

SEVENTH AMENDED AND RESTATED BYLAWS
OF
ELDORADO COMMUNITY IMPROVEMENT
ASSOCIATION, INC.

Version dated February 13, 2022

1 La Hacienda Loop
Eldorado at Santa Fe,
New Mexico, 87508

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Article I Name and Location, Purpose, Controlling Laws and Documents

Section 1: Corporate Name, Address, Meeting Locations The name of the corporation is Eldorado Community Improvement Association, Inc., hereinafter referred to as the Association. The principal office of the corporation is located at 1 La Hacienda Loop, Eldorado at Santa Fe, New Mexico 87508, but the meetings of the Members and the Board may be held at such places within the State of New Mexico as may be designated by the Board of Directors. The Board of Directors is hereby granted full power and authority to change the place of the principal office to another location within the Eldorado at Santa Fe subdivision.

Section 2: Purpose of Bylaws These Bylaws are adopted for the regulation and management of the affairs of the common interest community known as the Eldorado Community Improvement Association, Inc. (also referred to as "ECIA"):

- which is organized as a New Mexico nonprofit corporation under the New Mexico Nonprofit Corporation Act, §§ 53-8-1, *et seq.*, NMSA 1978 (the "Nonprofit Act");
- in conformance with the New Mexico Homeowners Association Act, §§ 47-16-1, *et seq.*, NMSA 1978, *et seq.* ("the HOA Act");
- and is the Association created by the Declaration of Covenants Eldorado Community Improvement Association, Inc., dated July 10, 1972, as more specifically defined below.

The Declaration of Covenants relates to the real estate and the community located in the County of Santa Fe, New Mexico, which is subject to the Governing Documents.

Section 3: Controlling Laws and Documents These Bylaws are controlled by and must always be consistent with the provisions of the Nonprofit Act, applicable provisions of the HOA Act, the Declaration of Covenants and all other Governing Documents as defined below.

Article II Definitions

Section 1: Agreement To Serve means and refers to the most recent document on file which all elected and appointed Directors must sign prior to participating in Board business.

Section 2: The Association means and refers to the Eldorado Community Improvement Association, Inc., its successors and assigns.

Section 3: The Board means and refers to the Board of Directors of the Association.

Section 4: A Board Meeting is a gathering of a majority of Board Directors in person, by telephone or videoconference, or in any other simultaneous electronic session, for the purpose of making decisions about, and/or transacting the business of, the Association and as such must be open as defined in Article VI Section 2 below.

Section 5: The Bylaws mean and refer to the most current version of the Association's Amended and Restated Bylaws as approved by the Membership.

Section 6: The Common Properties mean and refer to those areas of land shown on any recorded subdivision plat of the Properties and any facilities or improvements now or hereafter placed thereon which land, facilities or improvements are dedicated to the common use and enjoyment of the owners of the Properties.

Section 7: Conflict Of Interest means a person accepts or is a beneficiary of a fee, brokerage, gift or other item of value, other than a fixed salary or compensation, as consideration for an investment, loan, deposit, purchase, sale, exchange, insurance, reinsurance or other transaction made by or for the Association, an officer of the Board or the Board; or a person is financially interested in any capacity in a transaction for the Association, except on behalf of the Association, an officer of the Board or the Board.

Section 8: Cumulative Voting means and refers to the casting of more than one vote per Lot for any specific candidate for the Board.

Section 9: Date of Record means and refers to the date on which final determination is made of Members Eligible To Vote in an event which requires voting:

- (a) The Board of Directors annual election - First business day of March at 5:00 p.m.; or
- (b) Any other issue requiring voting - To be determined by the Board.

Section 10: Declaration Of Covenants means and refers to the Declaration Of Covenants for the Association dated July 10, 1972 and recorded July 18, 1972 in Book 292, pages 597 to 610 of the Records of the Office of the Clerk of Santa Fe County, State of New Mexico and such supplemental declarations to the Declaration Of Covenants as have been recorded from time to time.

Section 11: Designated Staff means and refers to the Association's General Manager or designee.

Section 12: Electronic Meeting means and refers to a Board Meeting, or a meeting of a standing committee or ad hoc committee, as defined in Article XI, Sections 3 (*Standing Committees*) and 4 (*Ad Hoc Committees*), where at least one member is attending via electronic medium such as audio conferencing, video conferencing, computer based application, software application or similar media.

Section 13: Fiduciary Responsibility means and refers to the legal responsibility of the Directors of the Association to act in the best interests of the Association and its Members

in managing the monies, the Properties and the affairs of the Association, in good faith, and with such care as an ordinarily prudent person would use under similar circumstances in a like position, as required by Section 53-8-25.1 of the New Mexico Nonprofit Corporation Act and the provisions of the New Mexico Homeowner Association Act [NMSA 1978 § 47-16-1, et seq.]. It also means to not exploit the position of Director of the Association for personal gain or advantage nor to act on behalf of the Board or Association without the knowledge and consent of the Board.

Section 14: Full-Time Resident means and refers to an individual Lot Owner who is a New Mexico resident for tax purposes, meaning they must reside in New Mexico for at least 185 days each year, at their primary residence which must be their Lot in the Properties.

