

**AMENDED AND RESTATED BYLAWS
OF
WESTWALL LODGE AT MT. CRESTED BUTTE CONDOMINIUM ASSOCIATION, INC.
a Colorado nonprofit corporation**

**ARTICLE I
Purpose**

1.1 Name. The name of the corporation is WestWall Lodge at Mt. Crested Butte Condominium Association, Inc., a Colorado nonprofit corporation formed on March 11, 2004 by filing the Articles of Incorporation with the Colorado Secretary of State. The principal office of the Association is located at 14 Hunter Hill Road, Mt. Crested Butte, Colorado, 81225.

1.2 Purpose and Objective. The purpose for which this nonprofit corporation is formed is to govern WestWall Lodge at Mt. Crested Butte Condominium, a common interest community (WestWall Lodge), and WestWall Lodge at Mt. Crested Butte Condominium Association, Inc., (Association) in accordance with the Colorado Common Interest Community Act, C.R.S. Section 38-33.3-101, *et seq.* (The Act), and the terms and conditions of the Second Amended and Restated Condominium Declaration of WestWall Lodge at Mt. Crested Butte, as it may be amended from time to time (Declaration).

1.3 Compliance with Bylaws. All present or future owners, tenants or future tenants, or any other person who may use the facilities of the Association are subject to these Amended and Restated Bylaws (Bylaws). The mere acquisition or rental of any of the condominium Units of WestWall Lodge or the mere act of occupancy of such condominium Units shall signify that these Bylaws are accepted, ratified and will be complied with.

**ARTICLE II
Membership**

2.1 Automatic Membership. The owner (Owner) of a condominium unit (Unit) shall upon becoming such Owner be entitled and required to be a member of the Association and shall remain a member (Member) for the period of his or her ownership.

2.2 One Membership. There shall be one membership in the Association for each Unit. Such membership shall be appurtenant to the Unit and shall be transferred automatically by a conveyance of that Unit to any new Owner. Each membership shall be entitled to one vote, per the allocated voting interest set forth in the Declaration. In the event the membership is held by more than one Owner, the vote must be cast as only a single vote. Split or divided votes of membership shall not be allowed.

2.3 Number of Memberships. There shall be forty-five (45) memberships in the Association in the aggregate, being one membership for each Unit.

2.4 Voting. All Members shall be entitled to vote on matters as provided for in the Declaration, Bylaws, Articles of Incorporation or pursuant to law so long as such Members are in good standing with the Association.

2.5 Transfer. No person other than an Owner of a Unit may be a Member of the Association. A membership may not be transferred except in connection with the conveyance or transfer of a Unit.

2.6 Person. The term "person" for the purpose of membership shall include a corporation, partnership, limited liability company, trust, joint venture or other legal entity that has valid title to a Unit. Any officer, director, shareholder, director or partner of any such entity may exercise the membership rights of the entity and shall further be entitled to serve on the Executive Board and as an officer of the Association.

2.7 Termination. Such membership shall terminate without any formal action whenever such person ceases to own a Unit, but such termination shall not relieve or release any such Owner from any liability or obligation incurred under or in any way connected with WestWall Lodge at Mt. Crested Butte Condominium Association, Inc. during the period of such ownership and membership in the Association, or impair any such remedies which the Executive Board of the Association or others may have against such former Owner or Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

ARTICLE III **Member Meetings**

3.1 Annual Meeting of the Members. The annual meeting of the Members shall be held in the third quarter of each calendar year at WestWall Lodge at Mt. Crested Butte, Mt. Crested Butte, Colorado, on a date and at a time set forth in the notice of said meeting, or at such other place as set forth in the notice of such meeting. At the annual meeting, the Members shall elect the Executive Board, as necessary, and transact such other business as may properly come before them. Members may attend meetings by telephone, by electronic or internet means, or in person.

3.2 Special Meetings of the Members. Special meetings of the Members may be called at any time by a majority of the Executive Board, the President, or by the Members having twenty percent (20%) or more of the aggregate votes in the Association.

