Road and Riverbend Road boundary of the Eagle Ridge subdivision.

1.03 These By-laws are subject to and to be construed with the Restrictive Covenant, which governs in the event of any conflict with these By-laws. The purpose and objects of the Association are to carry out the duties and functions provided for in Schedule "A" to be performed or done by the Association and generally to provide for care and maintenance of Subdivision Features in the Eagle Ridge Subdivision as defined in Schedule "A".

ARTICLE II: Members of the Society and Voting Rights

- 2.01 Article 3.1 in Schedule "A" are incorporated into these By-laws and are made a part hereof. Without limitation:
- a. The Members of the Association shall be those entitled to membership under said Article 3.1 paragraphs 3.1.1 and 3.1.3; provided that until the Developer shall have sold one hundred (100) of the Subdivided Lots (as defined in Schedule "A"), the five signatories to the application for incorporation of the Association and substitutions therefore (if any) made by Melcor shall, notwithstanding Schedule "A", and notwithstanding anything herein contained, be and continue to be members whether or not they own any interest in any Subdivided Lot. Such signatories shall only cease to be members when the Developers have sold and transferred at least one hundred (100) Subdivided Lots. Save for the said 5 signatories and substitutions therefore, ownership (which may be beneficial ownership) in fee simple of a Subdivided Lot, or a fractional or joint tenant interest therein, is a prerequisite to membership in the Association. No one (save for the said five signatories or other representatives of Melcor appointed hereunder) who is not an owner in fee simple as aforesaid shall be eligible for membership, and everyone who has been but ceases to be such an owner shall ipso facto cease to be a Member. An owner shall be entitled to become a Member forthwith on becoming registered (which may include registration by caveat) as an owner as aforesaid, and his membership shall be recorded by the Secretary upon his providing to the Association's Board satisfactory evidence of such ownership, or the Board otherwise being satisfied of such ownership.
- b. Voting rights shall be as set out in said Article 3.1, paragraph 3.1.2 in Schedule "A".
- c. No owner shall be expelled from the Association as long as he continues to be a registered owner.

2.02 Membership Year

Membership year shall be from January 1, to December 31, of each year.

- 2.03 Notice of Meeting
- A Member shall be entitled to notice of and to attend at all meetings of the Members of the Association. Where two or more persons own a Subdivided Lot, a notice given to one such owner shall be deemed to have been given to all such owners.

ARTICLE III: Meetings of the Association

- 3.01 The Annual General Meeting
- a. An Annual General Meeting of the Association shall be held in each calendar year in the City of Edmonton, in the Province of Alberta, on a day to be fixed by the Board from time to time;
- b. At least fourteen (14) days prior to the Annual General Meeting the Secretary shall give to each Member a notice setting forth the date, place and time of the Annual General Meeting;
- c. The Annual General Meeting shall consider the report of the President, review of financial statements, (which shall set out the Association's income, disbursements, assets and liabilities, and shall comply with the requirements of the Societies Act), appoint such auditors or accountants as may be desired, elect the Board, and transact such other business as may be put before the meeting;
- d. A quorum for the Annual General Meeting of the Association shall be the attendance of persons collectively entitled to cast five (5) or more votes;
- e. In order to be entitled to vote at the Annual General Meeting, members must be members in good standing and have their annual fees, late payment penalties, damages, recoveries, and other charges paid in full.
- f. Unless any two Members demand a ballot vote, all voting at the Annual General Meeting shall be done by a show of hands;
- g. Each Member, subject to the limitations in section 3.01 e may vote by proxy. Such proxy should himself be a Member of the Association or an officer or employee of a corporate member, but before voting must produce and deposit with the Secretary a sufficient appointment in writing. The Secretary, or in his absence the Chairman of the meeting, shall have complete discretion to determine whether an appointment or proxy is valid and sufficient.
- h. Except as to a Special Resolution, each issue and Resolution shall be decided by a majority of the votes of the Members present or in person or represented by a proxy;
- i. Accidental omission to give any notice to any Member or the non-receipt of any notice by any Member or any error in any notice not affecting the substance thereof shall not invalidate any action taken at a meeting held pursuant to such notice or otherwise founded thereon; and
- j. At the Annual General Meeting there shall be elected as many Directors as shall be required to fill the vacancies of the Board.
- 3.02 Special Meetings of the Association
- a. Special meetings of the Association shall be called at the direction of the President or upon request in writing of any fifteen (15) Members in good standing, setting the object of the special meeting;
- b. At least fourteen (14) days prior (and if a Special Resolution is proposed at least twenty-one (21) days prior) to the special meeting, the Secretary shall mail or deliver to each Member a notice setting forth the date, place, time and purpose of the special meeting;
- c. The method of voting, the use of proxies and the quorum required for any special meeting shall be the same as for the Annual General Meetings;
- d. Accidental omission to give any notice to any Member or the non-receipt of any notice by any Member or any error in any notice not affecting the substance thereof shall not invalidate any action taken at a meeting held pursuant to such notice or otherwise founded thereon.