Section 15: Governing Documents mean and refer to the following documents as they exist and are hereafter amended:

- (a) Declaration of Covenants Eldorado Community Improvement Association, Inc. as defined above;
- (b) Articles of Incorporation of Eldorado Community Improvement Association, Inc. (10/17/1994) ("Articles of Incorporation");
- (c) Exhibit A Amended and Restated Protective Covenants and Building Restrictions for Eldorado at Santa Fe recorded on April 24, 1996 at Book 1263, page 581, and the Correction Certificate thereto recorded on December 2, 1996 at Book 1327, page 256, all in the records of Santa Fe County, New Mexico ("Protective Covenants") ; and
- (d) The Bylaws as defined above.

Section 16: Just Cause means a standard of reasonableness used to evaluate a person's actions in a given set of circumstances.

Section 17: Lot means and refers to any plot of land shown on any recorded subdivision map of the Properties with the exception of the Common Properties.

Section 18: Lot Owner means and refers to the owner or owners of record of a fee simple title, or the beneficial owner of a Lot held in trust, to any Lot situated upon the Properties. However, notwithstanding any applicable theory of mortgage or deed of trust, this definition does not mean or refer to the mortgage holder or trustee unless and until such mortgage holder or trustee has acquired title to the Lot pursuant to foreclosure, or any proceeding in lieu of foreclosure.

Section 19: Member and Membership mean and refer to all Lot Owners who are Members of the Association, as provided for in Article III, Section 1 of the Declaration Of Covenants.

Section 20: Member Eligible To Vote means and refers to a Member In Good Standing as defined below who is classified as such as of the Date Of Record.

Section 21: Member In Good Standing (MIGS) means and refers to a Member whose assessments are paid in full and have been received and credited to the Association's financial account, and whose rights and privileges have not been suspended pursuant to Article III, Section 2 (*Suspension of Membership*) of the Bylaws.

Section 22: Official Decision means and refers to a decision approved by a majority vote of the Board as recorded in the minutes of a duly convened official Board Meeting.

Section 23: Policy means and refers to a rule, standard or course of action to be followed or avoided as determined by an Official Decision of the Board.

Section 24: Quorum means and refers to the minimum number of current members who must be in attendance at a meeting for business to be transacted.

Section 25: The Properties mean and refer to all properties subject to the Declaration Of Covenants.

Section 26: Voting means and refers to the casting of a single vote per Lot in any process governed by the Bylaws in which a decision or choice is made by the Members.

Article III Membership

Section 1: Membership Membership in the Association shall be governed by Article III, Section 1 of the Declaration Of Covenants.

Section 2: Suspension of Membership

- (a) The rights of Membership are subject to the payment of annual and special assessments levied by the Association, as provided by Article V, Section 1 of the Declaration Of Covenants to which the Properties are subject. During any period in which a Member shall be in default in the payment of any annual or special assessment levied by the Association, the Board, with written notice to the Member by its designee, shall suspend the Member's voting right and the right to use the Common Properties and facilities until such assessment(s) has been paid.
- (b) The Board, with written notice to the Member by its designee, shall suspend the right of a Member to use the Common Properties and facilities for thirty (30) days for violation of any rules and regulations established by the Board governing the use of the Common Properties and facilities.
- (c) With written notice to the Member by the Board's designee, the rights of a Member shall be suspended if, at the conclusion of the enforcement process outlined in Article III, Section 2(c) of the Protective Covenants, the Member remains in violation of these Covenants.

- (d) Prior to the suspension of a Member's rights pursuant to subsections (b) and (c) above, the Board or its Designee shall give notice to the Member they have fourteen (14) days to submit a written statement to be considered by the Board or a designated committee. Following review of the written statement, the Board or designated committee must approve the suspension of rights before it can be enforced. If the Member fails to submit a written statement within fourteen (14) days, the Member's rights may be suspended without further notice. This procedure shall not apply to violations that pose an imminent threat to public health or safety.

Article IV Property Rights: Rights of Enjoyment

Each MIGS shall be entitled to the use and enjoyment of the Common Properties and facilities as provided by Article IV of the Declaration Of Covenants. MIGS may delegate their rights of enjoyment of the Common Properties and facilities to family members residing in the same household or to any tenants who reside upon the Properties under a leasehold interest. Members shall notify the Secretary of the Association or Designated Staff in writing of such tenancy. The rights and privileges so delegated are subject to suspension to the same extent as those of Members.

Article V Board of Directors

Section 1: Number of Directors A Board of Directors comprised of an uneven number of Directors, of at least five (5), will manage the affairs of the Association. All Directors must be MIGS and Full-Time Residents of Eldorado at Santa Fe. If a Director fails to maintain their status as a MIGS during their term in office, they are immediately suspended from all Board duties until their status as a MIGS is re-established. Should the number of Directors ever fall below five (5), the Board must take immediate action to fill any vacancy as provided in Section 5 of this Article. Until such vacancy is filled, the Board will continue to operate in substantially the same manner as before the vacancy occurred.

Section 2: Term of Office Terms of Directors are three (3) years. The Board may alter the number of Directors subject to the provisions of this Article. If the number of Directors is changed by action of the Board, terms of existing Directors will not be affected and the terms of newly elected or appointed Directors will be a maximum of three (3) years subject to Article VII, Section 3 (*Sequence of Board Terms*) of the Bylaws.

Section 3: Board Member Agreement To Serve All Directors must sign the Agreement To Serve at the beginning of each year of their term. Directors must sign the Agreement directly following the Annual Meeting of the Members and before the organizational Board Meeting to be able to participate in Board business. Appointed Directors must sign the agreement no later than fourteen (14) days from the date they are voted onto the Board.

