

**BYLAWS
OF
SNOWFIRE HOME OWNERS ASSOCIATION (HOA)**

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**BYLAWS
OF
SNOWFIRE HOME OWNERS ASSOCIATION (HOA)**

ARTICLE 1: PREAMBLE & DEFINITIONS

1.1 Preamble: These Bylaws provide for governance of the Snowfire Home Owners Association. Relevant definitions for terms are as found in the Declaration creating this Association and as specified for such terms in Section 47-7A-3 -3 of the New Mexico Condominium Act. References to "Condominium Act" or "the Act" mean the New Mexico Condominium Act, Laws 1982, or Chapter 27, being Section 47-7A-1 et seq.

Pursuant to the provisions of Section 47-7c-2 of the Condominium Act, every Home Owner and all those entitled to occupy a Condo shall comply with these Bylaws.

The Home Owners' Association (*hereafter referred to as HOA*) shall consist of a New Mexico corporation not-for-profit.

1.2 Definitions: *Capitalized* terms used in these bylaws *without* definition shall have the meanings specified for such terms in Section 47-7A-3 of the New Mexico Condominium Act. References to "Condominium Act" or "the Act" mean the New Mexico Condominium Act, Laws 1982, or Chapter 27, being Section 47-7A-1 et seq, NMSA, 1978 Comp.

HOA: Home Owners Association

Condominium: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the Home owners. *Condominium as used in this document refers to Snowfire Condominium Complex.*

Condo as used in these By Laws, refers to a *single condo* (unit). Condo (unit) means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described pursuant to Section 17 of the Condominium Act.

Homeowner: Condo owner but does not include a person having an interest in a condo solely as security for an obligation.

Declaration: Any instruments that create a condominium, and any amendments to such instruments. Snowfire Declaration originally filed on 10/7/82 Bk 106 Pg 484, Amended 12/17/84 Bk 117 Pg 112

Common Elements: All portions of the Snowfire Condominium other than the condos

Limited Common Element: A portion of the common elements allocated by the declaration or by operation of Subsections B and D of Section 14 of the Condominium Act for the exclusive use of one or more but fewer than all of the condos.

Condominium Act: Refers to New Mexico Statute sections 47-7A-1 to 47-7D-20 and is on file in the Managing Agent's office.

Condominium Instruments: All documents that relate to the legal status or management of Snowfire including but not limited to the Declaration and the By Laws

Waiver: The giving up or relinquishing of a right

Waste: An abuse or destructive use of property by someone in rightful possession but who doesn't have full ownership rights.

Amended August 30, 2003

ARTICLE 2: MEMBERSHIP & MEETINGS

- 2.1 Membership.** Ownership of a condo is required in order to qualify for membership in the HOA. Any person on becoming an owner of a condo shall automatically become a member of the HOA and be subject to these Bylaws.
- 2.2 Annual Meetings.** The annual meetings of the HOA shall be held on the last Saturday in June or on an alternative date established by the Board of Directors. *Refer to 2.5.*
- 2.3 Place of Meeting.** Meetings of the HOA shall be held at a suitable place in Angel Fire, New Mexico convenient to the Home Owners. The Board of Directors shall designate the meeting place with appropriate notice.
- 2.4 Special Meetings.** Special meetings of the HOA may be called by the President, a majority of the executive board or by Home Owners having twenty percent (20%) of the votes in the HOA.
- 2.5 Notice of Meetings.** Not less than thirty (30) days nor more than sixty days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each condo or to any other mailing address designated in writing by the Home owner. The notice of any meeting 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 Bylaws, any budget changes and any proposal to remove a director or officer. The mailing of a notice of meeting in the manner provided in this Section and Section 11.1 of these Bylaws shall be considered service of notice. In the event the Board of Directors deems it necessary to change the date of the annual meeting, notice shall be given at least 90 days prior to the meeting.
- 2.6 Quorum.**
- A. A quorum is present throughout any meeting of the HOA if persons eligible to cast fifty percent (50%) of the votes are present in person or by proxy at the beginning of the meeting.
 - B. A quorum is deemed present throughout any meeting of the Board of Directors if persons entitled to cast fifty percent of the votes (3 members) on that Board are present at the beginning of the meeting.
- 2.7 Order of Business.** The order of business of all meetings of the HOA shall be as follows:
- A. Roll call;
 - B. Proof of notice of meeting;
 - C. Reading of minutes of preceding meeting;
 - D. Reports of officers;
 - E. Report of Board of Directors;
 - F. Reports of committees;
 - G. Appointment of inspectors of election (when so required);
 - H. Election of members of the Board of Directors (when so required);
 - I. Unfinished business;
 - J. New Business;
 - K. Ratification of Budget (if necessary)
- 2.8 Title of Condos.** Title to a Condo may be taken in the name of one or more persons, in any manner permitted by law.
- A. **Proof of Ownership.** Ownership of Record will be provided to the HOA by each owner.
 - B. **HOA Ownership.** The HOA may acquire, hold and transfer full legal title to one or more Condos in the Snowfire Condominium in its own name.
- 2.9 Voting.** Each condo not owned by the Snowfire HOA shall be entitled to one vote at meetings of the HOA.
- A. **Multiple Owners.** If only one of the multiple owners of a condo is present at a meeting of the HOA, he is entitled to cast the vote allocated to that condo. If more than one of the multiple owners is present, the votes allocated to that condo may be cast only in accordance with the agreement of a majority in interest of the multiple owners. There is a majority agreement if any one of the multiple owners casts the votes allocated to that condo without protest being made promptly to the person presiding over the meeting by any of the other owners of the condo.
 - B. **Proxies.** Votes allocated to a condo may be cast pursuant to a proxy duly executed by a Home owner. If a condo is owned by more than one person, each owner of the condo may vote or register protest to the casting of votes by the other owners of the condo through a duly executed proxy. A Home owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the HOA.

A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.

C. HOA. No votes allocated to a condo owned by the HOA may be cast.

D. Eligibility. No Home Owner may vote at any meeting of the HOA or be elected to or serve on the Board of Directors if the HOA has recorded a lien against his condo and the amount necessary to release such lien has not been paid by a form of payment which has been verified or cleared the bank by the time of such meeting or election

2.10 Conduct of Meetings The President shall preside over all meetings. The Secretary shall keep the minutes of the meeting and record in the minutes all resolutions adopted at the meeting as well as a record of all transactions. A voice recording of all meetings shall also be kept permanently on file in the Manager's Office. Copies of these minutes shall be sent to all Home Owners within 60 days. The President may appoint a person to serve as Parliamentarian at any meeting of the HOA. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the HOA not in conflict with these Bylaws or the Condominium Act. All votes shall be tallied by tellers appointed by the President.

