

# **GARDEN ESTATES HOMEOWNERS ASSOCIATION BYLAWS**

The following bylaws (the "Bylaws") govern the Association created by the Declaration Covenants and Restriction for Garden Estates Homeowners Association which is filed of record in the office of the Register of Deeds of Yankton County, South Dakota. These Bylaws set out the rules for making decisions and taking actions on behalf of the Association. All defined terms set out in the Declaration shall have the same meaning in these Bylaws.

## **MEMBERS**

1.1 Membership. Each owner of a Unit (as defined in the Declaration of Covenants for Garden Estates Homeowners Association) is a Member of the Association. If more than one person or entity owns a Unit, they shall collectively be one Member with respect to that Unit and shall determine among themselves how they shall vote as a Member. If an owner owns more than one Unit, that owner shall have the rights hereunder of a Member as to each Unit including the right to vote hereunder.

1.2 Vote. On all matters about which members shall vote, the vote of a majority of the Members shall be binding unless a greater percentage is required elsewhere in the Declaration or the Bylaws. Determination by one vote may be taken at a meeting of Members after all members are given at least a 10-day notice or by a writing signed by sufficient Members to be the percent of all members required for the determination under the Declaration or the Bylaws. Votes may be submitted electronically or via proxy.

1.3 Meetings. There shall be an annual meeting of the Members on a date set by the President on at least a 10-day notice to the Members, at which meeting the Members shall elect the Officers for the coming year. Any Member may nominate persons for election as Officers. Other meetings may be set by the President with at least a 10-day notice to membership. Meetings may be in-person, via online conferencing or email voting.

1.4 Incapacity or Death of a Member. If a Member dies or becomes incapacitated or cannot be located, all rights to vote as a Member shall devolve to any fiduciary appointed therefore, for example a personal representative of the Member's estate or a guardian of the Member's property. If such a fiduciary has not come into existence, then as to any vote under the Bylaws or the Declaration, the Member will be assumed to have voted with the majority of the other Members.

1.5 Vote by member who fails to pay Assessment. If a Member fails to pay an Assessment, then as to any vote under the Declaration or the Bylaws after such

Assessment becomes due and unpaid and until the Assessment is paid, the Member shall be assumed to vote with the majority of the remaining Members.

## **OFFICERS**

2.1 President. The Association shall have a President who shall be elected annually by the members. The President shall have the power to carry out the day-to-day operations and purposes of the Association.

2.2 Other Officers. There shall be a Vice President selected by the members who shall act as the President in the President's absence, incapacity, death or refusal to act as President and who shall have such other rights and duties as may be assigned by the President. There shall be a Secretary/Treasurer selected by the Members who shall attend all meetings of the Officers or Members and keep minutes thereof and shall prepare and keep the financial records of the Association including any bank account(s) of the Association and shall perform such other tasks and duties which are assigned by the President.

2.3 Resignation/replacement. Officers shall serve until their replacements have been elected. An officer may resign or be replaced at any time subject to the previous sentence. An Officer may be replaced by a majority vote of the Members at any time. Any replacement shall be elected to serve the remainder of the replaced Officer's term.

## **GENERAL**

3.1 Books and Records. The Association shall keep proper books and records as to all matters affecting the Association which shall be located at a place known to the members who shall have access thereto during reasonable business hours.

3.2 Limitation of Liability of Officers. The liability of officers shall be limited to willful malfeasance.

3.3 Notices. Notices and requests hereunder may be given orally or in writing or by electronic communication. If given in writing, the notice or request shall be deemed given three days after notice is placed in an envelope deposited in the US mail postage prepaid properly addresses to the person or entity to whom the notice or request is being given.

3.4 Bank Accounts. The Association may have any bank account and designated signers as approved by the Members.

3.5 Fiscal Year. The fiscal year of the Association shall be the calendar year. The calendar year shall be the term of the Officers.

## **MEDIATION AND ARBITRATION**

4.1 Mediation. The Association (through its officers) may but need not appoint a mediator for any dispute between members or persons or entities comprising a Member. If the Association does appoint a mediator, the Members involved will submit to mediation and will negotiate in good faith in an effort to resolve the dispute.

4.2 Arbitration. If a dispute is not resolved by mediation, then the Association may appoint an arbitrator to arbitrate the dispute. The decision of the arbitrator will be binding on the parties to the dispute. Any Member or person or entity comprising a Member who is party to a dispute may request the appointment of an arbitrator by the Association and if the Association does not act to do so within 30 days of such request, then such Member or person or entity comprising a Member is released from the obligation to arbitrate and may proceed to resolve or seek resolution of the dispute by any means permissible in the law or in equity. An arbitration hereunder shall be conducted in accordance with the procedures approved by the American Arbitration Association unless the parties to the dispute agree otherwise.

GARDEN ESTATES HOMEOWNERS ASSOCIATION

By: \_\_\_\_\_

Date: \_\_\_\_\_