3.3 Notice. Written notice of each meeting of the Members shall be given not less than ten (10) nor more than fifty (50) days in advance of any meeting of the Members. The secretary, or such other designated agent, shall cause notice to be hand delivered, sent by electronic mail or by prepaid United States mail to the mailing address of each Member or to any other address specified in writing by the Member. The notice of any meeting of the Members shall be physically posted in a conspicuous place at WestWall Lodge, provided such posting is feasible. The notice shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendments to these Bylaws or the Declaration, any budget changes, and any proposal to remove an officer or director of the Executive Board. In the case of a special meeting, the notice shall specify the reason for the special meeting.

3.4 Action by Written Ballot. Any action that may be taken at any annual, regular, or special meeting of Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. A Member may take action by written ballot by proxy designation. A written ballot shall state each proposed action and provide an opportunity to vote for or against such action. Approval by written ballot shall only be valid when

the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by the ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements, state the percentage necessary to approve each matter, other than the election of directors to the Executive Board, state the date and time by which the ballots must be received in order to be counted, and be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. A written ballot may not be revoked. Action taken by written ballot has the same effect as action taken at a meeting of the Members and may be described as such in any document.

3.5 Electronic Notice. The Association is encouraged to provide electronic notice to Members for Member meetings. If electronic means are available, the Association must email meeting notices to Members who request it and who provide the Association with their email addresses.

3.6 Waiver of Notice. A Member may waive notice of any meeting. Such waiver shall be in writing and signed by the Member waiving said notice.

3.7 Open Meetings. Special and annual meetings are open to all Members and their representatives.

3.8 Agendas. Agendas for annual meetings and special meetings shall be made available to all Members or their representatives for examination prior to the meeting.

3.9 Speaking. At an appropriate time determined by the Executive Board, but prior to its action on any issue under discussion, Members or their designated representatives shall be permitted to speak regarding that issue. The president of the Executive Board may place reasonable time restrictions on persons speaking during the meeting. If more than one person wishes to address an issue and there are opposing views, the president shall provide for a reasonable number of persons to speak on each side of the issue.

3.10 Quorum. The presence of a Member, in person or by proxy, of Association Members constituting a voting interest of twenty percent (20%) of the votes shall constitute a quorum for the purpose of transacting business, unless otherwise required by these Bylaws, the Declaration or pursuant to law. If a quorum is present, a majority vote of the Members present at such meeting in person or by proxy and entitled to vote on the subject matter shall be the act of the membership, except as otherwise required by the Articles of Incorporation, the Declaration, or by law.

3.11 Adjournment. If the number of Association Members necessary to constitute a quorum shall fail to attend a meeting at the time and place of the meeting, the president or other member of the Executive Board may adjourn the meeting from that time until the necessary number of Association Members shall be in attendance in the one of the manners set forth above. No further notice or other announcement of the meeting shall be required, and at any adjourned meeting at which a quorum shall be present, any business may be transacted which may have been transacted at the original meeting.

3.12 Cumulative Voting. Cumulative voting is not permitted.

3.13 Voting by Proxy. At all meetings of the Members, including actions taken by written ballot, a Member may vote by proxy executed in writing by the Member or by his or her duly authorized attorney in fact. Such proxy shall be filed with the secretary or other duly designated agent of the Association before the meeting. No proxy shall be valid eleven (11) months from the date of its execution, unless otherwise provided in the proxy. A proxy shall automatically terminate upon a Member's conveyance of his or her unit. A Member may designate thereon whether the proxy pertains to a particular meeting.

3.13.1 Designation of Voting Representative. If title to a Unit is held by more than one person, by a corporation, company, trust, partnership, association or other legal entity, or any combination thereof, the Unit Owner(s) must designate one person authorized and appointed to attend all meetings, and cast all votes required or solicited as a result thereof. Such designation shall be provided to the Association and shall be given in writing. The Association shall continue to recognize the designation until it receives notice from the Unit Owners of revocation, amendment, or termination.