A Director who does not sign the Agreement To Serve within the required time frame will be suspended by the Board until the Director either complies with this requirement or is removed from the Board.

The Association must retain each Director's signed Agreement to Serve for inspection by the Members for five years after the Director's election or appointment. Failure of the Association to have a Director's signed Agreement to Serve on file does not affect the validity of any action taken by The Board or any protections provided to Board members under the HOA Act or the Non-Profit Act.

This provision is intended to satisfy the requirements of Section 47-16-7(B), (C) and (D) of the HOA Act.

Section 4: Resignation of a Director A Director may resign at any time by giving a signed hard copy written notice to the President or Secretary of the Board. If no date of resignation is specified in the notice, the resignation will become effective fourteen (14) calendar days after receipt by the President or Secretary.

Section 5: Vacancies In the event a vacancy occurs due to death, resignation, removal of a Director, or for any other reason, a successor shall be appointed by the majority vote of the remaining Directors to fill the vacancy. Within 30 calendar days of a vacancy, the Directors must give notice to the Members that MIGS are eligible to apply at the ECIA office for the vacant position. Candidates must be presented to the Membership prior to Board interviews. At an interview open to the Members, each candidate will be interviewed from, but not limited to, a prepared list of questions and the proposed Appointee(s) selected. At the next Board Meeting, a vote will be taken on the proposed Appointee(s). The term of office for the Appointee(s) will be to serve for the unexpired term of the vacated Director(s).

If, in the event the number of current Directors falls below the minimum number of five (5), then the remaining directors:

- (a) must hold an organizational Board Meeting to vote for new officers;
- (b) must carry on the operation of the Association diligently and in substantially the same manner as it had previously been carried out; and
- (c) must appoint additional Director(s) as quickly as feasible following the requirements of this Section, to raise the number of Directors minimally to 5 (five) but not exceed the established number of Directors set by the Board.

If in the event all Director positions become vacant at the same time, then the Chairs of each Standing Committee of the Association will hold an emergency meeting and will appoint by majority vote a minimum of three (3) Directors.

If a vacancy occurs within sixty (60) days prior to the Annual Meeting of the Members, such vacancy shall be filled by the incoming Board of Directors duly elected by the Membership.

Section 6: Leave of Absence A Director may submit a written request for a leave of absence, not to exceed 60 days, to the President or the Secretary of The Board specifying the reason(s) for and the beginning and end dates of the leave. A majority of the other Directors must approve the leave and notify the Membership if the request is approved and the reason(s) for the leave.

During the term of the leave of absence, the Board will continue to be bound by the quorum requirements of Article VI, Section 8 (*Quorum*) of the Bylaws.

Directors who have been granted a leave of absence must not, during the term of their leave, undertake any roles, responsibilities or actions they otherwise would be authorized to perform as Directors, including but not limited to:

- (a) serving as officers of the Association;
- (b) participating as Directors in any activities of the Board, including work sessions and committee meetings;
- (c) participating in the administration of the Association's business;
- (d) inspecting books or records of the Association except as permitted of any Lot Owner;
- (e) possessing keys or codes given to officers or Directors which provide access to real property or other property of the Association, including but not limited to equipment and records;
- (f) signing checks, contracts or any other legal documents on behalf of the Association; and
- (g) representing the Association in any community, public or governmental meeting.

Section 7: Compensation Directors may not receive compensation for any services rendered to the Association. However, Directors may be reimbursed for actual approved expenses incurred in the performance of their duties, subject to policies adopted by the Board.

Section 8: Conflict(s) of Interest In the event any Director has a Conflict of Interest with regard to any matter coming before the Board, then,

- (a) The conflicted Director must disclose his or her potential Conflict of Interest, either in writing or verbally, to the Board in an open Board Meeting, before discussion of or action on the matter at a Board Meeting. This disclosure must be noted in the Minutes.
- (b) After disclosing the facts of the Conflict of Interest, the Director may choose one of the following two courses of action, either:
 - i. Voluntarily recuse himself or herself from making a motion, debating or voting on the matter; or
 - ii. Make a motion for the Board to vote on whether or not to recuse the potentially conflicted Director. Before making this motion, the potentially

conflicted Director must disclose to the Board all material facts regarding his or her interest in the matter. The potentially conflicted Director may not vote on the motion to recuse.

(c) If a Director believes another Director has a potential conflict of interest on a specific issue, that Director may raise the question at a Board Meeting and give the other Director an opportunity to address the question. If, after such opportunity, any Director believes the potentially conflicted Director has a conflict of interest, any Director may make a motion for the Board to vote on whether or not to recuse the potentially conflicted Director.

(d) Following either a voluntary recusal, or the Board's vote to recuse the Director, the Director may be treated like any other MGS and may speak or present evidence in the same fashion.

Section 9: Fiduciary Responsibility Directors of the Association, individually and collectively, must act in the best interests of the Association and its Members in managing the monies, the Properties and the affairs of the Association in accordance with the Governing Documents, the provisions of the Nonprofit Act and the provisions of the HOA Act.

Section 10: ECIA Representation Directors will not represent themselves as spokespersons of the Association and its Members unless authorized by a majority of the Board.