ARTICLE 3: BOARD OF DIRECTORS

3.1 Number and Qualification. The affairs of the HOA shall be governed by a Board of Directors. The Board of Directors shall be composed of five (5) persons, all of whom shall be Home Owners.

3.2 Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the HOA and may do all such acts and things as are not by the Condominium Act or by these Bylaws required to be exercised and done by the Home Owners. In addition to the duties imposed by these Bylaws or by any resolutions of the HOA that may hereafter be adopted, the Board of Directors shall on behalf of the HOA:

- A.** Prepare an **annual budget**, in which there shall be established the assessments of each Home Owner for the Common Expense pursuant to Article 5.1
- B.** Make **assessments** against Home Owners to defray the costs and expenses of the Snowfire Condominium and establish the **means and methods of collecting** such assessments from the Home Owners. Unless otherwise determined by the Board of Directors, the annual assessment against each Home Owner for his proportionate share of the Common Expenses shall be payable in equal quarterly installments, each such installment to be due and payable in advance on the first day of each quarter, specifically, January 1, April 1, July 1, October 1.
- C.** Provide for the **operation, care, upkeep, and maintenance** of all the property and services of the Condominium.
- D.** Designate, hire and dismiss the **personnel** necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment and supplies to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the property.
- E.** **Collect the assessments** against the Home Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Condominium necessary to implement these By Laws..
- F.** Make and amend the **Rules and Regulations**. The Board of Directors shall have the power from time to time to adopt any Rules and Regulations deemed necessary to implement these By Laws for the benefit and enjoyment of the Condominium provided, however, that such Rules and Regulations shall not be in conflict with the Condominium Act or these Bylaws.
- G.** Open **bank accounts** and designate the **signatories** on behalf of the HOA.
- H.** Make, or contract for the making of, **repairs, additions and improvements to or alternations** of the Property, and **repairs to and restoration** of the Condominiums, in accordance with the Condominium Act and these Bylaws, after damage or destruction by fire or other casualty (Article 7), or as result of condemnation or eminent domain proceedings.
- I.** **Enforce** by legal means the **provisions of these Bylaws and the Rules and Regulations** and act on behalf of the Home Owners with respect to all matters arising out of any eminent domain proceeding.
- J.** Obtain and **carry insurance** against casualties and liabilities, as provided in Article 6 of these Bylaws, pay the premiums and adjust and settle any claims.

- K. Pay the cost** of all authorized services rendered to the HOA and not billed to Home Owners of individual condos or otherwise provided for in Article 5.1 and 5.2. of these Bylaws.
- L. Keep books** with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common Elements and any other expenses incurred. Such books and vouchers accrediting the entries thereupon shall be available for examination by the Home Owners, their duly authorized agents or attorneys during general business hours on working days at the time and in the manner set and announced by the Board of Directors for the general knowledge of the Home Owners. All books and records shall be kept in accordance with good and accepted accounting practices, and the same shall be reviewed at least once each year by an independent accountant retained by the Board of Directors who shall not be a resident of the Condominium, a Home Owner or the person responsible for bookkeeping. The cost of such review shall be a common expense.
- M. Borrow money** on behalf of the Condominium when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the Common Elements. The consent of at least sixty percent (60%) of all Home Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of Five Thousand Dollars (\$5,000.00).
- N. Acquire, hold and dispose of Condos and mortgage** the same if such expenditures and transactions are included in the budget adopted by the HOA.
- O. Do such other things and acts** not inconsistent with the Condominium Act or these Bylaws which the Board of Directors may be **authorized to do by a resolution of the HOA.**
- P. Appoint committees** as needed for specific duties. (Example: Architectural, Maintenance, Rules) *Refer to 4.4*
- Q. In any of the functions described above, only Home Owner Board Officers may vote.**
- 3.3 Managing Agent.** The Board of Directors shall employ a "Managing Agent" at a compensation established by the Board of Directors.
- A. Requirements.** The Managing Agent shall be a bona fide business enterprise which manages common interest residential communities. Such firm shall have a minimum of three (3) years' experience in real estate community management and shall employ persons possessing a high level of competence in the technical skills necessary for proper management of the Snowfire Condominium. The Managing Agent must be able to advise the Board of Directors regarding the administrative operation of the Snowfire Condominium and shall employ personnel who are experts in the areas of condominium insurance, accounting, labor relations and condominium regulation, with the approval of the Board of Directors.
- B. Duties.** The Managing Agent shall perform such duties and services as the Board of Directors shall authorize or delegate other than those outlined in Section 3.2 (b), (f), (g), (m), (n), (o), and (p).
- C. Standards.** The Board of Directors shall impose appropriate standards of performance upon the Managing Agent. Unless the Managing Agent is instructed otherwise in writing by the Board of Directors:
1. The cash method of accounting shall be employed.
 2. Two (2) or more persons shall be responsible for handling cash to maintain adequate financial control procedures;
 3. Cash accounts of the HOA shall not be commingled with any other accounts; no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the HOA whether in the form of commissions, finder's fees, service fees or otherwise; any discounts received from such sources shall only benefit the HOA.
 4. Any financial or other interest which the Managing Agent may have in any firm proposing to provide goods or services to the HOA shall be disclosed promptly in writing to the Board of Directors with such transaction being subject to their approval; and
 5. A monthly financial report shall be prepared for the HOA and mailed in a timely manner to each member of the Board of Directors disclosing:
 - a. all income and disbursement activity for the preceding month;
 - b. the status of all accounts in an "actual" versus "projected" (budget) format; and
 - c. any actual or pending obligations which are excess of budgeted amounts by an amount exceeding the operating reserves or fifteen percent (15%) of a major budget category (as distinct from a specific line item in an expanded chart of accounts).

- D. Limitations.** The HOA and the Board of Directors shall not undertake “self-management” or fail to employ a Managing Agent.
- E. Contract.** Specific duties of the Managing Agent and remuneration shall be detailed in an annual contract between the Managing Agent and the HOA.

