

**AMENDED AND RESTATED
BYLAWS OF
CIELO LUMBRE SUBDIVISION**

Effective October 15, 2019

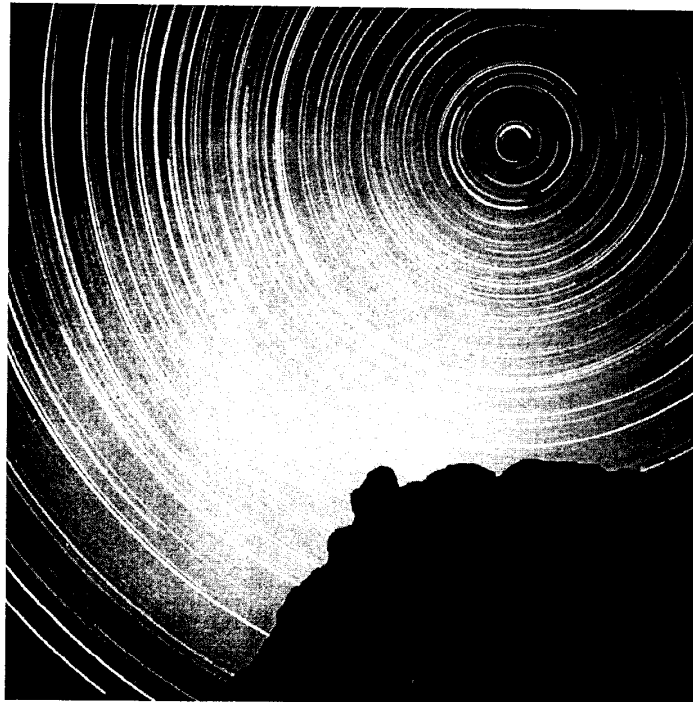


Table of Contents

Article 1	Introduction	2
Article 2	Membership, Voting, Majority of Owners, Quorum, Proxies	2
Article 3	Administration and Budget	4
Article 4	Board of Directors	6
Article 5	Officers	10
Article 6	Assessments	11
Article 7	Association Indemnification and Liability	11
Article 8	Evidence of Ownership and Registration of Mailing Address.....	12
Article 9	Contracts, Signatories, etc.....	13
Article 10	Books, Records, and Inspection Thereof.....	13
Article 11	Fiscal Year.....	14
Article 12	Waiver of Notice.....	14
Article 13	Disclosure Certificate	14
Article 14	Corporate Seal	15
Article 15	Character of Association	15
Article 16	Amendments to Bylaws.....	16

**Amended and Restated Bylaws
of
Cielo Lumbre Homeowners' Association**

At a duly called meeting of the Members of Cielo Lumbre Homeowners' Association ("Association") held on the 15th day of October, 2019 ("Effective Date"), the following Amended and Restated Bylaws of the Association ("Bylaws") were ratified by Members holding eighty percent (80%) or more of the votes in the Association.

Recitals

A. Cielo Lumbre Subdivision ("Subdivision") was created by the "Plat of Cielo Lumbre Subdivision", recorded in Book 204, page 012, on November 15, 1989, in the files of the County Clerk of Santa Fe, New Mexico ("Original Plat"); as amended by the plat titled "Cielo Lumbre Subdivision Unit II", recorded in Book 231, page 013, on January 3, 1992, in the files of the County Clerk of Santa Fe, New Mexico ("Unit II Plat"); and the "Plat of Cielo Lumbre Subdivision", recorded in Book 299, page 030, on May 30, 1995, in the records of the County Clerk of Santa Fe, New Mexico ("Amended Plat") (collectively: the "Subdivision Plats").