Article VI Meetings of Directors

Section 1: Written and Audio Records Written minutes of all duly called organizational, regular and special Board Meetings must be retained and be available for review by the Membership. At a minimum, written minutes shall include attendance of Directors, any change in attendance of Directors during the Meeting, and the general subject of any motion upon which voting takes place. Any written or audio recordings of these meetings must be retained in accordance with the Association's Document Retention Policy.

Section 2: Open Meetings. Except as set forth in Article VI, Section 6, all regular, organizational and special Board Meetings (as defined above in Article II Section 4) must be open to attendance by all Members or a person designated by a Member, in writing, as the Member's representative or others the Board may choose to invite. If no physical location will be provided where Members may attend in person, then, upon request made at least three (3) business days before the meeting date, Members must be provided with an adequate description of how to attend the Board Meeting via electronic means.

If any number of Directors gather in any social or other unofficial setting, which is not an official Board Meeting, then during that time they may not make decisions about or transact the business of the Association.

Section 3: Organizational Meetings An organizational Board Meeting must be held within a two (2) week period following the Annual Meeting of the Members or additionally as needed. Scheduling of any organizational Board Meeting must be conducted with a minimum notice of forty-eight (48) hours to the Members.

Section 4: Regular Meetings The Board will determine the structure and schedule of regular Board Meetings during the organizational Board Meeting and as necessary. The regular schedule is to be posted to the Association's event calendar on the website. Any changes to the regular schedule must be communicated to the Members with a minimum notice of forty-eight (48) hours.

Section 5: Special Meetings Special Board Meetings must be held when called by the President or by the Secretary of the Association upon written or electronic consensus of a majority of Directors and providing a minimum notice of forty-eight (48) hours to the Members. No business will be transacted except as specified in the notice.

Section 6: Executive Sessions The Board may enter into Executive Session to discuss and vote upon:

- (a) legal advice from an attorney for the Board or the Association;
- (b) pending or contemplated litigation; or
- (c) personal, health or financial information about an individual Member, an individual employee of the Association or an individual contractor for the Association.

The Board may enter into Executive Session by either adjournment from an open Board Meeting (Regular or Special) given majority approval of the Board, or by scheduling the Executive Session independent of any other meeting as long as forty-eight (48) notice is provided to the Members.

In either case the Members are to be notified of the general nature of all business to be considered at the Executive Session, either at the open Board Meeting or within the forty-eight (48) hour notice.

Minutes of the Executive Session, to only include time, place, attendance and general explanation of agenda, motions, voting results, and a brief description of any action taken by the Board, must be taken and retained by the Board. Minutes of an Executive Session are not subject to record disclosure to Members, in accord with § 47-16-5(C)(5) of the HOA Act.

Section 7: Electronic Meeting Criteria Electronic meetings may be held through a simultaneous communication medium such as teleconference or videoconference, which allows for concurrent audio communication among all participants. Non-simultaneous communication mediums such as email, instant messaging or fax shall not be used to conduct a meeting except as defined in Article VI, Section 12 (*Action Taken Without a Meeting*). A member will be considered present if their identity is confirmed by voice or

facial recognition. Unless there is a health or safety reason, a majority of members of the Board or of a committee shall be physically present at a designated meeting site when quorum is established, and the Membership may physically attend such meetings as specified in Article VI *Meetings of Directors*.

The Secretary is charged with confirming the number of members in attendance at the beginning of an Electronic Meeting. Official business will only be transacted if the number of members in attendance meets or exceeds the value required for obtaining quorum at the beginning of a meeting.

Notice of all Electronic Meetings shall be provided as defined within Article VI, Section 11 (*Notice of Meetings*).

Specific Electronic Meeting procedures and guidelines must be adopted by the Board.

Section 8: Quorum A majority of Directors then in office shall constitute a quorum for the transaction of business. A quorum cannot be achieved with less than three (3) Directors. In the event a quorum of Directors is not present, a lesser number may adjourn the Board Meeting to some future time. Notice of such adjourned meeting shall be given in the same manner required for any other Board Meeting.

Section 9: Attendance A Director may, with good reason, request an excused absence from a duly called regular or special Board Meeting. Such a request must be made to and approved by the President or designee in advance of the Board Meeting.

Section 10: Voting All Board members attending duly called regular and special meetings shall be required to vote on motions before the Board and all votes shall be recorded. Votes permitted are yes (aye), no (nay), and abstain.

Section 11: Notice of Meetings A forty-eight (48) hour notice of Board Meetings specifying the time and place of each meeting shall be given to each Director in person or by email to the last known email address as shown in the records of the Association. In order for transactions to be binding in the event that a Board Meeting is held without notice as specified in this section, all Directors, whether or not present for the Meeting, are required to sign a waiver of notice, which shall be appended to the official minutes of such Board Meeting.

Section 12: Action Taken Without a Meeting In time sensitive, unforeseen situations where it is not reasonably possible for the Board to wait to make a decision until the next regular Board meeting, the Board has the authority to take any action normally taken at a stated meeting by obtaining the unanimous written approval (via hardcopy or electronic means) of the Directors. Any action so approved must be recorded in the minutes at the next duly convened meeting of the Board. Such actions shall have the same effect as though taken at a Board Meeting.

Article VII Nomination and Election of Directors

Section 1: Nomination Any MIGS may become a candidate for the Board by filing a nomination petition with Designated Staff. The petition shall have been signed by not less than twenty-five (25) Lot Owners, one signature per Lot, each of whom is a MIGS with the Association as of the date of signature. Such petitions must be filed by the Date of Record. Nominations may not be made in any manner other than the foregoing.