3.4 Election and Term of Office.

- A. Term.** Members of the Board of Directors shall be elected at the Annual Meeting of the HOA to serve for a three (3) year term beginning on the date of election..
- B. Nomination.** Persons qualified to be members of the Board of Directors may be nominated for election only as follows:
1. Any Home Owner may submit to the Secretary or Property Manager at least thirty (30) days before the meeting at which the election is to be held: (a) a nominating petition signed by Home Owners owning at least three (3) condos, (b) a statement that the person nominated is willing to serve on the Board of Directors and (c) a biographical sketch of the nominee. The Secretary shall mail or hand-deliver the submitted items to every Home Owner along with the notice of such meetings; and
 2. Nominations may be submitted from the floor at the meeting at which the election is held for each vacancy of the Board of Directors for which no more than one person has been nominated by petition.

3.5 Removal or Resignation of Members of the Board of Directors. The Home Owners, by a two-thirds' vote of all persons present and entitled to vote at any meeting of the Home owners at which a quorum is present, may remove any member of the Board of Directors with or without cause and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Home Owners shall be given at least thirty (30) days' notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A member of the Board of Directors may resign at any time and shall be deemed to have resigned upon sale or other legal transfer of his Condo.

3.6 Vacancies. Vacancies on the Board of Directors caused by any reason other than the removal of a Director by a vote of the HOA shall be filled by a vote of a majority of the remaining Directors at a special meeting of the Board of Directors held for such purpose promptly after the occurrence of any such vacancy. Each person so elected shall be a member of the Board of Directors until a successor shall be elected at the next annual meeting of the HOA.

3.7 Regular Meetings of Board of Directors. Regular meetings of the Board of Directors may be held at such time and place or by telephone conference call as shall be determined from time to time by a majority of the directors, but such meetings shall be held at least three (3) times during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director at least ten (10) days prior to the day named for such meeting, by mail, fax or e-mail with confirmed receipt of notice.

3.8 Special Meetings of Board of Directors. Special meetings of the Board of Directors may be called by the President on three (3) business days' notice to each Director, given by mail, fax or e-mail with confirmed receipt of notice, which notice shall state the time, place and purpose of the meetings. Special meetings of the Board of Directors shall be called by the President in like manner and on like notice on the written request of at least two (2) Directors.

3.9 Waiver of Notice. Any Director may at any time waive notice of any meeting of the Board of Directors in writing or by actual attendance, and such waiver shall be deemed equivalent to the giving of such notice. At any meeting where all directors are present, any normal business of the Board may be conducted as if notice had been otherwise given.

3.10 Quorum of Board of Directors. At all meetings of the Board of Directors a majority of the directors (3) 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 of Directors.

3.11 Fidelity Bonds. As required by Section 6.4 (a) of these Bylaws, fidelity bonds in an amount not less than one and one-half (1.5) times the amount of the annual operating budget for all officers, directors and full time employees of the HOA, including the Managing Agent shall be obtained. The premiums on such bonds shall constitute a Common Expense.

3.12 Compensation. No director shall receive any compensation from the HOA for acting as such.

3.13 Conduct of Meetings. The President shall preside over all meetings of the Board of Directors. Taped transcriptions and written minutes shall be kept by the Secretary of all meetings of the Board of Directors recording all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with these Bylaws or the Condominium Act.

3.14 Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing or by e-mail to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

3.15 Liability of the Board of Directors, Officers, Home Owners and HOA.

- A.** The officers and members of the Board of Directors shall not be liable to the HOA for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The HOA shall indemnify and hold harmless each of the officers and directors from and against all contractual liability to others arising out of contracts made by the officers of the Board of Directors on behalf of the HOA unless any such contract shall have been made in bad faith or contrary to the provisions of the Condominium Act or these Bylaws.
- B.** The liability of any Home Owner arising out of any contract made by the officers or Board of Directors, or resulting from any indemnity action in favor of an officer or member of the Board of Directors, or for damages resulting from injuries arising solely by virtue of his ownership in connection with the Common Elements, or for liabilities otherwise incurred by the HOA shall be limited in accordance with standard HOA assessment calculations. Every agreement made by the officers, the Board of Directors or the Managing Agent on behalf of the HOA shall, if obtainable, specify that officers, members of the Board of Directors or the Managing Agent are acting only as agents for the HOA and shall have no personal liability (except as Home Owners), and that each such Home Owner's liability shall be limited in accordance with standard HOA assessment calculations.
- C.** The HOA shall not be liable for any failure of water supply or other third party services to be obtained by the HOA or resulting from electricity, water, propane, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment, or for injury or damage to Person or property caused by the elements or by any Home Owner of any Condo, or by any other person. The HOA shall not be liable to any Home Owner for loss or damage, by theft or otherwise, of articles stored upon any of the Common Elements. No diminution or abatement of any HOA assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the HOA to comply with any law, ordinance, order, or other legal directive of any municipal or other governmental authority.

3.16 Common or Interested Directors. Each member of the Board of Directors shall exercise his powers and duties in good faith and with a view of the interests of the HOA. No contract or other transaction between the HOA and any of its Directors, or between the HOA and any corporation, or firm in which any of the directors of the HOA 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 at any committee meeting which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exists:

- A.** The fact of the common directorate or interest is disclosed or known to a majority of the Board of Directors as noted in the minutes, and the Board of Directors has authorized, approved or ratified 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 at least a majority of the Home Owners, and the Home Owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose.
- C.** 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 which authorizes, approves or ratifies any contract or transaction

ARTICLE 4: OFFICERS

4.1 Designation. The principal officers of the HOA shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors

4.2 Election of Officers. The officers of the HOA shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

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

- 4.4 President.** The President shall be the chief executive officer of the HOA, shall preside at all meetings of the HOA and of the Board of Directors; and shall have all of the general powers and duties which are incident to the office of President of the corporation including without limitation the power to appoint committees from among the Home Owners from time to time as the President may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the HOA. The President shall be a Home Owner and a member of the Board of Directors.
- 4.5 Vice President.** The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President. The Vice President shall be a Home Owner and a member of the Board of Directors.
- 4.6 Secretary.** The Secretary shall keep the minutes of all meetings of the HOA and of the Board of Directors; have charge of such books and papers as the Board of Directors may direct; maintain a register setting forth the place to which all notices to Home Owners shall be delivered; and, in general, perform all the duties incident to the office of secretary of the corporation. The Secretary may, but need not, be a Home Owner or member of the Board of Directors.
- 4.7 Treasurer.** The Treasurer shall have the responsibility for HOA funds and securities and shall be responsible for keeping full and accurate financial records and books showing all receipts and disbursements, and for the preparation of all required financial data including the proposed annual budget; and be responsible for the deposit of all moneys and other valuable effects in the name of the Board of Directors, the HOA or the Managing Agent, in such depositories as may from time to time be designated by the Board of Directors; and, in general, perform all the duties incident to the office of Treasurer of the corporation. The Treasurer may, but need not, be a Home Owner or member of the Board of Directors.
- 4.8 Execution of Documents.** All checks shall be executed by any two persons designated by the Board of Directors. Other instruments of the HOA including agreements, contracts, deeds, leases over \$1000 shall be executed by any two persons designated by the Board of Directors, one of which shall be the President. All agreements, contracts, deeds, leases, checks and other instruments of the HOA shall be executed by any two persons designated by the Board of Directors.
- 4.9 Compensation of Officers.** No officer who is also a Director or member of HOA shall receive any compensation from the HOA for acting as such officer.