B. The Cielo Lumbre Subdivision is subject to the "Amended and Restated Declaration of Protective Covenants for the Cielo Lumbre Subdivision", recorded on October 15, 2019, as Instrument No. 1899354, in the files of the County Clerk of Santa Fe, New Mexico ("Declaration")

C. The Cielo Lumbre Homeowners' Association ("Association"), a New Mexico nonprofit corporation, is the association of homeowners formed to maintain and manage the use of the common areas within the Subdivision, enforce the covenants controlling the Subdivision, and to otherwise manage the affairs of the Subdivision;

D. The Association is governed by the Bylaws of Cielo Lumbre Homeowners' Association, adopted on the 31st day of October, 1989 ("Original Bylaws"); as amended by an unsigned document stating that, in 2002, Owners approved amendments to Article V, Sections 5.01 and 5.12 ("2002 Amendment");

E. The Members of the Association and the Board of Directors now wish to amend and restate the Original Bylaws, and all amendments thereto, with this document, which shall completely replace, supplant and supersede the Original Bylaws, the 2002 Amendment, and any and all prior or contemporaneous bylaws, amendments, agreements or understandings related to the subject matter herein, whether recorded or unrecorded, oral or written, which were in effect prior to the date of the adoption of these Amended and Restated Bylaws (the "Bylaws").

Now, therefore, pursuant to § 47-16-3 NMSA 1978 of the New Mexico Homeowner Association Act and Article XVIII of the Original Bylaws, Owners of Units entitled to cast at least eighty percent (80%) or more of the votes in the Association, and the Association's Board of Directors, hereby amend the Original Bylaws as follows:

Article 1
Introduction

1.01 Purpose. Cielo Lumbré Homeowners' Association ("Association"), a New Mexico nonprofit corporation, is the association of homeowners formed to manage, maintain and insure the Easements and common area improvements, including the road easements, access and utility easements, drainage easements, community water system easements, and public pedestrian easements shown on the Subdivision Plat, along with any Lot owned by the Association; to enforce the Subdivision covenants; and to contract for services for the benefit of Lot Owners, including septic tank inspections and pumping.

1.02 Governing Documents. These Amended and Restated Bylaws ("Bylaws") are subject to the provisions of the New Mexico Homeowner Association Act [§ 47-16-1 to § 47-16-15 NMSA 1978] ("HOA Act"), the New Mexico Nonprofit Corporation Act [§ 53-8-1 to § 53-8-99 NMSA 1978] ("Nonprofit Corporation Act") and the Declaration of Protective Covenants for the Cielo Lumbré Subdivision, as amended ("Declaration"). In the event any bylaw adopted by the Association is or becomes inconsistent with the HOA Act, the Nonprofit Act or the Declaration, the provisions of the statutes and the Declaration shall control, and such bylaw shall be *void ab initio*.

1.03 Scope. All present or future Owners of Lots within the Subdivision, present or future occupants of said Lots, or any other person or entity that might use in any manner any improvement on or any portion of the Subdivision are subject to the regulations set forth in these Bylaws. The mere acquisition or rental by any person of any of the Lots of the Subdivision or the mere act of occupancy of any of said Lots will signify that these Bylaws are accepted, ratified and will be complied with by such person.

1.04 Definitions. All definitions stated in the Declaration are incorporated herein by reference as if fully restated in these Bylaws.

Article 2
Membership, Voting, Majority of Owners, Quorum, Proxies

2.01 Membership. Ownership of a Lot is required in order to qualify for membership in the Association. Any person, on becoming an Owner of a Lot, shall automatically become a Member of this Association and be subject to these Bylaws and the Declaration. Such membership shall terminate without any formal Association action whenever such person ceases to own a Lot, but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with this Association during the period of such ownership and membership in the Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former Owner and Member arising out of, or in any way connected with, Lot ownership, Association membership, and the Declaration, or any obligations incident thereto.

2.02 Voting. All Members shall be entitled to one (1) vote for each Lot owned.

(a) Where the ownership of a Lot is in more than one person, the person who shall be entitled to cast the vote of such Lot shall be the person named in a certificate executed by all of the Owners of such Lot and filed with the Association Secretary or, in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Lot shall be

the person owning such Lot who is present. If more than one person owning such Lot is present, then such vote shall be cast only in accordance with the agreement of a majority of the Owners of the Lot in question who are present.

(b) The right to vote may not be severed or separated from any Lot, and any sale, transfer or conveyance of the beneficial interest of the assessment of any Lot to a new Owner shall operate to transfer the appurtenant voting rights without the requirement of any express reference thereto.

(c) A Member who is delinquent in the payment of his or her assessments and who has received notice from the Association that he or she is actively in violation of the Subdivision covenants, rules or regulations shall be considered 'not in good standing' and may not exercise their vote at an annual or special meeting, unless and until the Member takes the necessary actions to return the Member to a status of 'good standing.'