Section 2: Election Election to the Board will be conducted as follows:

- (a) **Voting:** voting will be done with a written Ballot mailed to Members Eligible To Vote not later than twenty (20) working days prior to the Annual Meeting of the Members and the results of the election shall be announced at the Annual Meeting of the Members. Alternatively, when a process is approved by the Board, voting may be conducted by electronic means, that is, allowing for electronic delivery and receipt of ballots, subject to the same timing requirements for mailed ballots set forth above.
- (b) **Date of Record:** The Board shall establish a Date Of Record to determine Members Eligible To Vote.
- (c) **Methods of Voting:** A Member Eligible To Vote may cast as many ballots as said Member is entitled to exercise under the provisions of the Declaration Of Covenants. For each ballot a Member may vote for as many candidates as they wish up to the number of open vacancies. The candidates receiving the largest number of votes shall be elected. Cumulative Voting is not permitted.

Section 3: Sequence of Board Terms Annually, a designated number of positions will be open to prospective candidates. The sequence of the number of positions over a three-year election cycle is the whole number results determined by dividing the number of established director positions (See Article V Section 1 (*Number of Directors*) by three (3). As an example, the sequence for seven (7) established Director positions is 2, 3, and 2. Should this sequence become disrupted, the Election Committee is empowered to establish a new rotation for the terms of elected Board members. The procedure shall be presented by the Election Committee to the Board for approval by a two-thirds (2/3) majority vote.

Article VIII Removal of Directors

Section 1: Removal By The Board The Board, via a regular Board Meeting and by a minimum of two-thirds (2/3) vote of all current Directors, may remove a Director and declare a vacancy if, during the term of office the Director has:

- (a) Been declared of unsound mind by court order;
- (b) Been convicted of a felony;
- (c) Had, within a twelve (12) month period, three (3) or more unexcused absences from Board Meetings which have been duly noticed;

- (d) Failed to maintain the status of a MIGS;
- (e) Been derelict in committee liaison assignments;
- (f) Failed to disclose a Conflict Of Interest;
- (g) Failed to uphold Fiduciary Responsibility or;
- (h) Failed to sign or comply with the Agreement To Serve per Article V, Section 3 (*Board Member Agreement to Serve*).

Section 2: Removal by Members The Members may remove a Director from the Board for just cause by the following procedure:

- (a) **Removal Process:** A petition requesting removal of one or more Board members must be signed by at least 15% of all Lot Owners, all of whom must be MIGS, and must be submitted to the ECIA office. The petition will then be delivered to the Election Committee, which, provided all requirements for a valid removal petition have been met, will then conduct a vote on the petition by written ballot, subject to the conditions listed below. At that time, at least 60% of all votes cast must support removal in order for removal to be effective.
- (b) **Petition Requirements:** The completed petition form must meet all of the following conditions:
 - i. The petition is completed on a form pre-authorized by the Board, which will be available to any MIGS.
 - ii. The petition must list the “Just Cause” reason why the signatories propose to remove the Director or Directors, and include the definition of “Just Cause” as stated in Article II, Section 16 above.
 - iii. Signatures of Members supporting the petition with their legibly printed name, address and date of signature. Signatories must be a MIGS as of the date signed. Only one signatory per Lot is valid. Valid signatures for removal must be obtained equaling or exceeding 15% of the number of Lots.
- (c) **Timing:** The petition is valid if completed and submitted to the ECIA Office before a date four (4) months prior to the expiration of the term of the Director or Directors subject to removal; and four (4) months after receipt of the form by the Petitioner. The completed petition will be retained by ECIA after submission. Petitioner may request a copy of the petition at time of submission.
- (d) **Action on the Petition - Election:** Within five (5) business days the Designated Staff must provide the petition to the Board and the Election Committee. The Election Committee will validate the petition meets all requirements of this Section. If validated, the Election Committee will notify the Director(s) identified by the petition and provide them five (5) business days to write a rebuttal to the petition’s cause. The Election Committee will then proceed to conduct a vote by written ballot within two (2) months of the date of submission of a valid petition. The rebuttal and cause will be included within the ballot packet mailed to the Members Eligible to Vote, where the Date of Record is set to the date the petition was delivered to Designated Staff.
- (e) **Percentage of Approval Necessary:** The removal of a Director(s) becomes effective if at least sixty percent (60%) of all votes cast were in favor of removal of the Director(s).

Section 3: Candidacy Restriction for Removed Board Members A Director removed by the Board or by the Membership may not become a candidate for the Board of Directors until the remaining length of the term from which they were removed has expired.

Section 4: Resulting Vacancy A vacancy on the Board caused by removal of a Director shall be filled in accordance with Article V, Section 5 (*Vacancies*) of the Bylaws.

Article IX Authorities and Duties of the Board

Section 1: Authority In general, the Board has the duty to manage and supervise the affairs of the Association and has all powers necessary to permit it to do so. Without limiting the generality of the previous sentence, the Board has the power to exercise or cause to be exercised for the benefit of the Association, all of the powers, rights and authority of the Association not reserved to the Members in the Association's Governing Documents, the Nonprofit Act or the HOA Act. For example, the Board has the authority to:

- (a) Adopt and publish rules and regulations governing the following:
 - i. the use of the Common Properties and facilities;
 - ii. the personal conduct of the Members and their guests thereon;
 - iii. the assessment of reasonable user fees for the use of the Common Properties and facilities;
 - iv. the establishment of penalties for the violation of said rules and regulations;
 - v. the establishment of penalties for the violation of Covenants as permitted under Article III, Section 2, (*Enforcement Actions*), of the Protective Covenants;
- (b) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of the Governing Documents; and
- (c) Employ a manager, other employees, management company or independent contractors as it deems necessary.