ARTICLE 5: OPERATION OF PROPERTY

5.1 Determination of Common Expenses and Assessments against Home Owners.

- A. Fiscal Year.** The fiscal year of the HOA shall be July 1 through June 30 unless otherwise determined by the Board of Directors.
- B. Preparation and Approval of Budget.**
1. On or before May 15th of each year, the Board of Directors shall adopt a budget for the HOA containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Condominiums as to which it is the responsibility of the Board of Directors to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Condominium Act, these Bylaws or a resolution of the HOA and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Home Owners of all related services. Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements.
 2. Within thirty days after adoption by the Board of Directors of a proposed budget for the HOA and at least 30 days before the HOA annual meeting at which the proposed budget shall be considered for approval, the Board of Directors shall provide a summary of the proposed budget to all Home Owners. Unless at that meeting a majority of all the Home Owners reject the budget, the budget is ratified, whether or not a quorum

is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Home Owners shall be continued until such time as the Home owners ratify a subsequent budget proposed by the Board of Directors

3. Within sixty days (60) after the creation of any additional condos, the Board of Directors shall send to each Home Owner a copy of the budget revised to reflect the proportionate liability of such condo for Common Expenses for the remainder of the fiscal year in which such condo(s) were added to the Condominium. The Board shall follow the procedure for ratification of the budget set forth in subparagraphs 5.1 B 2 above. The amount of assessments attributable to each condo shall thereafter be the amount specified in the adjusted budget, until a new budget shall have been adopted by the Board of Directors.

C. Assessment and Payment of Common Expenses. Subject to the provisions of Article 9.1 of these Bylaws, the total amount of the estimated funds required for the operation of the Property set forth in the budget adopted by the Board of Directors and ratified by the Home Owners shall be assessed against each Home Owner in proportion to his respective Common Expense Liability and shall be a lien against each Home Owner's condo as provided in Article 9.2 of these Bylaws

1. On or before the first day of each fiscal year, and the first day of each of the succeeding quarter in such fiscal year, each Home Owner shall be obligated to pay to the HOA one-fourth (1/4) of such assessment.
2. Within sixty (60) days after the end of each fiscal year, the Board of Directors shall supply to all Home Owners an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves.
3. Any surplus funds of the HOA remaining after payment of or provision for common expenses and any prepayment of reserves shall be paid to the Home owners in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments. Any net shortage shall be assessed promptly against the Home Owners. The shortage shall be assessed in accordance with Common Expense Liability and shall be payable as determined by the Board of Directors.

D. Reserves. The Board of Directors shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including non-payment of any Home Owner's assessment, (upon ratification by the Home Owners of an adjusted budget,) the Board of Directors may levy a further assessment, which shall be assessed against the Home Owners according to their respective Common Expense Liabilities, and which may be payable in a lump sum or in installments as determined by the Board of Directors. The Board of Directors shall serve notice of any further assessment on all Home Owners by a statement in writing giving the amount and reasons and such further assessment shall, unless otherwise specified in the notice, become effective with the next quarterly payment. All Home Owners shall be obligated to pay the adjusted amount or, if such further assessment is not payable in installments, such assessment shall be a lien as of the effective date as set forth in the preceding Paragraph C.

E. Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Home Owner's obligation to pay his allocable share of the Common Expenses and, in the absence of any annual budget or adjusted budget, each Home Owner shall continue to pay each installment at the rate established for the previous fiscal year until a new annual or adjusted budget shall have been ratified by the Home Owners.

F. Accounts. All sums collected by the Board of Directors with respect to assessments against the Home Owners or from any other source may be commingled into a single fund, but shall be held for each Home Owner in accordance with his Common Expense Liability.

5.2 Transfer of Title (Payment of Common Expenses). Each Home Owner shall pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Article 5.1 of these Bylaws. No Home Owner may exempt himself from liability for his contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his condo. No Home Owner shall be liable for the payment of any part of the Common Expenses assessed against his condo subsequent to the date of recordation by him of a fee conveyance of such condo *provided notice* is given to the HOA prior to conveyance. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a condo shall be jointly and severally liable with the selling Home Owner for all unpaid assessments against the latter for his

proportionate share of the Common Expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Home Owner amounts paid by the purchaser. Any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Home Owner within ten (10) working days following a written request therefor to the Board of Directors or Managing Agent and such purchaser shall not be liable for, nor shall the condo conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth; and that each mortgagee who comes into possession of a condo by virtue of foreclosure or by deed or assignment in lieu of foreclosure shall take the condo free of any claims for unpaid assessments or charges against such condo which have not been properly recorded as liens and except for claims for a pro rata share of such assessments or charges resulting from reallocation of such assessments or charges to all condos including the mortgaged condo.

5.3 Statement of Common Expenses. When request is received in writing, the Board of Directors shall promptly provide any Home Owner, contract purchaser or Mortgagee with a written statement of all unpaid assessments for Common Expenses due from such Home Owner. Such statement shall be furnished within thirty (30) business days after receipt of the request. The Board of Directors may impose a reasonable charge to cover the cost of preparation.

5.4 Maintenance, Repair, Replacement and Other Common Expenses.

A. By the Board of Directors. The Board of Directors shall be responsible for the maintenance, repair and replacement unless, if in the opinion of not less than 3 members of the Board of Directors such expense was necessitated by the misconduct of a Home Owner, of all of the Common Elements (including the Limited Common Elements) as defined here, inside or outside of the condos, the cost of which shall be charged to all Home Owners as a Common Expense, with the exception that a Home Owner shall perform normal maintenance of the Limited Common Elements appurtenant to his condo and any portion of the remaining Common Elements which the Board of Directors pursuant to the Rules and Regulations has given him permission to utilize.