2.03 Definition of Percentage. When any provision of the Declaration or these Bylaws calls for the vote or the consent of the Members in any stated percentage, the following rules apply, unless the specific language of the provision provides to the contrary:

(a) Whenever a vote of the Members is required, it is sufficient to obtain the written consent of Members having the same percentage of votes; and

(b) The percentage requirement shall be a percentage of the total voting power of the Association and not a percentage of the number of Members of the Association present at a meeting. "Voting Power of the Association" means the total number of votes of all Members of the Association at the time the pertinent vote is to be taken.

2.04 Ballots. In any election held pursuant to the requirements of the Declaration, ballots may be transmitted to Owners in the manner provided for the giving of notice.

2.05 Quorum and Decision-Making. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Members having at least twenty percent (20%) of the total voting power of the Association shall constitute a quorum. Except as otherwise provided in the Declaration, the affirmative vote of Members who hold majority of the votes present, either in person or by proxy, shall be required to transact regular business and to adopt decisions binding on all Owners.

2.06 Proxies. Votes may be cast in person or by proxy. Proxies must be in writing, dated and filed with the Secretary before the appointed time of each meeting. A Member may designate a non-Member as his or her proxy. Revocation of any proxy may be made at any time by written notice to the Secretary. A revocation of a proxy shall not affect any vote or act taken or authorized pursuant thereto prior to such notice to the Secretary. A proxy shall terminate one year after its date, unless it specifies a shorter term. Conveyance of a Lot or undivided interest therein by an Owner shall be deemed revocation of any proxy executed by such Owner unless the successor in interest to such Owner assumes or takes subject to a mortgage containing an irrevocable proxy.

Article 3
Administration and Budget

3.01 Association Responsibilities. The Owners of the Lots constitute the Cielo Lumbre Homeowners' Association, which will have the responsibility of administering the Subdivision through a Board of Directors.

3.02 Preparation, Adoption and Distribution of Annual Budget by the Board. Each year, at least thirty (30) days prior to the end of the Association's current fiscal year, the Board shall prepare and adopt a proposed estimate of the total amount it deems necessary for the Association's next fiscal year (hereinafter referred to as "Annual Budget") to pay the Common Expenses to be incurred to maintain and repair the roads within the Easements, electric system, drainage easements, septic systems, community water systems, decorative easements granted above, Subdivision and road signage, and other proper expenses of the Association, including contributions to reserves.

(a) The Annual Budget shall be based upon the cash requirements deemed to be such aggregate sum as the managing agent or Board shall from time to time determine is to be paid by all of the Owners to provide for the payment of all estimated Common Expenses which sum may include, among other things, expenses of management; premiums for all insurance in the amounts and types required hereunder; landscaping and care of grounds; maintenance of the Easements and septic system; common lighting; legal and accounting fees; management fees; expenses and liabilities incurred by the managing agent or Board under or by reason of the Declaration; for any deficit remaining from a previous period; the creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the Association's affairs and duties.

(b) After adoption of the Annual Budget by the Board, the Board shall furnish each Owner an itemized copy thereof, together with notification of the date, time and place of the Association's Annual Meeting at which meeting the Owners will consider ratification of the Annual Budget.

(c) The Annual Meeting of the Association shall be scheduled within the period set forth in Section 3.04, below; provided, however that the Annual Meeting shall occur not less than ten (10) nor more than thirty (30) days after mailing of the Annual Budget to the Owner's described hereinabove.

(d) The Annual Budget shall be deemed ratified unless Owners holding seventy five percent (75%) or more of the voting power of the Association reject the Annual Budget at the annual meeting, regardless of whether or not a quorum is present at the annual meeting.

3.03 Place of Meeting. Meetings of the Members of the Association shall be held at such place as the Board of Directors may determine within Santa Fe County, New Mexico.

3.04 Annual Meeting. Annual meetings of the Association shall be held once each year on a date selected by the Board of Directors, but not less than ten (10) nor more than sixty (60) days prior to the end of the Association's current fiscal year. At such meetings there shall be elected, by ballot of the Members, a Board of Directors, subject to election in accordance with the requirements of Section 4.05 of Article IV of these Bylaws. The Members may also transact such other business of the Association as

may properly come before the meeting.