Section 2: Duties To the extent not otherwise inconsistent with New Mexico law, in general the Board has the duty to manage the affairs of the Association consistent with the Association's Governing Documents and any applicable law, including but not limited to: policy governance; financial management; agent, vendor and contractor selection and oversight; and the interpretation, enforcement and compliance of the Association's Governing Documents. For example, it is the duty of the Board to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement of corporate status to the Members at the Annual Meeting of the Members or at any special meeting of the Members when such a statement is requested in writing by one-fourth (1/4) of the MIGS with the Association;
- (b) Ensure that management policies and procedures are developed and maintained;

- (c) Cause to be supervised, all agents, volunteers, and employees of the Association, and to see their duties are properly defined and performed;
- (d) Establish, levy and assess, and collect the assessments or charges referred to in Article V of the Declaration Of Covenants;
- (e) Issue or cause to be issued upon Member's demand a certificate setting forth whether or not the specific member's assessment has been paid. The Board may make a reasonable charge for the issuance of certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (f) Procure and maintain adequate and appropriate liability and hazard insurance on property owned by the Association;
- (g) Cause all officers, Directors and employees to be indemnified and insured which protects them in the exercise of their duties per Article XIX, Section 1 (*Indemnification*), of these amended Bylaws;
- (h) Cause all Directors to be covered by insurance, which protects them in the exercise of their duties;
- (i) Cause the Common Properties to be maintained, repaired or improved in accordance with established procedures;
- (j) Cause an annual budget to be prepared and adopted, a copy of which will be sent to the Membership within thirty (30) calendar days after adoption.
- (k) Cause an annual audit of the Association's books to be performed and prepare a statement of Income and Expenditures, which shall be mailed to the Membership not later than thirty (30) calendar days prior to the Annual Meeting of the Members.
- (l) Adopt policies and changes to policies by Board decision, after notice to the Membership as required by State law. All policies shall be published and made available to the Membership on the Association website and also available for review in person.

Article X Officers and Their Duties

Section 1: Enumeration of Officers The elected officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer who shall at all times be members of the Board.

Section 2: Election of Officers The election of officers shall take place at the organizational Board Meeting per Article VI, Section 3, and as needed.

Section 3: Term The officers of the Association, shall be elected annually by the Board and each shall hold office for one (1) year unless they resign or be removed, or otherwise be disqualified to serve, or until a successor is determined. Officers may succeed themselves if duly elected.

Section 4: Special Appointments The Board may appoint such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5: Resignation and Removal Any officer may be removed from office with or without cause by the affirmative vote of two-thirds (2/3) of the Directors then in office. Any officer may resign at any time by giving written notice to the President or Secretary of the Association. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified.

Section 6: Vacancies A vacancy in any office may be filled at the next regular Board Meeting in the manner prescribed for regular election under Article X, Sections 2 (*Election of Officers*) and 3 (*Term*) of the Bylaws. The officer elected to such vacancy shall serve for the remainder of the term of the officer replaced.

Section 7: Compensation Compensation of officers shall be subject to the same limitations as compensation of Directors under Article V, Section 7 (*Compensation*) of the Bylaws.

Section 8: Duties The specific duties of the officers are as follows:

PRESIDENT

The President:

- (a) Or the Board's designee, shall provide supervision as per Article IX, Section 2, Item (c);
- (b) Shall preside at all Board Meetings;
- (c) Shall see that orders and resolutions of the Board are carried out;
- (d) Shall sign all of the Association's leases, mortgages, promissory notes, deeds, and other written instruments;
- (e) Shall appoint Directors as liaisons and alternate liaisons for all Committees during the organizational Board Meeting or as needed with majority approval of the Board;
- (f) May remove liaisons and alternate liaisons for any Committee, with majority approval of the Board for any of the following reasons
 - i. The Chair of the Committee requests the removal of the appointed liaison or alternate liaison,
 - ii. A liaison or alternate liaison of a Committee has been derelict in their assignment, or
 - iii. A liaison or alternate liaison failed to act as a neutral conduit of information between the Committee and the Board;
- (g) Or their designee, shall be the primary contact with the General Manager of the Association or with a Home Owner Association management company which has a contract with the Association;
- (h) Shall be listed as a signer on all Association checking accounts;
- (i) Must, in the absence of the Treasurer, sign or authorize the General Manager to issue checks or transfer funds, when the amount of the approved transaction exceeds the General Manager's spending authority and
- (j) May, in the absence of the Treasurer, sign all checks exceeding \$1,000.00.

VICE PRESIDENT

The Vice President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board. The Vice President shall have the same financial authority as the President.

SECRETARY

The Secretary:

- (a) Or the Board's designee, shall record the votes and the minutes of all Board Meetings and meetings of the Members;
- (b) Shall keep the corporate seal of the Association and affix it on all papers requiring said seal;
- (c) Shall ensure notice of Board Meetings and meetings of the Members are issued;
- (d) Or the Board's designee, shall keep appropriate current records showing the names and addresses of the Members of the Association;
- (e) Shall perform such other duties as required by the Board;
- (f) Shall not be a check signatory; and
- (g) Shall, if the President and Vice President are absent, preside at all Board Meetings.