B. By the Home Owner.

1. Each Home Owner shall keep his condo and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his condo. In addition, each Home Owner shall be responsible for all damage to any other condos or to the Common Elements resulting from his failure to make any of the repairs required by this Section. Each Home Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Home Owners. Each Home Owner shall promptly report to the Board of Directors or the Managing Agent any defect or need for repairs for which the Board of Directors is responsible.
2. The Home Owner of any condo to which a patio, terrace or balcony is appurtenant shall perform the normal maintenance for such patio, terrace or balcony including keeping it in a clean and sanitary condition, and shall also make all repairs necessitated by his negligence, misuse or neglect. All structural repair or replacement shall be made by the Board of Directors as Common Expense, as provided in Article 5 A above.
3. Any Home Owner permitted by the Board of Directors to use a specific portion of the Common Elements for storage is responsible for the maintenance and care of such portion and shall use such portion in a safe and sanitary manner.

C. Manner of Repair and Replacement. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board of Directors.

5.5 Additions, Alterations or Improvements by Board of Directors. Whenever in the judgment of the Board of Directors improvements are proposed which may cost in excess of Five Thousand Dollars (\$5,000.00) during any period of twelve (12) consecutive months, the making of such additions, alterations or improvements shall be approved by a majority of the Home Owners, and the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Home Owners for the cost as a Common Expense. Any additions, alterations or improvements costing Five Thousand Dollars (\$5,000.00) or less during any period of twelve (12) consecutive months may be made by the Board of Directors without approval of the Home Owners and the cost shall constitute a Common Expense. Notwithstanding the foregoing, if, in the opinion of not less than three (3) of the members of the Board of Directors, such additions, alterations or improvements are exclusively for the benefit of the Home Owner or Owners requesting the same, such requesting Owners shall be assessed in such proportion as they jointly approve or, if they are unable to agree, in such proportions as may be determined by the Board of Directors.

5.6 Additions, Alterations or Improvements by Home Owners. No Home Owner shall make any structural addition, alteration or improvement in or to his condo without the prior written consent of the Board of Directors. No Home Owner shall paint or alter the exterior appearance of his condo, including the doors and windows, nor shall any Home Owner paint or alter the exterior of any building, without prior written consent of the Board of Directors. The Board of Directors shall be obligated to answer any written request by a Home Owner for approval of a proposed structural addition, alteration or improvement in such Home Owner's condo within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent to the alteration or improvement. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement in or to any condo requires approval by the HOA and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the HOA without incurring any liability on the part of the Board of Directors or any of them to any contractor, subcontractor or materialmen on account of such addition, alteration or improvements, or to any person having claim for injury or damage to property arising therefrom. All costs of such permits shall be born by the Home Owner making the request

5.7 Restrictions on Use of Condos; Rules and Regulations. Each condo and the Common Elements shall be occupied and used as follows:

- A.** Nothing shall be done or kept in any condo or in the Common Elements which will **increase the rate of insurance** for the Property or any part applicable for residential use without the prior written consent of the Board of Directors. No Home Owner shall permit anything to be done or kept in his condo or in the Common elements which will **result in the cancellation of insurance** on the Property or any part thereof or which would be in **violation of any law, regulation or administrative ruling**. **No waste will be committed in the Common Elements.**
- B.** **No immoral, improper, offensive or unlawful use** shall be made of the Property or any part, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction relating to any portion of the Snowfire Condominiums shall be complied with, by and at the sole expense of the Home Owner or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Property, and, if the latter, then the cost of such compliance shall be a Common Expense.
- C.** No Home Owner shall **obstruct any of the Common elements** nor shall any Home Owner store anything upon any of the Common Elements (except those areas designated for such storage by the Board of Directors) without the approval of the Board of Directors. Vehicular parking upon the Common Elements may be regulated or assigned by the Board of Directors. **Nothing shall be altered or constructed in or removed** from the Common Elements except upon the prior written consent of the Board of Directors.
- D.** The Common Elements shall be used only for the furnishing of the services and facilities for which the same are **reasonably suited and which are incident to the use and occupancy** of the Snowfire Condominiums.
- E.** **No Home Owner shall lease a condo other than on a written form of lease** requiring the lessee to comply with the Condominium Instruments and Regulations, and providing that failure to comply constitutes a default under the lease. The Board of Directors shall provide a supplemental form to be attached to Home Owner's leases.
- F.** **Trailers, campers, recreational vehicles or boats** may be parked on the Property only in parking areas designated exclusively for such purposes by the Board of Directors. These vehicles or boats must be parked no longer than **48 hours** at a time. **No junk or derelict vehicle** or other vehicle on which current registration plated are not displayed shall be kept upon any of the Common Elements.
- G.** The maintenance, keeping, boarding and/or raising of animals, livestock, birds or **reptiles** of any kind, regardless of number shall be and is prohibited within any condo or upon the Common Elements except as here specified. **Specifically prohibited are pit bulls, Rottweiler's, Doberman pincers, or any other aggressive or dangerous animals.** The keeping of small, orderly domestic pets (e.g., dogs, cats or caged birds) not to exceed one per condo without the approval of the Board of Directors, is permitted subject to the Rules and Regulations adopted by the Board of Directors; provided, that such pets are not kept or maintained for commercial purposes or for breeding and provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon ten (10) days' written notice from the Board of Directors. Such **pets shall not be permitted upon the Common Elements unless accompanied by an adult and unless carried or leashed.** Any Home Owner who keeps and maintains any pet upon any portion of the Property shall be deemed to have indemnified and agreed to hold the HOA and each Home Owner free and

harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium. **All full time pets shall be registered with the Board of Directors and shall otherwise be registered and inoculated as required by law with proof of licensing provided to the Manager.**

H. No signs of any character, **excepting condominium for sale signs displayed in windows**, shall be erected, posted or displayed upon, in, or from any condo or Common Elements without the prior written approval of the Board of Directors.

I. Each condo and the Common Elements shall be occupied and used in compliance with the Rules and Regulations which may be promulgated and amended by the Board of Directors. Copies of the Rules and Regulations shall be furnished by the Board of Directors to each Home Owner and shall be **conspicuously posted in all rental condos**. Amendments to the Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Home Owner.