3.05 Special Meetings. It shall be the duty of the President to call a Special Meeting of the Members of the Association as directed by resolution of the Board of Directors or upon a petition signed by Members having at least twenty percent (20%) of the voting power of the Association, which resolution or petition shall be presented to the President. The notice of any Special Meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice, unless by consent of Members having at least seventy-five percent (75%) of the voting power of the Association, either in person or by proxy. Any such meeting shall be held within thirty (30) days after receipt by the President of such resolution or petition.

3.06 Notice of Meeting. It shall be the duty of the Secretary to mail a notice of each Annual or Special Meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each member of the Association, at least ten (10) days and not more than thirty (30) days prior to such meeting or as otherwise provided herein. The mailing of a notice in the manner provided in this section shall be considered notice served. The certificate of the Secretary that notice was properly given as provided in these Bylaws shall be *prima facie* evidence thereof. Notices of meetings shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any Annual Budget changes and any proposal to remove a Director.

3.07 Adjourned Meetings. If any meeting of members of the Association cannot be organized because a quorum is not present, the Members who are present, either in person or by proxy, may adjourn the meeting, from time to time, for periods of no longer than one week, until a quorum is obtained or until a conclusion can be reached. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

3.08 Order of Business. The order of business at all meetings of the Members of the Association shall be as follows:

- (a) Roll call;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading and Adoption of Minutes;
- (d) Reports of officers;
- (e) Reports of committees;
- (f) Election of Directors (annual meetings only);
- (g) Unfinished business;
- (h) New business; and
- (i) Adjournment.

3.09 Rules of Meetings. The Board may prescribe reasonable rules for the conduct of all meetings of the Board and of the Members of the Association and, in the absence of such rules, Robert's Rules of Order shall be used.

Article 4
Board of Directors

4.01 Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of five (5) persons. The number of Directors may be increased or decreased by amendment of these Bylaws; provided, however, that the number of Directors shall not be reduced to less than three (3).

4.02 Power and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association. The Board of Directors may do all such acts and things as are not by law, the Declaration, the Articles of Incorporation or these Bylaws directed to be exercised and done by the Owners.

4.03 Other Powers and Duties. In addition to the powers and duties permitted by law, the Board of Directors shall be empowered and shall have the duties as follows:

- (a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration, the Articles and these Bylaws;
- (b) To adopt, establish, make, publish and enforce compliance with such reasonable rules and regulations as may be necessary for the operation, use and occupancy of the Subdivision, with the right to amend same from time to time; a copy of such rules and regulations shall be delivered to or mailed to each Member promptly upon the adoption thereof;
- (c) To keep in good order, condition and repair all of the road easements within the Subdivision;
- (d) To fix, determine, levy and collect periodically, the prorated assessments to be paid by each of the Owners towards the gross expenses of the entire Subdivision and to adjust, decrease or increase the amount of the assessments, and to credit any excess of assessments over expenses and cash reserves to the Owners against the next succeeding assessment period;
- (e) To impose penalties and collect delinquent assessment by suit or otherwise and to enjoin or seek damages from an Owner as is provided in the Declaration and these Bylaws;
- (f) To enter into contracts within the scope of their duties and powers, including for disposal of solid waste;
- (g) To establish a bank account for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors;
- (h) To keep and maintain detailed, full and accurate books and records showing in chronological order all of the receipts, expenses or disbursements pursuant to appropriate specificity and, upon affirmative vote of at least a majority of the Lot Owners, to cause a complete financial audit, review or compilation of the Association's records by a competent certified public accountant, and shall provide that the cost thereof be assessed as a common

expense. The audit, review or compilation shall be made available to lot owners within thirty (30) calendar days of its completion;

(i) To prepare and make available upon an Owner's request a statement showing all expenses or disbursements since the last such statement;

(j) To designate and remove the personnel necessary to carry out the duties and responsibilities of the Association;

(k) To foreclose the lien against a Lot for default in the payment of assessments for Association expenses;