- 3.03 Proceedings at General Meetings
- a. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of the Members, shall be dissolved, but in every other case it shall stand adjourned to the same day in the following week at the same time and place;
- b. The President, or in his absence, a Vice-President, shall preside at every general meeting of the Society. If neither the President nor a Vice-President be present within a half an hour from the time appointed for the holding of the meeting, the Members present shall choose one of the Members to preside at such meeting;
- c. The person presiding may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business unfinished at the meeting from which the adjournment took place;
- d. At every general meeting every question shall be decided in the first instance by a show of hands, unless before or upon the declaration of the result of the show of hands, a ballot be demanded by at least two (2) Members personally present and entitled to vote. A declaration by the person presiding that a resolution has been carried or carried by a particular majority, or lost, shall be conclusive evidence thereof, without proof of the number or proportion of the votes recorded in favour or against any such resolution. If a ballot be demanded in the manner above mentioned, it shall be taken at such time and place and in such manner as the person presiding may direct, and the result of the ballot shall be deemed to be the resolution of the general meeting at which the ballot was demanded. A demand for a ballot may be withdrawn;
- e. In case of any dispute as to the admission or rejection of any vote, the person presiding shall determine the same, and such determination made in good faith shall be final and conclusive;
- f. Notwithstanding anything to the contrary in these By-laws a resolution assented to and adopted in writing under the hands of sixty-five (65%) percent of all the Members entitled to vote thereon, though not passed at a General Meeting, shall be of the same force and effect as if it had been duly passed at a General Meeting duly convened, and no previous notice, or convening of any General Meeting for the purpose of passing such resolution shall in such case be deemed to have been necessary, whether the business transacted thereat is special or not, and a Member may signify his assent to such resolution in writing under his hand or by telegram or cable, and such resolutions shall be deemed to have been passed on any date therein stated to be the date thereof.
- g. Co-owners may vote by proxy jointly appointed by them, and in the absence of such proxy are entitled to vote on a show of hands; but on any vote ballot each co-owner is entitled to such part of the vote applicable to the Parcel he co-owns as is proportionate to his interest in the Parcel

- 3.04 In determining the identity or addresses of members the Secretary shall be entitled to rely upon either (or both) title searches and notifications of ownership given to the Board by Members or their representatives.

ARTICLE IV: The Government of the Association

- 4.01 The Board of Directors
- a. Each Board member must be a Member (or designate of a corporate Member) in good standing of the Association at the time of his election and throughout his term of office; and a Board member shall ipso facto cease to be a Board member if he dies, is convicted of an indictable offence or is declared mentally incompetent by a court of law, or if he ceases to be a Member (or designate of a corporate Member);
- b. If an owner of a Subdivided Lot is a corporation, any one officer, director or other designate of the corporation is eligible to become a member of the Board;
- c. Board membership shall commence upon election or appointment to the Board and shall expire at the next succeeding Annual General Meeting, unless prior thereto the Board member resigns, becomes disqualified under clause (a) hereof or is removed under clause (d) hereof. Board members may be re-elected;
- d. Vacancies in the Board may be filled by appointment by the remaining Board members to serve until the next Annual General Meeting; provided that a Board may be removed prior thereto by resolution of the Members of the Association at any Special Meeting of the Members duly called for such purpose;
- e. The affairs of the Association shall be managed by the Board consisting of not less than three (3) nor more than seven (7) persons;
- f. The Officers shall consist of a President, Vice-President, Secretary and Treasurer, and they shall be appointed by the Board from amongst Board members; and the Board may appoint one person to more than one position, and the Board may also remove any officer from office;
- g. The number of Board members shall be fixed at each Annual General Meeting;
- h. Any member of the Board shall be eligible for re-election to the Board, subject to the limitation set out in Section 4.01 c.;
- i. The Board shall, subject to these By-laws and any directions given it by majority vote at any General Meeting properly called and constituted, have full control and management of the affairs of the Association, and meetings of the Boards may be held as often as may be required, but at least once every twelve months, and shall be called by the President or on the instructions of any two (2) members of the Board provided they request the President in writing to call such meeting, and state the business to be brought before the meeting;
- j. Meetings of the Board shall be called by ten (10) days notice in writing and mailed to each member or by three (3) days notice by telephone unless waived by all of the members of the Board;
- k. A majority of the members of the Board, personally present, shall constitute a quorum at any meeting of the Board;
- l. Each member of the Board including the President shall have one (1) vote. In the case of an equality of votes, the President shall not have a second or casting vote and the motion will be deemed defeated;
- m. A resolution of the Board in writing signed by all of the members of the Board shall be as effective as a resolution passed at a meeting of the Board duly convened and held.