TREASURER

The Treasurer:

- (a) Or the Board's designee, shall receive and deposit in appropriate federally secured instruments all monies of the Association and shall disburse such funds as directed by the decision of the Board;
- (b) Shall be listed as a signer on all Association checking accounts
- (c) Must sign or authorize the General Manager to issue checks or transfer funds, when the amount of the approved transaction exceeds the General Manager's spending authority;
- (d) Shall sign all promissory notes of the Association;
- (e) Or the Board's designee, shall keep proper books of account;
- (f) Shall cause an annual budget to be prepared;
- (g) Shall cause an annual audit of the Association's books to be performed by public accountants at the completion of each fiscal year and prepare a Statement of Income and Expenditures which shall be mailed to the Membership not later than thirty (30) calendar days prior to the Annual Meeting of the Members; and
- (h) Shall, if the President, Vice President, and Secretary are absent, preside at all meetings of the Board.

Article XI Advisory Committees

Section 1: Appointment and Definition of Purpose The Board has the authority to appoint and dissolve standing and ad-hoc committees as deemed appropriate in carrying out their purposes and will define the function, scope and responsibilities of these committees. A list of current committees as well as their charters, goals, duties, guidelines and membership, must be on file in the Association office and available to the Membership. Unless stated within a committee's charter, committees may not convene an executive session.

All appointees to committee membership must be and must remain MIGS for as long as they serve on committees. The Board has the authority upon recommendation of committees to approve MIGS as voting members to committees. All committee members serve at the pleasure of the Board and may be removed by a majority vote of the Board. Without limitation, reasons why the Board may decide to remove members of either standing or ad hoc committees include:

- (a) Failure to retain MIGS status;
- (b) Failure to adhere to Committee Charter, rules or guidelines; or
- (c) Dereliction in their Committee assignments.

Association Members are welcome to attend committee meetings and participate in the open forums. Committees must not exceed the authority or duties granted by the Board.

Section 2: Charter and Procedural Guidelines Committees must have a charter according to the specific charter template of the Association, and if appropriate, procedural guidelines for the operation of their committee. Charters and procedural guidelines must not supersede the Governing Documents and must be approved by the Board.

Section 3: Standing Committees Standing committees perform a continuing function. It will be the duty of each committee to fulfill the mission according to their Charter of record. Members interested in serving on committees must attend committee meetings, be vetted and then recommended by the sitting committee to the Board for approval. A subcommittee may be created by a standing committee to examine a specific area of responsibility as outlined in its charter. A subcommittee can only be comprised of members of the standing committee. No standing committee will appoint an ad hoc committee to further their mission.

Section 4: Ad Hoc Committees Ad hoc committees may be formed solely by the Board as a need arises. Ad hoc committees are established for a limited period of time to address a specific purpose and are dissolved upon completion of that purpose. Members serving on an ad hoc committee created and approved by the Board shall focus only on that purpose as directed by the Board. With the Board's approval, an ad hoc committee may retain an expert consultant who is not a Member of the Association.

Article XII Meetings of Members

Section 1: Annual Meeting The Annual Meeting of the Members shall be held each year on the first Monday in May at a time and place designated by the Board. Written notice of the Annual Meeting of the Members shall be mailed to all Lot Owners with an annual information packet not less than ten (10) calendar days nor more than fifty (50) calendar days prior to the meeting.

Draft minutes of the Annual Meeting of the Members shall be posted online and in the Board Minutes Book no later than thirty (30) calendar days after the meeting. These minutes are to be formally approved at the next Annual Meeting.

Section 2: Special Meetings Special meetings of the Members may be called at any time by the President, by the Board, or upon written request by one-third (1/3) of MIGS with the Association. The Secretary of the Association or designated staff shall give written notice of each meeting by mailing a notice to all Lot Owners using the last address of record not less than ten (10) calendar days nor more than fifty (50) calendar days before the meeting specifying the date, location, time and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 3: Quorum The presence at a meeting of one-tenth (1/10) of the Members Eligible To Vote in person, by proxy, or by absentee ballot shall constitute a quorum for any action except as otherwise provided in the Governing Documents.

If action cannot be taken because a quorum is not present, a majority of the Members Eligible To Vote who are present may adjourn the meeting to a time not less than seven (7) calendar days nor more than thirty (30) calendar days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called.

If a time and place for reconvening the meeting is not fixed by a majority of those Members Eligible To Vote at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to all Lot Owners in the manner prescribed for regular meetings.

Section 4: Proxies; Absentee Ballots Members entitled to vote shall have the right to do so in person, by absentee ballot or by an agent or agents authorized by written proxy, executed by such Members or their duly authorized agent and filed with the Secretary of the Association. The manner of execution, revocation, and use of absentee ballots and proxies shall be governed by the provisions of the New Mexico Homeowner Association Act, NMSA 1978, § 47-16-9.

Article XIII Assessment and Rates

Section 1: Creation of the Lien and Personal Obligation of Assessments Liens, personal obligations, basis of assessments, special assessments, and effect of non-payment are governed by Article V of the Declaration Of Covenants.

Section 2: Rate Annual and special assessments shall be fixed by the Board on a per Lot or on a frontage foot basis as circumstances, current and future needs and costs may warrant, and may be collected on an annual, monthly, or other installment basis as defined by the Board.

