

**BYLAWS
OF
FIESTA II HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I
Name, Principal Office, and Definitions**

1.1. Name. The name of the corporation is **FIESTA II HOMEOWNERS' ASSOCIATION, INC.** (the "Association").

1.2. Principal Office. The principal office of the Association shall initially be at the principal office of Declarant. The Association may have such other offices, either within or outside the state of New Mexico, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that certain Declaration of Covenants, Conditions, and Restrictions for Fiesta II Subdivision filed in the real estate records of Valencia County, New Mexico, as it may be amended from time-to-time (the "Declaration"), unless the context indicates otherwise.

**ARTICLE II
Membership, Meetings, Quorum, Voting, Proxies**

2.1. Membership. The Association shall be comprised of Members as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as the Board may designate.

2.3. Annual Meetings. The first annual Member meeting of the Association, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Board so as to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Board.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by a majority of the Members of the Association.

2.5. Notice of Meetings.

(a) *Annual (Regular) Meetings.* Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, personally, by mail to the Lot address of a Member or via email if a member's email is on file with the Association, to each Member

entitled to vote at such meeting pursuant to Article III of the Declaration, not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

(b) *Special Meetings.* In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his/her address as it appears on the records of the Association, with postage prepaid. If emailed, the notice of a meeting shall be deemed to be delivered when such email is sent to the email address as it appears on the records of the Association.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If a Quorum is required under the Declaration, and any meeting of the Association cannot be held because a Quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time no less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration and in these Bylaws, and such voting rights provisions are specifically incorporated by this reference.

2.9. Proxies. Members may not vote by proxy but only in person or through their designated alternates. On any matter as to which a Member is entitled to personally cast the vote for his Lot as set forth in Article III of the Declaration, such vote may be cast in person or by proxy, subject to the limitations of New Mexico law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these Bylaws.

(a) Every proxy shall be in writing specifying the Lot for which it is given, signed by the Member or his/her duly authorized attorney-in-fact, dated, and filed with the

Secretary of the Association prior to the meeting for which it is to be effective.

(b) Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

(c) Every proxy shall be revocable and shall automatically cease upon conveyance of any Lot for which it was given, upon receipt by the Secretary of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person, or 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

2.10. Majority. As used in these Bylaws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11. Quorum. A Quorum shall be required and shall be as set forth in the Declaration.

2.12. Conduct of Meetings. The President shall preside over all Member meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by all Members entitled to vote on such matter.

Article III Board of Directors: Number, Powers, Meetings

3.1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Directors need not be Members of the Association. Each Director shall have an equal vote and shall be elected pursuant to Article III of the Declaration and these Bylaws.

3.2. Number of Directors. The Board shall consist of not less than three and not more than five (5) directors. The initial Board shall be as identified in the Articles of Incorporation.

3.3. Nomination and Election Procedures.

(a) Nomination of Directors. Except with respect to directors selected by Declarant in accordance with the Declarations, nominations for election to the Board shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be an existing director on the Board, and two (2) or more Members or representatives of Members. The Nominating Committee shall be appointed by the Board not less than 30 days prior to each election to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each such election. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less

than the number of positions to be filled as provided herein below.

(b) Election Procedures. Each Member shall cast his/her vote for each director position to be filled from the list of candidates provided by the Nomination Committee. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.4. Election and Term of Office. Notwithstanding any other provision of these Bylaws, the Declarant Control Period is in conformance with NMSA 1978, Section 47-16-8 of the Homeowner's Association Act as of the Effective Date under the Declaration. During the Declarant Control Period, Declarant shall have full authority to appoint and remove officers and directors of the Board; provided:

(a) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots within the Property, and any additional Lots that may be annexed as permitted herein, to Owners other than Declarant or a Builder, at least one director and not less than twenty-five percent (25%) of the Board of Directors shall be elected by the Members other than Declarant or a Builder (the "25% Membership Vote for Director").

(b) Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots, and any additional Lots that may be annexed as permitted herein, to Owners other than Declarant or a Builder, no less than thirty-three percent (33%) of the Board of Directors shall be elected by the Members other than Declarant or a Builder (the "50% Membership Vote for Director").

(c) Not later than the termination of the Declarant Control Period, the Owners, through Members, shall elect a Board of at least three directors, at least a majority of whom shall be Owners other than Declarant or a Builder.