(l) To provide for reimbursement of expenses, if any, of Directors and officers and for reasonable compensation of employees of the Association; this provision shall not preclude the Board of Directors from employing a Director as an employee of the Association, nor preclude the contracting with a Director for the management of the Subdivision, in accordance with the provisions of Section 4.16 of this Article;

(m) To declare the office of a member of the Board of Directors to be vacant in the event such Director shall be absent from three (3) consecutive meetings of the Board of Directors;

(n) To suspend the voting rights of a Member of the Association for failure to comply with these Bylaws or the Rules and Regulations of the Association, or with any other obligations of the Owners pursuant to the Declaration;

(o) In general, to carry on the administration of this Association and to do all of those things, necessary and reasonable and not inconsistent with the Act, the Declaration and these Bylaws, in order to carry out the governing and operation of the Subdivision.

4.04 Managing Agent. The Board of Directors may employ for the Association a managing agent, at a compensation established by the Board of Directors, to perform such day-to-day management duties and services as the Board of Directors shall delegate and authorize. The term of any contract with a managing agent shall not exceed three (3) years.

4.05 Election and Term of Office. Members of the Board of Directors shall be elected by a majority or plurality, as appropriate, of votes cast at the annual meeting of the members of the Association; the Directors shall serve in staggered three (3) year terms. The Directors shall hold office until their respective successors shall have been elected by the Association.

At least forty five (45) days prior to the date that a Director's three year term is set to expire, the president or another member of the board shall send out notice to all members that said Director's term is expiring and that there will be an election for that board seat at the next annual meeting. Any member of the association that wishes to seek election to that board seat shall notify the board of his or her intent to seek election to that board seat prior to the next annual meeting. Nominations for that board seat can also be made at the annual meeting. If there is a contested election, the election will be held at the annual meeting by secret written ballot. Proxies will be allowed and voting by mail will also be allowed as long as the vote is received prior to the annual meeting. Every member is entitled

to one vote per lot. Whichever candidate receives the most votes will be elected as the new Director to serve a three (3) year term.

4.06 Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Members of the Association shall be filled by decision of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director for the remainder of the term of the vacant Directorship.

4.07 Removal of Directors. At any Annual or Special Meeting of the Members of the Association duly called, any one or more of the Directors may be removed with or without cause by the affirmative vote of Lot Owners holding a majority of votes in the Association, and a successor may then and there be elected to fill each vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

4.08 Organizational Meeting. There shall be a regular meeting of the Board of Directors following the Annual Meeting of Members of the Association held pursuant to Section 3.04 hereof, and notice of such Annual Meeting to Members of the Association in accordance with Section 3.06 hereof shall be deemed notice to each Director of such regular meeting.

4.09 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors but at least one such meeting shall be held each year. Notice of regular meetings of the Board of Directors shall be given to each Member, personally or by mail, telephone, fax or email (if email communication is requested by a Director), at least seven (7) days prior to the day named for such meetings.

4.10 Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally, or by mail, telephone, fax or email (if email communication is requested by a Director), which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner, and on like notice, on the written request of at least two (2) Directors.

4.11 Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him or her of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

4.12 Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time (for periods of no longer than one week) until a quorum is obtained or until a conclusion can be reached. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.13 Action Taken Without a Meeting. The Directors shall have the right to take any action in the

absence of a meeting which they could take at a meeting by obtaining the written approval of all of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board. Notwithstanding the foregoing, regular or special meetings of the Board of Directors may be held by telephone conference, videoconference or any other technological device which allows each of the Directors to hear and participate in the deliberations of the Board.

4.14 Compensation. The members of the Board of Directors shall serve without salary or compensation, but may be reimbursed for reasonable out-of-pocket expenditures authorized by the Board of Directors.

4.15 Directors' and Officers' Liability Coverage and Fidelity Coverage. The Directors shall obtain and maintain Directors' and officers' liability insurance with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per claim and Five Hundred Thousand Dollars (\$500,000.00) aggregate. Coverages should be provided on an "entity" basis covering the Association, Directors, volunteers and employees action on behalf of the Association. The Board of Directors shall obtain and maintain adequate fidelity coverage to protect against dishonest acts on the part of Officers, Directors, trustees and employees of the Association and all others who handle, or are responsible for handling, funds of the Association, including the Managing Agent (if any).