5.8 Right of Access. By acceptance of his deed of conveyance, each Home Owner grants a right of access to his condo, as provided by Section 47-7C-7 of the Condominium Act and Article IV, Section 2(b) of the Declaration, to the Board of Directors or the Managing Agent, or any other person authorized by the Board of Directors or the Managing Agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective power and responsibilities, including without limitation making inspections, correcting any condition originating in his condo and threatening another condo or the Common Elements, performing installations, alterations or repairs to the mechanical or electrical services to the Common Elements in his condo or elsewhere in the Property, provided, however, that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Home Owner. In case of emergency, such right of entry shall be immediate, whether the Home Owner is present at the time or not.

5.9 Utility Charges. Common expense utilities serving Snowfire Condominium shall be paid by the HOA water, cable and trash included.

5.10 Parking Spaces. Parking spaces designated as such on the Plats and Plans shall be used by the Home Owners for self-service parking purposes on a "first come, first served" basis. Written consent of the Board of Directors is required to park more than 2 cars per condo over a period exceeding one week. *Refer to 5.7.F.* The cost of maintenance and repair of all parking areas shall be a Common Expense.

5.11 Use of Common Elements. No Home Owner shall place or cause or permit to be placed on or in the public halls, stairways or other Common Elements (other than in the areas designated as storage areas) any furniture, packages or objects of any kind. The lobbies, vestibules, public halls and stairways shall be used for no purpose other than for normal transit.

5.12 Storage Cubicles; Disclaimer of Bailee Liability. The Board of Directors, the HOA and any Home Owner shall not be considered a bailee of any personal property stored on the Common Elements (including property located in vehicles parked in the Condominium), whether or not exclusive possession of the particular area is given to a Home Owner for storage purposes, and shall not be responsible for the security of such personal property or for any loss or damage whether or not due to negligence.

ARTICLE 6: INSURANCE

6.1 General Provisions:

A. The HOA shall maintain, to the extent reasonably available:

- 1.** Property insurance on the common elements insuring against all risks of direct physical loss commonly insured against or against fire and extended coverage perils in an amount equal to one hundred percent (100%) of the then **current replacement cost** of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be re-determined annually by the Board of Directors with the assistance of the insurance company affording such coverage).
- 2.** Liability insurance, including medical payments insurance, in an amount determined by the Board of Directors covering all occurrences commonly insured against for including death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the common elements.

- B.** The Snowfire Buildings contain condos having horizontal boundaries described in the Declaration. The insurance maintained under 6.1 A.1 of this section, to the extent reasonably available, shall include the condos, but need not include improvements and betterments installed by Home Owners.
- C.** If the insurance described in Subsections A and B of this section is not reasonably available, the HOA promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Home Owners. The HOA in any event may carry any other insurance it deems appropriate to protect the HOA or the Home Owners.
- D.** Insurance policies carried pursuant to Subsection A of this section must provide that:
 - 1.** Each Home owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the HOA;
 - 2.** The insurer waives its right to subrogation under the policy against any Home owner or member of his household;
 - 3.** No act or omission by any Home owner, unless acting within the scope of his authority on behalf of the HOA, shall void the policy or be a condition to recovery under the policy; and
 - 4.** If, at the time of a loss under the policy, there is other insurance in the name of the Home owner covering the same risk covered by the policy, the HOA's policy provides primary insurance.
- E.** Any loss covered by the property policy under 6.1 A 1and 6.1 B of this section must be adjusted with the HOA, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the HOA, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the HOA shall hold any insurance proceeds in trust for Home owners and lien holders as their interests may appear. Subject to the provisions of 6.1 H, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and Home owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the condominium is terminated.
- F.** An insurance policy issued to the HOA does not prevent a Home owner from obtaining insurance for his own benefit.
- G.** An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the HOA and, upon written request, to any Home owner, mortgagee or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until thirty days after notice of the proposed cancellation or non-renewal has been mailed to the HOA, each Home owner and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at his last known address.
- H.** Any portion of the condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the HOA unless the condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance or eighty percent of the Home owners, including every owner of a condo or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire condominium is not repaired or replaced, the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, and the insurance proceeds attributable to condos and limited common elements which are not rebuilt must be distributed to the owners of those condos and the owners of the condos to which those limited common elements were allocated, or to lien holders, as their interests may appear, and the remainder of the proceeds shall be distributed to all the Home owners or lien holders, as their interests may appear, in proportion to the common element interests of all the condos. If the Home owners vote not to rebuild any condo, that condo's allocated interest is automatically reallocated upon the vote as if the condo had been condemned under Subsection A of Section 6 of the Condominium Act, and the HOA promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.
- I.** Notwithstanding the provisions of Subsection H of this Section, Section 30 of the Condominium Act governs the distribution of insurance proceeds if the condominium is terminated.
- J.** Each such policy also shall provide that:
 - 1.** The insurer waives any right to claim by way of subrogation against, the HOA, the Board of Directors, the Managing Agent or the Home Owners, and their respective agents, employees, guests and, in the case if the Home Owners, the members of their households;

2. Such policy shall not be canceled, invalidated or suspended due to the conduct of any Home Owner (including his invitees, agents and employees) or of any member, officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board of Directors or the Managing Agent cure the defect and neither shall have so cured such defect within thirty (30) days after such demand.
3. Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the Board of Directors and the Managing Agent and, in the case of physical damage insurance, to all Mortgagees.

6.2 Authority to Purchase. All insurance policies relating to the Property shall be purchased by the Board of Directors except as otherwise provided in Section 6.5 of these Bylaws.

6.3 Additional Specific Provisions

A. Physical Damage Insurance.

1. The Board of Directors shall obtain and maintain a blanket, "all-risk" form policy of fire insurance with extended coverage, vandalism, malicious mischief, windstorm, sprinkler leakage, debris removal, cost of demolition and water damage endorsements, insuring the entire Property (including all of the condos and the bathroom and kitchen fixtures including kitchen appliances initially installed therein and the replacements thereto installed but not including furniture, wall coverings, furnishings or other personal property supplied or installed by Home Owners), together with other service machinery contained therein, and covering the interests of the HOA, the Board of Directors and all Home Owners and their Mortgagee, as their interest may appear, (subject however, to the loss payment and adjustment provisions in favor of the Board of Directors and the Insurance Trustee contained in Sections 6.6 and 6.7 of these Bylaws, in an amount equal to one hundred percent (100%) of the then **current replacement cost** of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be re-determined annually by the Board of Directors with the assistance of the insurance company affording such coverage).
2. Such policy will also provide:
 - a. A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these Bylaws not to do so and, in such event, that the insurer shall pay in the basis of the agreed amount endorsement as though a total loss has occurred;
 - b. The following endorsements (or equivalent): (i) "no control;" (ii) "contingent liability from operation of building laws or codes;" (iii) "increased cost of construction" or "condominium replacement cost;" and (iv) "agreed amount" or elimination of co-insurance clause; and
 - c. That any "no insurance" clause expressly exclude individual Home Owners' policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Home Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Home Owners or their Mortgagees unless otherwise required by law.
3. A duplicate original of the policy of physical damage insurance, all renewals thereof, and any sub-policies or certificates and endorsements issued thereunder together with proof of payment of premiums shall be delivered by the insurer to any Mortgagee so requesting at least thirty (30) days prior to expiration to the then current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof the Board of Directors shall obtain an appraisal from an insurance company, or such other source as the Board of Directors may determine, of the current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to Section 6.3 A 1 of these Bylaws. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy

B. Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability (including libel, slander, false arrest and invasion of privacy coverage and errors and omissions coverage for directors) and property damage insurance in such limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the Managing Agent, and each Home Owner against any liability to the public or to the Home Owners (and their invitees, agents and employees) arising out of, or

incident to the ownership and/or use of the Common Elements. Such insurance shall be issued in a comprehensive liability basis and shall contain: (a) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (b) hired and non-owned vehicle coverage (c) a "severability of interest" endorsement which shall preclude the insurer from denying liability to a Home Owner because of negligent acts of the HOA or of another Home Owner. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than One Million Dollars (\$1,000,000.00) covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained.

6.4 Other Insurance. The Board of Directors shall obtain and maintain:

- A. Adequate fidelity coverage (Errors and Omissions) to protect against dishonest acts on the part of officers, directors, trustees and employees of the HOA and all others who handle, or are responsible for handling, funds of the HOA including the Managing Agent. Such fidelity bonds shall: (1) name the HOA as an obligee; (2) be written in an amount not less than one and one-half (1.5) times the estimated annual operation expenses of the HOA, including reserves; and (3) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.
- B. If required by any governmental or quasi-governmental agency including without limitation the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, flood insurance in accordance with the then applicable regulations of such agency;
- C. Workmen's compensation insurance if and to the extent necessary to meet the requirements of law;
- D. Such other insurance as the Board of Directors may determine or as may be requested from time to time by a Majority of the Home Owners.

6.5 Separate Insurance. Each Home Owner shall have the right, at his own expense, to obtain insurance for his own condo and for his own benefit and to obtain insurance coverage upon his personal property and for his personal liability as well as upon any improvements made by him to his condo normally called "tenants" improvements and betterments coverage;" provided, however, that no Home Owner shall be entitled to exercise his right to acquire or maintain such insurance coverage so as to decrease the amount which the Board of Directors, on behalf of all Home Owners, may realize under any insurance policy maintained by the Board of Directors or to cause any insurance coverage maintained by the Board of Directors to be brought into contribution with insurance coverage obtained by a Home Owner.

6.6 Insurance Trustee.

- A. All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the HOA, the Home Owners, and their Mortgagees, as their interests may appear, and shall provide that, with respect to any single loss, if the proceeds thereof exceed Seventy Five Thousand Dollars (\$75,000.00) then all such proceeds shall be paid in trust to such lending institution with trust powers as may be designated by the Board of Directors (which trustee is herein referred to as the Insurance Trustee). If such proceeds do not exceed Seventy Five Thousand Dollars (\$75,000.00) then all such proceeds shall be paid to the Board of Directors to be applied pursuant to the terms of Article 7.
- B. The Board of Directors shall enter into an Insurance Trust Agreement with the Insurance Trustee which shall provide that the Insurance Trustee shall not be liable for payment of premiums, the renewal of the policies, the sufficiency of coverage, the form or contents of the policies, the correctness of any amounts received on account of the proceeds of any insurance policies nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the insureds and their beneficiaries thereunder.

6.7 The Board of Directors as Agents. The Board of Directors is hereby irrevocably appointed the agent for each Home Owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to adjust and settle all claims arising under insurance policies purchased by the Board of Directors and to execute and deliver releases upon the payment of claims.

ARTICLE 7: REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

7.1 When Repair and Reconstruction are Required. Except as otherwise provided in Sections 6.1.H and 6.1.I of these Bylaws, in the event of damage to or destruction of all or any of the buildings as a result of fire or other casualty, the Board of Directors, under the direction of the Insurance Trustee, shall arrange for and supervise the prompt repair and restoration of the Buildings (including any damaged condos, and the floor coverings, kitchens or bathrooms fixtures and appliances initially installed and replacement thereof), but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Home Owners in the condos. Notwithstanding the foregoing, each Home Owner shall have the right to supervise the redecorating of his own condo.

7.2 Procedure for Reconstruction and Repair. Cost Estimates: Immediately after a fire or other casualty causing damage to any building, the Board of Directors under the direction of the Insurance Trustee shall obtain reliable and detailed estimates of the cost of repairing and restoring such building (including any damaged condos and any floor coverings and kitchen and bathroom fixtures and appliances initially installed, and the replacements thereof, but not including any other furniture, furnishings, fixtures, equipment installed by the Home Owner in the condo) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the Insurance Trustee or the Board of Directors determines to be necessary.

7.3 Disbursements of Construction Funds.

A. Construction Funds and Disbursements. The proceeds of insurance collected on account of casualty, and the sums received by the Board of Directors from collections of assessments against Home Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

1. If the estimated cost of reconstruction and repair is less than Seventy Five Thousand Dollars (\$75,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors.
2. If the estimated cost of reconstruction and repair is Seventy Five Thousand Dollars (\$75,000.00) or more, then the construction fund shall be disbursed in payment of such costs upon approval of the professional representative employed by the insurance trustee to supervise such work, payment to be made from time to time as the work progresses. The professional representative shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work and stating that: (i) The sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

B. Common Elements. When the damage is to both Common Elements and condos, the insurance proceeds shall be applied first to the cost of repairing those portions of the Common Elements which enclose and service the condos, then to the cost of repairing the other Common Elements and thereafter to the cost of repairing the condos

C. Certificates. The Insurance Trustee shall be entitled to reply upon a certificate executed by the President or Vice President, and the Secretary, certifying: (1) whether the damaged property is required to be reconstructed and repaired; (2) the name of the payee and the amount to be paid with respect to disbursement from any construction fund or whether surplus funds to be distributed are less than the assessments paid by the Home Owners; (3) all other matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the Insurance Trustee promptly after request.