- 4.02 Duties and Powers of the Board
- Except as provided in the Act and otherwise in these By-laws, the powers of the Association shall be exercised by the Board, and without restricting the generality of the foregoing, the duties of the Board shall include the responsibilities set out in Article III 2(a) of Schedule "A" together with the following:
- a. To facilitate and promote the objects of the Association;
- b. To create and define categories of Members;
- c. To engage, hire and discharge any employees including administrative employees, in respect to the operation of the Association;
- d. To maintain and properly protect the assets and properties of the Association, including, but not limited to the maintenance of the Perimeter Fence constructed along the Rabbit Hill Road and Riverbend Road boundary of the Eagle Ridge Subdivision.
- e. To prepare and approve an annual budget consistent with the good management of the Association;
- f. To pay all expenses of and incidental to the operation and management of the Association;
- g. To remunerate or indemnify any persons for services rendered or liabilities incurred in connection with the affairs of the Association;
- h. To maintain all accounting and financial records of the Association;
- i. To invest and deal with the monies of the Association not immediately required in such securities and in such manner as from time to time may be determined by the Board;
- j. To finance the operations of the Association and to borrow, raise or secure the payment of moneys in such manner as the Board may, from time to time, think fit, provided that no borrowing in excess of \$5,000.00 shall be made without prior authorization of the Members in General Meeting, and no debenture shall be warranted unless authorized by Special Resolution;
- k. To appoint legal counsel and auditors from time to time;
- l. To make rules and regulations for the operation of the Association and the use of its facilities and assets;
- m. Without in any way abrogating or limiting the general responsibility of the Board, to delegate its powers and duties to any person engaged as an Administrator of the Association;
- n. To set, levy, issue and collect levies, fees, penalties, damages, costs and other recoveries, including:
- i. for the operating and maintenance requirements for the Association and allocate these to the owners as annual members' fees;
- ii. for the failure to remit member fees by April 1 of each calendar year, a late payment penalty will be added to the account of any member whose invoice for the annual fees is not paid and is 90+ days in arrears. The initial value of the Late Payment Penalty is set at 16% of the annual member fee. This amount will be added to the account of each Member for every six-month period that the invoiced amount remains outstanding;
- iii. for enforcement of the Restrictive Covenant and Encumbrance Agreement (Schedule "A" hereto):
- a. an administrative fee in the amount of \$250.00 for any of the steps described in Section 16.01 of these Bylaws payable by a person or persons in breach of the Restrictive Covenant and Encumbrance Agreement for each instance of a breach;
- b. in addition to an administrative fee, if any, recovery against a person or persons in breach of the Restrictive Covenant and Encumbrance Agreement of any and all legal fees, disbursements and other charges incurred by the Board or the Association for legal advice and assistance in connection with enforcement of the Restrictive Covenant and Encumbrance Agreement against a person or persons in breach thereof;
- iv. For the recovery of any costs - including legal fees, disbursements and other costs - associated with the collection of any outstanding member fees, and late payment penalties that have remained unpaid for more than 6 months after the date of invoicing by the Association.
- o. To issue certificates as to Members' position with regard to members' fees any such certificate to be signed by at least two members of the Board; and any certificate so issued shall stop the Association and all Members from denying the accuracy of such certificate as against any mortgagee, purchaser or other person dealing with the owner of the Parcel to which the certificate relates (but shall not be an estoppel as against the owner of such Subdivided Lot); and
- p. To place and maintain third party liability insurance in such amounts and on such terms as the Board may from time to time select, insuring the Members and Board members in respect of the actions and omissions of the Association.