3.14 Suspension of Voting Rights. The Association may suspend the voting rights of any such member who is not in good standing with the Association at the time of the meeting. For the purpose of this provision, and as the same may be used throughout these Bylaws, "good standing" means in current compliance with the governing documents of the Association, and the Rules and Regulations, and Policies, including being current on the payment of any dues and/or assessments.

3.15 Order of Business. The order of business at the annual meeting and as applicable to any special meeting shall be as follows:

- Roll call
- Proof of Notice
- Reading and approval of any unapproved minutes
- Reports of officers and committees, if any
- Election of directors
- Unfinished business
- New business
- Adjournment

ARTICLE IV **Executive Board**

4.1 Number of Directors. The affairs of the Association shall be governed by an Executive Board. The number of directors shall be at least three (3), but no more than seven (7). The number of directors may be increased or decreased by amendment to these Bylaws; however, the Executive Board shall generally always be comprised of an odd number of directors.

4.2 Powers and Duties. The Executive Board shall have the powers and duties necessary for the administration of the affairs of the Association. Such powers and duties shall include but need not be limited to, the following:

4.2.1 Exercise all power, duty and authority vested in or delegated to the Executive Board under the Articles of Incorporation, Bylaws of the Association, or pursuant to law.

4.2.2 Adopt Bylaws, Responsible Governance Policies, and Rules and Regulations for the Association;

4.2.3 Adopt and amend budgets for revenues, expenditures, and reserves.

4.2.4 Fix, collect and enforce all assessments as provided for in the Declaration, including charges for late payments, recover reasonable attorneys fees and other legal costs of collection of assessments and other actions to enforce the power of the Association, regardless of whether suit is initiated.

4.2.5 Suspend the voting rights of any Member not in good standing with the Association.

4.2.6 Impose liens against any Unit owned by a Member who is not current in his or her payment of dues, assessments, fines, and other monetary obligations as set forth in the Declaration, policies or Rules and Regulations of the Association.

4.2.7 Make contracts and incur liabilities.

4.2.8 Grant easements, licenses, leases and concessions for any period of time through and over the common elements.

4.2.9 Cause additional improvements to be made as part of the common elements.

4.2.10 Acquire, hold, encumber and convey in the Association's name, any right, title, interest to real estate or personal property, but common elements may be conveyed or subjected to a security interest only pursuant to law.

4.2.11 Assign future income.

4.2.12 Regulate the use, maintenance, repair, replacement, modification and of the common elements.

4.2.13 Hire, supervise, and fire personnel necessary for the management, maintenance and operation of WestWall Lodge, the common areas and facilities, both general and limited, if any.

4.2.14 Impose reasonable charges for the preparation and recordation of

amendments to the Declaration or statements for unpaid assessments.

4.2.15 Provide for indemnification of its directors and officers and maintain directors and officers insurance, as well as procure general liability insurance for WestWall Lodge common elements and other property owned by the Association.

4.2.16 Commence and maintain, in its own name, on its own behalf, or in the names and on behalf of WestWall Lodge Members who consent thereto, suits and actions to restrain and enjoin any breach or threatened breach of the Declaration or Rules and Regulations of the Association.

4.2.17 Cause to be kept a complete record of all corporate actions and affairs.

4.2.18 Exercise all power, duty and authority vested in or delegated to the Executive Board under the Declaration.

4.2.19 Exercise any and all powers and duties granted to the Association by the Colorado Nonprofit Corporation Act and the Colorado Common Interest Ownership Act, as the same now exists or as may hereafter be amended from time to time.

4.2.20 Exercise any other power permissible under applicable Colorado law.

4.2.21 Exercise any other powers necessary and proper for the governance and operation of the Association.

4.3 Qualifications. All directors shall be Members of and in good standing with the Association.

4.4 Term of Office. Directors shall be elected at each annual meeting by the Members, and shall serve for a term of two (2) years. Such terms shall be staggered.

4.5 Elections. Elections for the Executive Board shall occur at the annual meeting of the Members, and shall be by secret ballot with the person receiving the highest number of ballots cast for such director vacancy being declared elected.