4.16 Common or Interested Directors. Each member of the Board of Directors shall exercise his or her powers and duties in good faith and with a view to the interests of the Association. No contract or other transaction between the Association and any of its Directors, or between the Association, and any corporation, firm or association in which any of the Directors of the Association are directors or officers, or are pecuniarily (or otherwise) interested, is either void or voidable because any such Director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his or her vote is counted for such purpose, so long as any of the conditions specified in the following subparagraphs exists:

- (a) The fact of the common directorate or interest is disclosed or known to the Board of Directors, or a majority thereof or noted in the minutes, and the Board of Directors authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or
- (b) The fact of the common directorate or interest is disclosed or known to Owners having at least a majority of the voting power of the Association, and the Owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or
- (c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Any common or interested Directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if such director were not such director or officer of such Association or not so interested.

Article 5 **Officers**

5.01 Designation. The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer; all of whom shall be elected by the Board of Directors.

5.02 Election of Officers. The officers of the Association shall be elected annually, from the membership of the Association, by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board. Vacancies in the offices of the Association shall be filled by the Board. One person may hold concurrently the office of Vice President and Secretary, or Vice President and Treasurer, but the President shall serve only in the office of President, and the offices of Secretary and Treasurer shall not be held concurrently by one person. All officers, except the Secretary, must be members of the Association or officers or directors of corporate owners, partners in any partnership or trustees of any trust owning a Lot, or other Persons similarly situated.

5.03 Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his or her successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

5.04 President. The President shall be elected from among the Board of and shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of president of a non-profit corporation, including but not limited to the preparation, execution, certification and recordation of amendments to the Declaration or Bylaws, the power to appoint committees from among the Members from time to time, as he or she may in his or her discretion decide is appropriate, to assist in the conduct of the affairs of the Association, or as may be established by the Board, or by the Members of the Association at any regular or special meetings.

5.05 Vice President. The Vice President shall have all the powers and authority and perform all the functions and duties of the President, in the absence of the President, or due to the President's inability for any reason to exercise such powers and functions or perform such duties.

5.06 Secretary. The Secretary shall keep all the minutes of the meetings of the Board of Directors and have minutes of all meetings of the Association. The Secretary shall have charge of such books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of Secretary. The Secretary shall compile and keep up to date at the principal office of the Association a complete list of Members and their last-known addresses as shown on the records of the Association.

5.07 Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in the name and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors, and shall pay all charges and obligations of the Association before the same shall become due.

Article 6
Assessments

6.01 Liability of Owner for Payment of Assessments. As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Lot against which the assessment is made. Any assessment which is not paid when due shall be deemed to be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Association may bring action at law against the Owner personally obligated to pay the same and foreclose the lien against the pertinent Lot, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or escape liability for the assessments provided for therein by non-use of the Subdivision Easements or his or her Lot or by abandonment of his or her Lot. A suit to recover a money judgment for unpaid expenses hereto shall be maintainable without foreclosing or waiving the lien securing the same. All of the above shall be done in compliance with the requirements set forth in the Declaration.

6.02 Notice to Lot Owners and Mortgagees of Unpaid Assessments. The Association shall, at the request of a Mortgagee of a Lot or a Lot Owner, furnish a recordable statement setting forth the amount of unpaid assessments against the Lot Owner's lot ("Estoppel Certificate"). The Estoppel Certificate shall be furnished within ten (10) business days after receipt of the request and is binding on the Association and the Board.

Article 7
Association Indemnification and Liability

7.01 Indemnification. The Association shall indemnify every Director and officer of the Association, and their heirs, executors, administrators, successors and assigns against all costs and expenses, including attorneys' fees, actually and necessarily incurred in connection with any action, suit or proceeding to which such person may be made a party by reason of being or having been a Director or officer of the Association, except as to matters as to which such person shall be finally adjudged in such action, suit or proceeding to be liable for actual negligence or misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of actual negligence or misconduct in the performance of his duty as such director or officer in relation to the matter involved.