- 4.03 Board Committees
- a. The Board may appoint committees to advise the Board from time to time in respect to the various duties and responsibilities of the Board;
- b. Each committee created by the Board shall be headed by one of its members appointed by the President to be Chairman of that committee;
- c. Each committee created by the Board shall meet at the call of the Chairman, record minutes of its proceedings, and distribute such minutes to the members of the committee and to the Chairman of all other committees and furnish reports at the request of the President prior to each Board meeting. Unless waived by all of the members of the committee, not less than two (2) days prior notice of the date, place and time of a committee meeting shall be mailed or delivered to each member of the committee;
- d. A majority of the members of any committee personally present at a meeting shall constitute a quorum; and
- e. Each member of the committee including the Chairman shall have one (1) vote at the meeting of the committee but in case of an equality of votes there shall be no casting vote.
- 4.04 Officers
- a. President: The President shall supervise the affairs of the Association, and be ex-officio a member of all committees. He shall, when present, preside at all meetings of the Association and of the Board. In his absence the Vice-President shall preside at any such meetings, and in the absence of both a chairman may be elected by the meeting to preside thereat;
- b. Vice-President: the Vice-President shall assist the President and preside at meetings in the absence of the President;
- c. Secretary: it shall be the duty of the Secretary to attend all meetings of the Association and of the Board, and to keep accurate minutes of the same. He shall have charge of the Seal of the Association. In case of the absence of the Secretary, his duties shall be discharged by such person as may be appointed by the Board. The Secretary shall have charge of all the correspondence of the Association and be under the direction of the President and the Board. The Secretary shall also keep a record of all the Members of the Association and their addresses, send all notices of the various meetings as required, and shall collect and receive the annual fees, late payment penalties, damages, recoveries, and other charges levied by the Association, such moneys to be promptly turned over to the Treasurer;
- d. Treasurer: The Treasurer shall receive all moneys paid to the Association and shall deposit the same in whatever chartered bank, treasury branch or trust company the Board may order. He shall present a full detailed account of receipts and disbursements to the Board whenever requested and shall prepare for submission to the Annual Meeting a statement duly audited as hereinafter set forth of the financial position of the Association;
- e. The officers of the Association shall be appointed for a term of one (1) year or until the next Annual General Meeting whichever first occurs; and
- f. Any vacancy arising in any office shall, except as otherwise provided herein, be filled by the appointment by the Board of another member of the Board who shall hold such office until the next Annual General Meeting of the Association.

ARTICLE V: Books and Records Auditing

- 5.01 The books and records of the Association may be inspected by any Member of the Association at the annual meeting provided for herein or at any other time upon giving reasonable notice and arranging a time satisfactory to the officer or officers having charge of the same. Each member of the Board shall at all times have access to such books and records.
- 5.02 The books, records and financial statements shall be audited by an auditor, if requested by the Board appointed from time to time by the Board. Such auditor may be a Member and need not be a Chartered Accountant; but he shall not be a member of the Board.

ARTICLE VI: Voting

- 6.01 Any Member shall have the right to vote at any meeting of the Association. The number of votes available to Members is to be determined in accordance with Schedule "A" and these By-laws (Schedule "A" to take precedence in the event of conflict).

ARTICLE VII: Minutes of the Proceedings

- 7.01 The Secretary shall maintain and have charge of a copy of the Minute Books, the original Minute Books being maintained at the Registered Office of the Association and shall record in the copy or cause to be recorded in the original minutes of all proceedings of all meetings of the Members and of the Board.
- 7.02 The Board shall see that all necessary books and records of the Association required by the By-laws of the Association are by any applicable statute or laws are regularly and properly kept and filed.

ARTICLE VIII: Seal of the Association

- 8.01 The Board may, in the name of the Association, adopt a seal which shall be the common seal of the Association and which shall be under the control of the Board and the responsibility for its custody and use from time to time shall be determined by the Board, but in the absence of any specific determination, the Seal shall be preserved by the Secretary who together with the President shall execute and affix the seal of the Association on all contracts of the Association required to be executed under the Seal of the Association.

ARTICLE IX: Remuneration

- 9.01 Unless authorized at any general meeting and after notice of same shall have been given, no Director, Officer or Member of the Association shall receive any remuneration for services performed in his or her capacity as a Member, Officer or Director. Nothing herein shall derogate from or affect the right of same to receive compensation as administrator for the Association or in respect of same's performance of any Association duties or transactions.

ARTICLE X: Indemnity

- 10.01 Each member of the Board, officer and employee shall be indemnified by the Association against any and all liability and reasonable expenses in connection with or resulting from any claim, action, suit or proceeding in which he may become involved as a party, or otherwise by reason of his having been a Director of the Board, officer or employee of the Association except in relation to matters as to which he shall be adjudged with respect to such claim, action or proceeding to be liable for gross negligence or willful misconduct in the performance of his duty to the Association.