ARTICLE 8: MORTGAGES

8.1 Notice to Board of Directors. Any Home Owner who has a mortgage on his own condo shall notify the Board of Directors of the name and address of his Mortgagee.

- 8.2 Notice of Default, Casualty or Condemnation.** The Board of Directors when giving notice to any Home Owner of a default in paying an assessment for Common Expenses continuing over sixty (60) days or any other default shall simultaneously send a copy of such notice to the Mortgagee of such condo. Each Mortgagee shall also be promptly notified of any casualty giving rise to a possible claim under any insurance purchased under Article 7 and of any taking in condemnation or by eminent domain and actions of the HOA with respect thereto. For purpose of this Section only, when notice is to be given to a Mortgagee, the Board of Directors shall also give such notice to the Federal Home Loan Mortgage Corporation, the Veterans Administration, the Federal Home Administration, the Farmers Home Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guaranteeing Mortgages of Condos in the Snowfire Condominium of which the Board of Directors has notice of such participation.
- 8.3 Notice of Amendment of Declaration and Bylaws.** The Board of Directors shall give notice to all Mortgagees thirty (30) days prior to the date on which the Home Owners, in accordance with the provisions of these Bylaws, materially amend the Condominium Instruments.

ARTICLE 9: COMPLIANCE AND DEFAULT

- 9.1 Relief.** Each Home Owner shall be governed by, and shall comply with, all of the terms of the By Laws, Declaration, and the Condominium Act as any of the same may be amended from time to time. In addition to the remedies provided in Section 47-7C-16 of the Condominium Act, a default by a Home Owner shall entitle the HOA, acting through its Board of Directors or through the Managing Agent, to the following relief:
- A. Additional Liability.** Each Home Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his act, neglect or carelessness of any member of his family or his employees, agents or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include his employees, agents or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any condo or its appurtenances.
 - B. Costs and Attorneys' Fees.** In any proceeding arising out of any alleged default by a Home Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be determined by the court.
 - C. No Waiver of Rights.** The failure of the HOA, the Board of Directors or of a Home Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Instruments (By Laws and Rules and Regulations) or the Condominium Act shall not constitute a waiver of the right of the HOA, the Board of Directors or the Home Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the HOA, the Board of Directors or any Home Owner pursuant to any term, provision, covenant or condition of the Condominium Instruments or the Condominium Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Condominium Instruments or the Condominium Act or at law or in equity.
 - D. Late Charge.** A late charge of no less than \$25, as determined by the Board of Directors, shall be applied to each quarterly assessment not received on or before the 10th day of the month due (January, April, July, October).
 - E. Interest.** In the event of a default by any Home Owner in paying any sum assessed against his condo which continues for a period in excess of thirty (30) days, the principal amount unpaid shall accrue interest at the rate of eighteen (18%) percent per annum from the due date until paid.
 - F. Abating and Enjoining Violations by Home Owners.** The violation of any of the Regulations adopted by the Board of Directors, the breach of any Bylaw contained herein or the breach of the Condominium Act shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws: (1) to enter the condo in which, or as to which, such violation or breach exists an summarily to abate and remove, at the expense of the defaulting Home Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or (2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity the continuance of any breach.

G. Legal Proceedings. Failure to comply with any of the terms of these Bylaws and the Rules Regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure or the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the HOA, the Board of Directors, the Managing Agent or, if appropriate, by any aggrieved Home Owner and shall not constitute an election of remedies.

9.2 Lien for Assessments.

- A.** The total annual assessment of each Home Owner for Common Expenses or any special assessment made pursuant to these Bylaws is hereby declared to be lien levied against the Condo of such Home Owner as provided in Section 47-7C-16 of the Condominium Act, which lien shall, with respect to annual assessments, be effective in the first day of each fiscal year of the HOA and, as to special assessments, of the first day of the next month which begins more than fifteen (15) days after delivery to the Home Owner of notice of such special assessments. The Board of Directors or the Managing Agent may file or record such other or further document, to confirm the establishment and priority of such lien.
- B.** In any case where an assessment against a Home Owner is payable in installments, upon a default by such Home Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Home Owner and his Mortgagee by the Board of Directors or the Managing Agent.
- C.** The lien for assessment may be enforced and foreclosed in the manner provided by the laws of the State of New Mexico by action in the name of the Board of Directors, or the Managing Agent, acting of behalf of the HOA. The HOA's lien may be foreclosed in like manner as a mortgage on real estate. Fees, charges, late charges, fines and interest charged pursuant to Section 47-7C-2 NMSA 1978 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due. During the pendency of such suit the Home Owner shall be required to pay a reasonable rental for the condo for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to appointment of a receiver, if available under the laws of the State of New Mexico.
- D.** A suit to recover a money judgment for unpaid contributions may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.
- E.** Supplemental Enforcement of the Lien. In addition to the proceedings at law or in equity for the enforcement of the lien established by these Bylaws or the Condominium Act, all of the Home Owners may be required by the Board of Directors to execute bonds contingent upon the faithful performance and payment of the installments of the lien established thereby.

9.3 Subordination and Mortgage Protection. Notwithstanding any other provisions to the contrary, the lien of any assessment levied pursuant to these Bylaws upon any condo (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith or value received and properly recorded. Any sale or transfer shall not relieve the purchaser of the condo from liability for any assessment thereafter becoming due, nor from the lien on any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

ARTICLE 10: AMENDMENTS TO BYLAWS

10.1 Amendments. These Bylaws may not be modified or amended except by a vote of seventy percent (70%) of the votes in the HOA, pursuant to the Act, and these Bylaws

ARTICLE 11: MISCELLANEOUS

11.1 Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent through U. S. Postal Service (or **Amended August 30, 2003**)

otherwise as the Condominium Act may permit), (a) if to a Home Owner, at the address which the Home Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the Snowfire address of the Home Owner, or (b) if to the HOA, the Board of Directors or to the Managing Agent or at such other address as shall be designated by notice in writing to the Home Owners pursuant to this Section. If a condo is owned by more than one person, each such person who so designated an address in writing to the Secretary shall be entitled to receive all notices

11.2 Captions. Captions are used herein only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision.

11.3 Gender. The use of masculine gender in these Bylaws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

IN WITNESS WHEREOF, these Bylaws have been executed and attested by the President and the Secretary on behalf of the HOA, this 12 day of October, 2002.

Snowfire HOA

By: _____
Secretary

Attest: _____
President