The foregoing rights shall not be exclusive of other rights to which such Director or officer maybe entitled. All liability, loss, damage, costs and expense incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as Common Expenses. However, nothing contained in this section shall be deemed to obligate the Association to indemnify any Owner who is or has been a Director or officer of the Association, with respect to any duties or obligations assumed or liabilities incurred as an Owner under or by virtue of the Declaration, or his or her ownership of a Lot, as distinguished from his conduct and activities as an officer or Director of the Association.

7.02 Non-Liability of the Directors and Officers. No Director or officer of the Association shall be personally liable to the Members of the Association for any mistake of judgment or for any acts or

omissions of any nature whatsoever as such Director or officer, except for any acts or omissions found by a court to constitute actual negligence or misconduct. No Director or officer shall be personally liable with respect to any contract made by them on behalf of the Association.

7.03 Limitation on Owner Liability. The liability of any Owner arising out of any contract made by the officers or Board of Directors, or out of the aforesaid indemnity in favor of the members of the Board of Directors or officers, or for damages as a result of injuries arising in connection with the common areas solely by virtue of his ownership of an undivided percentage interest therein or for liabilities incurred by the Association, shall be limited to the number one (1) divided by the total number of Lots in the Subdivision ("Percentage Interest") multiplied by the total liability. Every agreement made by the officers, the Board of Directors or managing agent on behalf of the Association shall, if obtainable, provide that the officers, the members of the Board of Directors or the managing agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as Owners), and that each Owner's liability thereunder shall be limited to the total liability thereunder multiplied by his Common Expense liability.

7.04 Non-Liability of Association. The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a Common Expense. The Association shall not be liable to any Lot Owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Lots. No diminution or abatement of any assessments, as provided in the Declaration or these Bylaws, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Easements or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any municipal or other governmental authority.

7.05 Attorney's Fees. A court may award attorney fees and costs to any party that prevails in a civil action brought by the Association against a Lot Owner for the purpose of enforcing the covenants, conditions and restrictions governing the Subdivision.

Article 8

Evidence of Ownership and Registration of Mailing Address

8.01 Proof of Ownership. Upon request, a Lot Owner shall furnish to the managing agent or Board of Directors a photocopy or a certified copy of the recorded instrument vesting that Person with an interest or ownership.

8.02 Registration by Owner of Mailing Address. Each Owner shall register his or her mailing address with the Association upon becoming an Owner of a Lot. Except for regular periodic assessment statements, notices of annual and special meetings, as provided in the Bylaws, and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by prepaid U.S. mail, with tracking, addressed in the name of the Owner at such registered mailing address. In the event an Owner fails to register his or her address with the Association, in accordance herewith, the Association shall send all notices, statements, demands, etc. to such Owner at the address of his or her Lot.

All notices, demands, or other notices intended to be served upon the Board or the Association shall be sent by prepaid U.S. mail, with tracking, to the Cielo Lumbré Homeowner's' Association, 7 Via Brisa,

Santa Fe, NM 87507, until such address is changed by a notice of address change duly recorded in the office of the County Clerk of Santa Fe County, New Mexico. All notices, demands statements or other information shall be deemed furnished and delivered to an Owner, Mortgagee or Person other than the Association upon deposit thereof in the U. S. mail, postage or charges prepaid, with tracking, addressed to the party in accordance with this section and, in any event, upon actual receipt by such party.

Article 9
Contracts, Signatories, etc.

9.01 Contracts. The Board of Directors may authorize an officer or agent of the Association, in addition to the officer so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of this Association. Such authority shall be confined to specific instances and shall be memorialized in a resolution signed by the Directors.

9.02 Checks and Drafts, etc. All checks, drafts, other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the Association, shall be signed by an authorized officer or agent of the Association determined by written resolution of the Board of Directors. Checks in excess of One Thousand Dollars (\$1,000) must be executed by two authorized signatories.

9.03 Deposits. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, financial institutions or other depositories as the Board of Directors may select.

9.04 Gifts. The Board of Directors may accept on behalf of and for the Association any contributions, gifts, bequests or devises for the general purposes or for any specific purpose of the Association.

Article 10
Books, Records, and Inspection Thereof

10.01 Maintenance. The Association shall keep correct and complete books and records of account and shall also keep minutes of the meetings of the members of the Association, and of the Board of Directors, and shall keep a record giving the names and addresses of all members of the Association.