4.6 Secret Ballot. At the discretion of the Executive Board, or upon request of 20% of the Members who are present at the meeting or represented by proxy, if a quorum has been achieved, a vote on any matter affecting WestWall Lodge on which all Unit Owners are entitled to vote, shall be by secret ballot. The results of a vote taken by secret ballot, including for the election of a director, shall be reported without reference to the names, addresses or other identifying information of Members participating in such vote. Such ballots shall be counted by a neutral third party or a committee of volunteers. The volunteers shall not be Executive Board members or candidates. Volunteers shall be Unit Owners and shall be selected or appointed at an open meeting, in a fair manner, by the president or vice-president of the Executive Board.

4.7 Vacancies. The Executive Board is empowered to fill any vacancy that may occur

in its own body, or among the officers of the Association, and the person so appointed to such office shall hold that office until the expiration of the term of his or her predecessor. Any vacancy in the Executive Board and any directorship to be filled by reason of increase in the members of the Executive Board may be filled by an affirmative vote of a majority of the remaining directors, though less than a quorum of the Executive Board. Any directorship filled due to an increase in the members on the Executive Board for a term of office shall only be for a term until the next election of directors occurs, at the next annual meeting of the Members.

4.8 Compensation. No director shall be entitled to receive any compensation as a director of the Association; provided, however, that he or she may be reimbursed for any actual expenses incurred in the performance of his or her duties as a director.

4.9 Chairman and Other Roles. The president of the Executive Board shall be the president of the Association and the chairman of meetings. The vice-president of the Executive Board shall be the vice-president of the Association; the secretary, the secretary of the Association; and the treasurer, the treasurer of the Association.

4.10 Annual Meetings. The annual meeting of the Executive Board shall be held without other notice than this Bylaw immediately before or after and at the same place as the annual meeting of the Members of the Association.

4.11 Regular Meetings. Regular meetings shall be held as called by the president or by a majority of directors, at a time and place to be designated in the notice of such meetings.

4.12 Special Meetings. Special meetings shall be held as called by the president or a majority of directors.

4.13 Telephonic and Electronic Meetings. All members of the Executive Board may participate in a Board meeting by telephonic or electronic means or similar communications equipment by which all persons participating in the meeting can hear and communicate with each other at the same time. Such participation shall constitute presence in person at the meeting.

4.14 Action Without Meeting. The Executive Board may act without a meeting if notice is transmitted in writing to each and every member of the Board, and each Board member by the time stated in the notice:

4.14.1 votes for such action, votes against such action, abstains from voting, or fails to respond or vote; and fails to demand in writing that action not be taken without a meeting.

4.14.2 The notice required by this Section shall state:

- a. the action to be taken;
- b. the time by which the director must respond;
- c. that failure to respond by the time stated in the notice will have the same effect as abstaining in writing by the time stated in the notice and failing to demand in writing by the time stated in the notice that action not be taken without a meeting; and

d. any other matters the Association determines to include.

4.14.3. Action may be taken under this Section 4.14 only if, at the end of time stated in the notice as set forth above, the affirmative vote for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all the directors then in office were present and voted and the Executive Board has not received a written demand by a director that action not be taken without a meeting, other than a demand that has been revoked under Section 4.14.7 below. Any such vote shall be initiated by the president, or secretary.

4.14.4 All such writings and notices may be transmitted by electronic means, including by facsimile transmission, other forms of wireless communication, or by traditional means. Any such writings to the Association are not effective until received.

4.14.5 A director's right to demand that action not be taken without a meeting shall be deemed to have been waived unless the Association receives a writing from the director by the time stated in the notice, and such demand has not been revoked under Section 4.14.7 below.

4.14.6 Action taken hereunder shall have the same effect as action taken at a meeting of the Executive Board, and may be described as such.

4.14.7 Any director who in writing has voted, abstained, or demanded action not be taken without a meeting may revoke such vote, abstention, or demand in writing received by Association by the time stated in the notice.