ARTICLE XI: Bylaws

- 11.01 The by-laws may be rescinded, altered or added to by a Special Resolution of the Association, at a general or special meeting of which at least twenty-one (21) days written notice specifying the intention to propose the resolution as a Special Resolution has been duly given.

ARTICLE XII: Winding Up

- 12.01 In the event the Association is wound up or dissolved, any surplus of funds shall be paid to such registered and incorporated charitable organizations as the Members by Special Resolution may from time to time determine. In no event shall the Members or any of them become entitled to any of the assets of the Association.

ARTICLE XIII: Signatories

- 13.01 The signatories to the Association are hereby ratified and confirmed as subscribers to the incorporation of the Association.

ARTICLE XIV: Notices

- 14.01 Notices to Members may be given by e-mail to the member's last known e-mail address notified to the Association, or by delivery to, or by prepaid ordinary mail addressed to, the address of the Member's Parcel; and Notices to Board members may be given by e-mail to the Board member's last known e-mail address notified to the Association, or by delivery to, or by prepaid ordinary mail addressed to the Board member's last known address notified to the Association. Notices to the Association shall be given by personal delivery to a member of the Board.

ARTICLE XV: Capital Replacement Reserve Fund

- 15.01 Capital Replacement Reserve Fund
- a) The Directors shall establish a capital replacement reserve fund (the "Fund") to provide a secure long-term source of funding for major repair or replacement of existing capital assets of the Association, and for the approved program of staining and painting of street-facing and walkway-facing fences.
- b) The monies of the Fund shall be held in a separate bank account from the operating funds of the Association and shall be invested in low-risk interest bearing instruments. Any interest earned will remain in the reserve fund.
- c) The reserve fund study will be reviewed and/or updated at least every 5 years. The first review of the Reserve Fund Study will occur in 2007, the original having been completed in February 2002.
- d) For purposes of managing the Fund, major repairs and replacement shall be taken to mean those repairs and replacements that would significantly extend the life of a capital asset and that do not normally occur on a regular annual basis. To the extent possible, the Directors shall set out the intended items of major repair and replacement for the next following year in the annual budget of the Association
- e) The Directors shall identify the contribution to the reserve Fund in the annual budget of the Association.
- f) Monies from the Fund shall not be used for the purpose of purchasing new or additional capital assets (as opposed to repairing and replacing existing assets) unless:
- i. The removal of the monies for that purpose is set out in a resolution and approved by a majority vote at a specially convened and properly constituted meeting of members; and,
- ii. After removal of the monies pursuant to the resolution, the Fund would still contain sufficient funds to meet the objectives described in Paragraph 15.01 (a).

ARTICLE XVI Enforcement of Restrictive Covenant and Encumbrance Agreement (Schedule "A")

- 16.01 Enforcement of Restrictive Covenant and Encumbrance Agreement (Schedule "A")
- a) The Board, in the exercise of its duties under section 4.02 is hereby authorized to:
- i. identify Restrictive Covenant and Encumbrance Agreement infractions to the property owner or owners in writing;
- ii. specify the action or actions to be taken by the property owner or owners to terminate their violation of the Restrictive Covenant and Encumbrance Agreement and to comply with its terms;
- iii. specify any remediation action that may be required by the property owner or owners arising from their breach of the Restrictive Covenant and Encumbrance Agreement;
- iv. specify the time frame within which the required actions or remediations by the property owner or owners in breach must be completed;
- v. retain legal counsel to provide such advice or assistance with respect to the enforcement of the Restrictive Covenant and Encumbrance Agreement with the Board or the Association may require;
- vi. in accordance with Section 4.0 2(n)(iii) of these Bylaws, the Board may:
1. impose on a property owner or owners in breach of the Restrictive Covenant and Encumbrance Agreement an administrative fee of \$250.00 for any and all of the steps taken by the Board pursuant to Section 16.01(a) for each instance of the breach;
2. recover from a property owner or owners in breach of the Restrictive Covenant and Encumbrance Agreement, for each instance of such breach, all legal fees, disbursements and other costs incurred by the Board of the Association for advice and assistance in connection with enforcement of the Restrictive Covenant and Encumbrance Agreement.

Article XVII Effective date of bylaws

- 16.01 These bylaws shall be effective from \_\_\_\_\_

Schedule "A"

Restrictive Covenant and Encumbrance Agreement No. 9222824317

And

Restrictive Covenant and Encumbrance Agreement No. 972269165