10.02 Inspection. All financial and other records of the Association shall be made available for examination by a lot owner within ten (10) business days of the Owner' written request. The Association shall not charge a fee for making financial and other records available for review. The Association may charge a reasonable fee for copies. As used in this section, "financial and other records" includes:

- (a) The declaration of the association;
- (b) The name, address and telephone number of the association's designated agent;
- (c) The bylaws of the association;
- (d) The names of all association members;

- (e) Minutes of all meetings of the association's lot owners and board for the previous five years, other than executive sessions, and records of all actions taken by a committee in place of the board or on behalf of the association for the previous five years;
- (f) The operating budget for the current fiscal year;
- (g) Current assessments, including both regular and special assessments;
- (h) Financial statements and accounts, including amounts held in reserve;
- (i) The most recent financial audit or review, if any;
- (j) All current contracts entered into by the association or the board on behalf of the association; and
- (k) Current insurance policies, including company names, policy limits, deductibles, additional named insureds and expiration dates for property, general liability and association director and officer professional liability, and fidelity policies.

Article 11
Fiscal Year

The fiscal year of the Association shall end on the 30th day of June each year, unless another fiscal year shall be adopted by resolution of the Board of Directors.

Article 12
Waiver of Notice

Whenever any notice is required to be given under the provisions of the laws of the State of New Mexico or under the provisions of the Declaration, Articles of Incorporation or by these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Article 13
Disclosure Certificate

13.01 Seller's Duty to Disclose. Pursuant to § 47-16-11 NMSA 1978 of the HOA Act, except as provided in § 47-16-12 NMSA 1978, a person selling a Lot that is subject to the Association shall provide the prospective buyer, in writing, a Disclosure Certificate that states that the Lot is located within a development that is subject to an Association. The seller or the seller's agent shall obtain a disclosure certificate from the Association. In addition to the Disclosure Certificate, the seller or seller's agent shall also furnish to a purchaser copies of: (i) the Declaration (other than the plats and plans); (ii) the Bylaws of the Association; (iii) any other covenants, conditions and restrictions applicable to the lot; and (iv) any rules or regulations of the Association.

13.02 Association's Duty to Produce Disclosure Certificate. Within ten (10) business days after receipt of a written request from a Lot Owner, the Association shall furnish a Disclosure Certificate containing the information necessary to enable the Lot Owner to comply with § 47-16-12 NMSA 1978

of the HOA Act, as itemized in Section 13.03, below. The information contained in the disclosure certificate shall be current as of the date on which the Disclosure Certificate is furnished to the Lot Owner by the Association. Pursuant to the HOA Act, the Association may impose reasonable charges for preparation of a Disclosure Certificate.

13.03 Contents of Disclosure Certificate. The Disclosure Certificate provided by the Association shall contain the following information required by § 47-16-12 NMSA 1978 of the HOA Act:

- (a) A statement disclosing the existence and terms of any right of first refusal or other restraint on the free alienability of the Lot;
- (b) A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling Lot Owner;
- (c) A statement of any other fees payable by Lot Owners;
- (d) A statement of any capital expenditures anticipated by the association and approved by the Board for the current fiscal year and the two next succeeding fiscal years;
- (e) A statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the Association for any approved projects;
- (f) The most recent regularly prepared balance sheet and income and expense statement, if any, of the Association;
- (g) The current operating Budget of the Association;
- (h) A statement of any unsatisfied judgments or pending suits against the Association and the status of any pending suits material to the Association of which the Association has actual knowledge;
- (i) A statement describing any insurance coverage provided for the benefit of Lot Owners and the Board of the Association;
- (j) A statement of the remaining term of any leasehold estate affecting the Association and the provisions governing any extension or renewal thereof; and
- (k) The contact person and contact information for the Association.

Article 14 **Corporate Seal**

The Association shall have no corporate seal. The absence of a seal from any documents to be executed in behalf of said Association shall not affect the validity of such documents

Article 15 **Character of Association**

Non-profit Corporation. This Association is not organized for profit. No Member, member of the Board of Directors, officer or person from whom the Association may receive any property or funds shall