4.14.8 A writing by a director under this Section shall be in a form sufficient to inform the Association of the identity of the director, the vote, abstention, demand, or revocation of the director, and the proposed action to which such vote, abstention, demand, or revocation relates.

4.14.9 All signed writings necessary for any action taken under this Section 4 shall be filed with the minutes of the meetings of the Executive Board.

4.15. Open Meetings. All meetings of the Executive Board are open to every Member of the Association and their representatives as designated by a Member in writing.

However, executive sessions held pursuant to C.R.S. Section 38-33.3-308(3), as the same may be amended from time to time, are closed to membership attendance, save members of the Executive Board.

4.16. Quorum. A majority of the Executive Board shall constitute a quorum for the transaction of business at any meeting of the Executive Board. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Executive Board, unless the act of a greater number of directors is required by the Articles of Incorporation, the Declaration, or law.

4.17 Notice and Waiver of Notice. Except as otherwise stated herein, notice of any meeting of the Executive Board, whether regular or special, shall be given at least two (2) days

prior thereto for emergency matters and seven (7) days prior thereto for non-emergency matters, by written notice delivered personally to a director, mailed to each director by United States mail, or delivered by electronic mail at his or her address as shown on the membership roll of the Association. The notice need not state the purpose of the meeting unless otherwise required by these Bylaws. Any director may waive notice of any meeting. Such waiver must be in writing. However, the attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the Executive Board must be specified in a waiver of notice of such meeting.

4.18 Adjournment. The Executive Board may adjourn any meeting from day to day for such other time as may be prudent or necessary in the interest of the Association, provided that no meeting may be adjourned for a period longer than thirty (30) days.

4.19 Resignation. A director may resign from his or her position on the Executive Board at any time by delivering written notice thereof to the President of the Executive Board. Such resignation shall be effective upon receipt unless the notice sets forth a different effective date. Acceptance of such resignation shall not be necessary to make the resignation effective.

4.20 Removal. At any regular or special meeting of the Members, any director may be removed for cause by a vote of the majority of all Members in good standing and entitled to vote in an election of such director. At that meeting, a successor director shall then be elected to fulfill the term of the removed director.

ARTICLE V

Standards of Conduct and Discharging of Duties

5.1 Standards of Conduct. Each director shall discharge the director's duties as a director, including the director's duties as a member of a committee of the Executive Board and as an officer of the Association, and each officer with discretionary authority shall discharge the officer's duties under that authority:

5.1.1 in good faith;

5.1.2 with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

5.1.3 in a manner the director or officer believes to be in the best interests of the Association.

5.2 Discharging of Duties.

5.2.1. In discharging duties, the director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

a. one or more officers or employees of the Association whom the director

or officer reasonably believes to be reliable and competent in the matters presented; and

- b. legal counsel, a public accountant, or another person as to matters the director or officer reasonably believes are within such person's professional or expert competence.

5.2.2 A director or officer is not acting in good faith if the director or officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (a) above unwarranted.

5.2.3 A director or officer is not liable as such to the Association for any action taken or omitted to be taken as a director or officer, except for wanton and willful acts or omissions.

ARTICLE VI **Officers**

6.1 **Number.** The officers of the Association shall be a president, vice-president, secretary and treasurer, all of whom shall be members of the Executive Board, and Unit Owners.

6.2 **Duties.**

6.2.1 **President.** The president shall preside at all meetings of the Association and of the Executive Board; shall perform such other duties as may be prescribed in these Bylaws or assigned to him or her by the Executive Board; and shall coordinate the work of the other officers to promote the purposes of the Association. He or she shall perform such other duties as prescribed by law.

6.2.2. **Vice-President.** The vice president shall act as an aid to the president and shall perform the duties of the president in the absence or disability of that officer.

6.2.3 **Treasurer.** The treasurer shall have custody of all funds of the Association; shall keep a full and accurate account of receipts and expenditures; and shall make disbursements in accordance with the approved budget, as authorized by the Executive Board; shall prepare or assist in the preparation of a budget and present a financial statement at all times when requested by the Executive Board. He or she shall make a full report at the annual meeting of the Association, which may be subject to audit at the direction of the Executive Board and shall be responsible for the maintenance of such books of account and records as conform to the requirements of these Bylaws and applicable federal and state laws.