Article XIV Books and Records

Section 1: Records Available for Inspection All “Financial and other records” of the Association as defined in the HOA Act §47-16-5, or otherwise required to be disclosed by law, will be made available for inspection by Members during regular business hours within ten business days after the Association receives a written request as defined by Board policy.

Section 2: Confidential or Privileged Content The Association reserves the right to refuse to disclose records of a private or confidential nature such as personnel records and contractual and real estate negotiations. Where possible, the Association will redact such records so that Members may inspect the portion(s) of the records that are not of a private or confidential nature. The Association further reserves the right to refuse to disclose any records protected by the attorney-client privilege or any other privilege recognized by law.

Article XV Corporate Seal

The Secretary of The Association shall cause to be kept the corporate seal of the Association and affix it on all papers requiring the seal.

Article XVI Amendments

Section 1: General The Bylaws may be amended provided those provisions of the Bylaws which are governed by the Articles of Incorporation may not be amended except as provided in the Articles of Incorporation or applicable law; and provided further, that any matter stated herein to be or which is in fact governed by the Declaration Of Covenants applicable to the Properties may not be amended except as provided in such Declaration Of Covenants.

On a biannual basis or as needed, the Board will appoint a committee of five (5) MIGS to conduct a review of the Bylaws. The committee shall be comprised of 1 (one) Director, at

least 1 (one) Election Committee member and the remainder appointed from the Members with at least 1 (one) not currently serving on any committee when possible. Revisions deemed necessary shall be presented to the Membership for approval per the Governing Documents in advance of the Annual Meeting of the Members.

Section 2: Procedure Except as provided for in Section 1 (*General*) above, the Bylaws may be amended and new Bylaws adopted by written Ballot upon the affirmative vote of not less than sixty percent (60%) of the votes cast by Members Eligible To Vote as of the Date Of Record established by the Board and are deemed to be valid by the Election Committee.

Section 3: Certification The Secretary of the Association must certify the adoption of a duly approved amendment and a copy of the certificate and the amendment must be included in the Association's corporate records.

Article XVII Fiscal Year

The fiscal year of the Association begins on the first (1st) day of January and ends on the thirty-first (31st) day of December of every year.

Article XVIII Construction

Section 1: Conflict In the case of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control. In the case of any conflict between the Declaration Of Covenants applicable to the Properties and the Bylaws, the Declaration Of Covenants shall control.

Section 2: Rules The current edition of *Robert's Rules of Order Newly Revised*, published by *Da Capo*, shall govern all deliberations of the Association and the Board, except as otherwise provided in the Bylaws, in the Articles of Incorporation or in the Declaration Of Covenants and as long as the Rules are consistent with the management and operation of the Association as a nonprofit corporation.

Article XIX Indemnification

Section 1: Officers, Directors and Committee Members In accordance with the provisions of NMSA 1978 § 53-8-26, each officer, Director and Board approved committee member of this Association shall be indemnified against reasonable expenses, costs, and attorney's fees actually and reasonably incurred by them in connection with the defense of any action, suit or proceeding, civil or criminal, in which they are made a party by reason of being or having been an officer, Director or committee member. Such indemnification shall include amounts reasonably paid to satisfy a judgment or to compromise or settle a claim.

An officer, Director or committee member shall not be indemnified if they shall be adjudged to be liable on the basis that they have breached or failed to perform the duties of their office and the breach or failure to perform constitutes willful misconduct or recklessness. Advance indemnification may be allowed of an officer, Director or committee member for reasonable expenses to be incurred in connection with the defense of the action, suit or proceeding by a general or a specific action of the Board, provided that the officer, Director or committee member must reimburse the Association if it is subsequently determined that the officer, Director or committee member was not entitled to indemnification.

Section 2: Others In accordance with the provisions of NMSA 1978 § 53-8-26, the Association may, to a lesser extent or to the same extent the Association is required to provide indemnification and make advances and reimbursements for expenses to its officers, Directors or committee members, provide indemnification and make advances and reimbursements for expenses to its employees, agents, and any other person serving the Association in any capacity at the request of the Association, and, if authorized by a general or a specific action of the Board, may contract in advance to do so.

Section 3: Plan The Board may from time to time adopt an Indemnification Plan implementing the rights granted in Sections 1 and 2 of this Article. This Indemnification Plan shall set forth in detail the mechanics of how the indemnification rights granted in Section 1 and 2 shall be exercised.


Section 4: Insurance The Board may cause the Association to purchase and maintain insurance on behalf of any person who is or was a Director or officer of the Association, or on behalf of its employees, agents, and any other person serving the Association in any capacity at the request of the Association, against any liability asserted against such person and incurred in any such capacity or arising out of such status, whether or not the Association would have the power to indemnify such person.

Certification of Adoption

These amended Bylaws take effect upon adoption by the Membership and certification by the Secretary of the Association, and supersedes in entirety all previous versions.

Signed on this 2 day of May, 2022:

Eldorado Community Improvement Association, Inc., a New Mexico non-profit corporation.


By: 
Carol Sanguinetti
ECIA Secretary

(Corporate Seal)

State of New Mexico
County of Santa Fe

Subscribed, sworn to and acknowledged before me this ___ day of May, 2022, by Carol Sanguinetti as Secretary of Eldorado Community Improvement Association, Inc., a New Mexico non-profit corporation, for and on behalf of the corporation.

(Seal)


Notary Public