(d) The initial directors shall serve from the date they are appointed through the first Annual Meeting following the initial organization meeting. Thereafter, at Annual Meetings that occur in even years, at least two (2), but no more than half, of the directors shall be appointed by the Declarant or elected as provided above, and in Annual Meetings that occur in odd years at least one (1), but in any event the remaining directors who were not reappointed or elected in an even year shall be appointed by the Declarant or elected as provided above. Directors shall hold office until their respective successors have been appointed or elected, as the case may be.

3.5. Removal of Directors and Vacancies. Any director elected by the Members may be removed, with or without cause, by the vote of Members holding a two-thirds majority of the votes. Directors appointed by Declarant may not be removed by Members and directors elected by Members may not be unilaterally removed by Declarant. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be appointed or elected, as the case may be pursuant to Section 3.4 above, to fill the vacancy for the remainder of the term of such director.

3.6. Death, Disability and Resignation. In the event of the death, disability, or

resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the director position shall be appointed or elected, as the case may be pursuant to Section 3.4 above, to fill complete the term of the replaced director.

3.5. Meetings. The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

3.6. Regular Meetings. Regular meetings of the Board may be held at such time and place a majority of the directors shall determine, but at least two (2) such meetings shall be held during each fiscal year with at least one per semester. Notice of the time and place of a regular meeting shall be communicated to directors not less than four days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

3.7. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or Vice President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; or (c) telephone, email or text communication. All such notices shall be given at the director's telephone number, email address or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four business days before the time set for the meeting. Notices given by personal delivery, telephone, email or text shall be delivered, telephoned, or given to the telegraph company at least 72 hours before the time set for the meeting.

3.8. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting with notice given pursuant to Section 3.7 above if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.9. Remote Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone, video or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.10. Quorum of Board of Directors. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these Bylaws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required

quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.\

3.11. Compensation. Directors shall not receive any compensation from the Association for serving on the Board. Provided, any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.12. Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board Resolutions and all transactions and proceedings occurring at such meetings.

3.13. Open Meetings. Except as set forth herein, all meetings of the Board shall be open to all Members and, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is given on their behalf by a director. In such case, the President may limit the time any such individual may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.14. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

3.15. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents, and as provided by law. The Board may do or cause to be done all acts and things which the Governing Documents or New Mexico law do not direct to be done and exercised exclusively by the Members of the membership generally.

3.16. Duties. The duties of the Board shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget establishing Common Expenses;
- (b) levying and collecting such assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Common Areas, Limited Common Area and Neighborhood Common Area as defined in the Declaration;

(d) designating, hiring and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending the Use Restrictions and Rules in accordance with the Declaration;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these Bylaws;

(i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action;

(j) obtaining insurance as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on an Lot, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided herein and in accordance with the New Mexico Homeowner's Association Act ;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties; and

(o) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required or permitted by New Mexico law, the Articles of Incorporation or the Declaration.

3.17. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. Th Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy making authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager. The Board may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.18. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise (anything of value received shall benefit the Association);

(e) any-financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board; and

(f) commencing at the end of the quarter in which the first assessments are levied financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution); and

(vi) an annual report in accordance with the Declaration consisting of at least the following shall be made available to all Members within one hundred twenty (120) days after the close of the fiscal year (1) a balance sheet; an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines which may be, by an independent public accountant.

3.19. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, the Board, following the Declarant Control Period, shall obtain Member approval in the same manner provided in the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12 Month period, exceeds or would exceed 100% of the budgeted gross expenses of the Association for that fiscal year.

3.20. Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Neighborhood and other owners of residents associations, within and outside the Properties, provided, any common management agreement shall require the consent of a majority of the total number of directors of the Association.

3.21. Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable monetary fines, which shall constitute a lien upon the Lot of the violator, and to suspend an Owner's right to vote for violation of any duty imposed under the Governing Documents as provided in the Declaration. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, tenant, employee, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, Bylaws or any rule shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) *Notice.* Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; the proposed sanction to be imposed; (iii) a period of not

less than ten (10) days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the Notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) *Hearing.* If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Covenants Committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) *Appeal.* If applicable, following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within ten (10) days after the hearing date.

(d) *Additional Enforcement Rights.* Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these Bylaws, or the rules of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) or, following compliance with the dispute resolution procedures set forth in the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. Any entry onto a Lot for purposes of exercising this power of self-help shall not be deemed as trespass.