6.2.4 **Secretary.** The secretary shall take and preserve minutes of all meetings of the Executive Board and of the Association; shall notify the Executive Board members of all meetings; shall answer all correspondence and have custody of all files, records and other corporate documents and be responsible for their safe

keeping; and shall perform all duties imposed by law for the secretary of a nonprofit corporation or imposed by the Executive Board.

6.2.5 Designation of Agent. The Executive Board may designate an agent to perform the duties of secretary and the duties of the treasurer.

6.3 Term. Officers shall serve for one year terms. The officers set forth herein shall be elected at the annual meeting of the Executive Board of the Association, and shall hold office until the next annual meeting of the Executive Board and until their successors have been elected and qualified. The person receiving the majority of votes cast for such office shall be declared elected for the same.

6.4 Vacancy. A vacancy in any office because of the death, resignation, removal, disqualification or inability to act shall be filled by the Executive Board for the unexpired portion of the term of that office. An officer may be removed by the Executive Board with or without cause.

6.5 Compensation. No compensation shall be paid to officers for their services as officers to the Association, unless a resolution approving such remuneration shall have been adopted by the Executive Board before the services are undertaken. Notwithstanding the foregoing, officers shall be reimbursed for expenses incurred on behalf of the Association, with prior approval given by the Executive Board therefore.

ARTICLE VII

Contracts, Loans, Checks and Deposits

7.1 Contracts. The Executive Board by majority vote may authorize by resolution any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association. Such authority may be general or confined to specific instances.

7.2 Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Executive Board. Such authority may be general or confined to specific instances.

7.3 Checks, Drafts, etc. All checks, drafts or other orders for payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by the president or treasurer, or the agent designated by the Executive Board.

7.4 Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Executive Board may elect.

ARTICLE VIII

Indemnification

8.1 Mandatory. The Association shall indemnify a person made a party to a

proceeding because the person was or is a director or officer against liability incurred in the proceeding if:

8.1.1. The person's conduct was in good faith; and

8.1.2. The person reasonably believed:

- a. in the case of conduct in an official capacity with the Association, that the conduct was in the Association's best interests; and
- b. in all other cases, that the conduct was at least not opposed to the Association's best interests; and
- c. in the case of any criminal proceeding, the person had no reasonable cause to believe that the conduct was unlawful.

8.1.3. The termination of a proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described herein.

8.2. **No Indemnification.** The Association shall not indemnify a director or officer:

8.2.1. In connection with a proceeding by or in the right of the Association in which the director or officer was adjudged liable to the Association; or

8.2.2. In connection with any other proceeding charging that the director or officer derived an improper personal benefit, whether or not involving action in an official capacity, in which proceeding the director or officer was adjudged liable on the basis that he or she derived an improper personal benefit.

8.3. **Determination.** The Association may not indemnify a director under Section 8.1 above, unless authorized in a specific case after a determination has been made that indemnification of a director or officer is permissible in the circumstances because the director has met the standard of conduct as set forth in Section 8.1 above. Otherwise, a determination to indemnify a director or officer shall be made pursuant to C.R.S. § 7-129-106 (2), as the same may be amended from time to time.

8.4. **Successful on the Merits.** The Association shall indemnify a person who is wholly successful on the merits or otherwise, in the defense of any proceeding to which the person was a party because the person was or is a director, against reasonable expenses incurred by the person in connection with the proceeding.

8.5. **Reimbursement.** The Association may pay for or reimburse the reasonable expenses incurred by a director or officer who is a party to a proceeding in advance of final disposition of the proceeding if:

8.5.1 the director or officer furnishes to the Association a written affirmation of the director's or officer's good faith belief that he or she has met the standard of conduct described in Section 8.1 above;

8.5.2 the director or officer furnishes to the Association a written undertaking, executed personally or on his or her behalf, to repay the advance if it is ultimately determined that he or she did not meet the standard of conduct herein; and

8.5.3 a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article VIII.

The Association shall not advance expenses to a director or officer unless authorized in a specific case after the written affirmation and undertaking set forth above in Sections 8.5.1 and 8.5.2 are received and the determination required by Section 8.5.3 has been made.

8.6. **Expenses.** Expenses shall mean reasonable expenses, such as costs, liabilities, judgments, obligations, fines and any amounts paid in reasonable settlement of a proceeding, whether threatened, pending, or completed, and whether civil, criminal, administrative or investigative and shall include appeals.

8.7 **Notice.** The Association shall give written notice to its Members if it indemnifies or advances expenses to a director pursuant to C.R.S. § 7-129-110, as the same may be amended from time to time.

ARTICLE IX **Association Records**

9.1 **Permanent Records.** The Association shall keep the following as a permanent record: 1) minutes of all Member and Executive Board meetings; a record of all actions taken by the Members or Executive Board by written consent instead of holding a meeting; 3) a record of all actions taken by a committee of the Executive Board; and 4) a record of all waivers of meeting notices of Members, directors, or any committee members.

9.2 **List.** The Association must maintain a record of all Members and their addresses, as well as the number of votes each Member is entitled to vote, and the percentage allocation therefore.

9.3 **Written Form.** Association records must be maintained in written form or in another form that can be converted into written form.

9.4 **Inspection of Records.** The Association must make all financial and other records available during normal business hours, on notice of five (5) business days, for examination and copying by any Unit Owner if the following conditions are met: 1) the request was made in good faith and for the proper purpose; 2) the request describes with reasonable detail the records sought and why; and 3) the records are relevant to the purpose of the request.

9.5 Governing Documents. In addition to those permanent records as set forth above that the Association is required to keep, the Association must keep a copy of each of the following documents, including any amendments thereto, and records at its principal office: 1) the Articles of Incorporation; 2) the Bylaws; 3) the Declaration including any amendments thereto, and the Condominium Maps and Plats, including any amendments thereto; 4) resolutions adopted by the Executive Board that affect Members; 5) the minutes of all Member meetings and records of action taken by the Members without a meeting for the past three (3) years, when applicable; 6) all written communications within the past 3 years to Members; 7) a list of the names and addresses, business and home, of its current directors and officers; 8) its most recent annual report, if any; and 9) all financial reviews and audits or reviews if any. The Association shall also keep at its principal office a copy of any Rules and Regulations and Policies adopted by the Executive Board.

ARTICLE X **Fiscal Year**

The fiscal year of the Association shall begin on the October 1st and terminate on September 30th of each year.

ARTICLE XI **Transactions with Interested Directors**

A "transaction with interested directors" is one to which the Association is a party and in which one or more of the directors has a material financial interest. It shall be the obligation of the director(s) to inform the Association, as soon as the interest is known or suspected, when such a transaction exists. The Executive Board shall not approve such a transaction except as follows: the Executive Board may approve a transaction with an interested director(s) if the Executive Board determines, with sufficient findings, that the transaction is undertaken for the Association's own benefit, and is fair and reasonable to the Association; and the Executive Board determines after reasonable investigation that this Association could not have obtained a more advantageous arrangement with reasonable effort under the circumstances. Such determinations must be made by the Executive Board, in good faith, with knowledge of material facts concerning the transaction and the interested director's(s') interest in the transaction. The interested director(s) may participate in the discussions but shall not vote on the subject transaction and issue.

ARTICLE XII **Obligation of Unit Owners**

12.1 Assessments. Except as is otherwise provided in the Declaration, all residential Unit Owners shall be obligated to pay the regular and any special assessments imposed by the Association to meet the common expenses of the Association as set forth in the Declaration. A Member shall be deemed to be in good standing and entitled to vote at any annual meeting or at a special meeting of Members, within the meaning of these Bylaws if, and only if, such Members shall have fully paid all assessments made or levied against them and the Unit owned by them as of the date of such meeting. The Association shall have the authority to impose liens for nonpayment as set forth herein and in the Declaration.