ARTICLE IV

Officers

4.1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not, be members of the Board. The Board may appoint such other officers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office. The Board shall elect the officers of the Association

at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

4.3. Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation. 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 the 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.

4.6. Agreements, Contracts, Deeds, Lease, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors.

ARTICLE V Committees

5.1. General. In addition to the Architectural Control Committee, the Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2. Covenants Committee. In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three (3) and no more than seven (7) Members. Acting in accordance with the provisions of the Declaration, these Bylaws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.23 of these Bylaws.

5.3. Neighborhood Committees. In addition to any other committees appointed as provided above, each Neighborhood may elect a Neighborhood Committee to determine the nature and extent of services, if any, to be provided to the Neighborhood by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A

Neighborhood Committee may advise the Board on any other issue, but shall not have the authority to bind the Board. Such Neighborhood Committees, if elected, shall consist of three (3) to five (5) Members, as determined by the vote of more than 20% of the Owners of Lots within the Neighborhood. Neighborhood Committee members shall be elected for a term of one year or until their successors are elected.

Meetings of a Neighborhood Committee shall be open to all Owners of Lots in the Neighborhood and their representatives. Members of a Neighborhood Committee may act by unanimous written consent in lieu of a meeting.

5.4. Limited Common Area Committee. In addition to any other committees appointed as provided above, with the approval of the Board, each Member benefiting from a Limited Common Area may elect a Limited Common Area Committee to determine the nature and extent of services, if any, to be provided to the Members benefiting from the Limited Common Area by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A Limited Common Area Committee may advise the Board on any other issue, but shall not have the authority to bind the Board. Such Limited Common Area Committees, if elected, shall consist of three (3) to five (5) Members, as determined by the vote of more than 20% of the Owners of Lots within the Neighborhood. Limited Common Area Committee members shall be elected for a term of one year or until their successors are elected.

Meetings of a Limited Common Area Committee shall be open to all Owners of Lots benefiting from the Limited Common Area and their representatives. Members of a Limited Common Area Committee may act by unanimous written consent in lieu of a meeting.

ARTICLE VI Miscellaneous

6.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with New Mexico law, the Articles of Incorporation, the Declaration, or these Bylaws.

6.3. Conflicts. If there are conflicts between the provisions of New Mexico law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of New Mexico law, the Declaration, the Articles of Incorporation, and then the Bylaws (in that order) shall prevail.

6.4. Books and Records.

(a) *Inspection.* The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his/her interest in a Lot, the Declaration, Bylaws, and Articles of Incorporation, including any amendments, the rules of the Association, the membership register, books of account, and the

minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) *Rules for Inspection.* The Board shall establish rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made; and payment of the cost of reproducing documents requested.

(c) *Inspection by Directors.* Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5. Notices. Except as otherwise provided in the Declaration or these Bylaws, all notices, demands, bills, statements, or other communications under the Declaration or these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally, if sent by United States mail, first class postage prepaid or to an email address on record with the Association:

(a) if to a Member, at the address or email address which the Member or Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member or Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members' pursuant to this Section.

6.6. Amendment.

(a) *Declarant.* Prior to the conveyance of the first Lot by Declarant to a Person other than a Builder, Declarant may unilaterally amend these Bylaws. After such conveyance, Declarant may unilaterally amend these Bylaws at any time and from time-to-time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; or (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. So long as Declarant owns any Properties it may unilaterally amend these Bylaws for any other purpose.

(b) *By Members Generally.* Except as provided above, these Bylaws, following

the expiration of the Declarant Control Period, may be amended only by the affirmative vote or written consent, or any combination thereof of Members representing seventy-five percent (75%) of the total Member votes in the Association, and the consent of Declarant, so long as Declarant has an option to subject additional property to the Declaration

(c) *Validity and Effective Date of Amendments.* Amendments to these Bylaws shall become effective upon execution by the President and Secretary of the Association. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

(d) *Reservation.* No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant.

CERTIFICATION

We the undersigned, certify:

1. We are the duly elected and acting President and Secretary of the Board of Directors of FIESTA II HOMEOWNERS' ASSOCIATION, INC., a New Mexico nonprofit corporation (the "Association"); and

2. The foregoing Bylaws constitute the true and correct Bylaws of the Association, as duly adopted by the consent of the Board of Directors of the Association.

DATED AS OF: _____, 20____

John Hardin, President

Judy Morose, Secretary