12.2 Compliance with Governing Documents. Each owner, by virtue of being an owner, shall comply with the Declaration, Rules and Regulations, and Policies governing the Association. The Executive Board has the power to enforce compliance with such governing documents as may be necessary for the operation, use and occupancy of WestWall Lodge with the right to amend the same from time to time.

ARTICLE XIII **Lien for Non-Payment**

13.1 Lien. All costs, charges and fees billed by the Association and not paid as specified under the Declaration or as set forth on the billing, together with interest thereon as set forth in the Declaration or other Association document, shall constitute a lien on the Unit of the non-paying Unit Owner in favor of the Association. Such lien shall be superior to all other liens and encumbrances upon such Condominium Unit except only:

13.1.1 Tax and assessment liens on the condominium units, or any liens of any governmental authority; and

13.1.2 All sums unpaid on a first mortgage or Deed of Trust of record.

13.2 The Act. Provided further, the Association shall have all such powers granted to it as to the enforcement, lien priority, and rights of collection as are set forth in the Colorado Common Interest Ownership Act as it now exists and as may be hereafter amended from time to time.

13.3 Statement of Lien. To evidence such lien, the Association may prepare a written notice of lien setting forth the amount of the unpaid bill, the name and address of the record Owner of the Units and a legal description of the Unit(s). Such notice may be recorded in the official records of Gunnison County, Colorado. Such lien shall attach from the date of failure of payment of the bill, and will include the amount of the bill remaining unpaid, accrued interest thereon, and all fees and costs incurred by the Association in the preparation and recording of said notice of lien and a release thereof. Said lien may be enforced by foreclosure in the same manner as foreclosure of a mortgage. In such foreclosure, the Unit Owner shall be required to pay the costs and expenses for such proceedings, the costs and expenses for filing the notice of lien and all reasonable attorneys fees and costs incurred by the Association. The Unit Owner shall also be required to pay to the Association the monthly bills for the Unit during the period of foreclosure. The Association shall have the power to bid in the Units at foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

ARTICLE XIV **Enforcement**

14.1 Abatement and Enjoinment of Violation of Unit Owners. The violation or breach of any of the governing documents, Rules and Regulations, or Policies shall give the Executive Board the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in these Bylaws:

14.1.1 To enjoin, abate or remedy by appropriate legal proceedings, either at law or in

equity, the continuance of any breach. Such defaulting Owner shall be liable for reasonable attorneys fees and costs incurred by the Association in such action; or

14.1.2 To enter the Unit or Limited Common Elements, in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that is existing and creating a danger to the common elements contrary to the intent and meaning of the governing documents. The Executive Board shall not be deemed liable for any manner of trespass by this action.

ARTICLE XV **Amendments**

- 15.1 Articles of Incorporation. The Articles of Incorporation may be amended by the Members or the Executive Board, pursuant and subject to the Colorado Nonprofit Corporation Act, as the same may be amended from time to time.
- 15.2 Bylaws. The Bylaws may be amended by a vote of not less than two-thirds of all directors of the Executive Board, following notice and comment to all Members, unless:
- 15.2.1 The amendment would result in a change to the rights, privileges, preferences, restrictions or conditions of a membership class as to voting, dissolution, redemption or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class; or
- 15.2.2 The amendment would change the quorum or voting requirement for Members.
- 15.2.3 The amendment would increase the quorum or voting requirements for the Executive Board, in which case the Executive Board or the Members may adopt the amendment.
- 15.2.4 In the event amendment by Members is warranted based on the above provisions, such amendment shall be subject to the quorum and voting requirements in effect at the time of the proposed amendment.

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Amended and Restated Bylaws consisting of 16 pages, including this page, constitute the Bylaws of WestWall Lodge at Mt. Crested Butte Condominium Association, Inc as approved by the Owners and adopted by the Executive Board, on the 15th day of Sept/Oct 2012.



Raisa Lerner, Secretary