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Jeff Martin Clerk & Recorder, Yellowstone MT



**FIRST AMENDED AND RESTATED BY-LAWS  
OF  
YELLOWSTONE CLUB ESTATES OWNERS' ASSOCIATION, INC.**

WHEREAS, the parties desire to amend the existing By-laws of the Association in accordance herewith.

NOW, THEREFORE, from this day forward the By-laws are revised and amended as follows:

**ARTICLE I. OFFICES**

The principal office of the Yellowstone Club Estates Owners' Association, Inc. (the "YCEOA" or the "Association") shall be located in the City of Billings, County of Yellowstone, State of Montana. The Association may have such other offices within the State of Montana, as the Board of Directors may designate or as the business of the Association may require from time to time.

The registered office of the Association required by The Montana Non-Profit Association Act, Title 35, Chapter 2, Montana Code Annotated, to be maintained in the State of Montana, may be, but need not be, identical with the principal office in the State of Montana and the address of the registered office may be changed from time to time by the Board of Directors.

**ARTICLE II. MEMBERS**

**Section 1. Annual Meeting.** The annual meeting of members of the Association shall be held on a day in May of each year, as determined by the Board of Directors, for the purpose of transacting any business as may come before the meeting. If the election of Directors shall not be held on the day designated herein for any annual meeting of the members, or at any adjournment



thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be.

**Section 2. Special Meetings.** Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute may be called by the President or by the Board of Directors, and shall be called by the President at the request of not less than one-tenth of the members entitled to vote at the meeting.

**Section 3. Place of Meeting.** The Board of Directors may designate the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. A waiver notice signed by all of the Board of Directors entitled to vote at a meeting may designate the place for the holding of such meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the Clubhouse of the Yellowstone Country Club in Billings, Montana.

**Section 4. Notice of Meeting.** Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally, by mail, or electronic mail (a/k/a email), by or at the direction of the President, or the Secretary, or the officer or persons calling the meeting, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his or her address as it appears on the records of the Association. If emailed, such notice shall be deemed to be delivered when sent to the member at his or her email address as it appears on the records of the Association.

**Section 5. Voting Lists.** The Secretary of the Board of Directors shall make, at least ten days before each meeting of members, a complete list of the members entitled to vote at such meeting. Such list shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting.

**Section 6. Quorum.** Ten percent (10%) of the votes entitled to be cast on a matter must be represented at a meeting of members to constitute a quorum on that matter. The members present at a duly organized meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of sufficient members who are owners of lots to leave less than a quorum. If there is more than ten percent (10%) but less than thirty-three percent (33%) of the votes entitled to be cast represented at a meeting, the only



matters that may be voted upon at that meeting of members are those matters that are described in the meeting notice. If less than ten percent (10%) of the votes entitled to be cast are present for a meeting, a majority of those members present may adjourn the meeting to another date without further notice to the membership. At such adjourned meeting, and so long as a quorum is present, business may be transacted which might have been transacted at the meeting as originally notified.

**Section 7. Proxies.** At all meetings of members, 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 of the Association before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

**Section 8. Voting of Lots.** The ownership of one lot in the subdivision entitles the owner thereof to one vote at a meeting of the members provided that such owner is a member of the Association. In the event that any member owns more than one lot, such member shall be entitled to one vote for each lot that he or she owns in Yellowstone Club Estates Subdivision. Lots held by more than one person may be voted only by one co-owner. If more than one vote is cast per lot, all votes so cast for said lot shall be disallowed.

**Section 9. Voting of Lots by Certain Holders.** Lots standing in the name of a legal entity such as a limited liability company, limited partnership, limited liability partnership, Association, or any other entity may be voted by such manager, partners, officer, agent, or proxy as the governance documents of such entity may prescribe, or, in the absence of such provision, as the owners of such entity may determine.

Lots held by a personal representative, executor, executrix, guardian or conservator may be voted by him or her, either in person or by proxy without a transfer of such lots into his or her name. Lots standing in the name of a trustee of a trust may be voted by him or her, either in person or by proxy, but no trustee shall be entitled to vote lots held by him or her in trust without a transfer of such lots into his or her name as trustee of the trust.

Lots standing in the name of a receiver may be voted by such receiver, and lots held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his or her name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.



Lots held by more than one entity may be voted only by one co-owner. If more than one vote is cast per lot, all votes so cast for said lot shall be disallowed.

**Section 10. Informal Action.** Resolutions required or permitted to be approved by Members may be approved without a meeting of Members if the written resolution is signed by at least fifty-one percent (51%) of the Members entitled to vote, and filed with the Association records.

### ARTICLE III. BOARD OF DIRECTORS

**Section 1. General Power.** The business and affairs of the Association shall be managed by its Board of Directors.

**Section 2. Number, Tenure and Qualifications.** The number of Directors of the Association shall be five. Each director shall reside in Yellowstone Club Estates Subdivision on real property owned by him or her. One director shall be elected each year with staggered terms for the Directors. The term of each director shall be five (5) years.

**Section 3. Regular Meetings.** A regular meeting of the Board of Directors shall be held without other notice than this By-law immediately after, and at the same place as, the annual meeting of members. The Board of Directors may provide, by resolution, the time and place, within the State of Montana, for the holding of additional regular meetings without other notice than such resolution.

**Section 4. Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, within the State of Montana, as the place for holding any special meeting of the Board of Directors called by them.

**Section 5. Notice.** Notice of any special meeting shall be given at least two days previously thereto by written or oral notice delivered personally or mailed to each director at his or her home address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. Any director may waive notice of any meeting. If emailed, such notice shall be deemed to be delivered when sent to the member at his or her email address as it appears on the records of the Association. 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 Board of Directors need to be specified in the notice or waiver of notice of such meeting.

**Section 6. Quorum.** Three (3) members of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

**Section 7. Manner of Acting.** The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

**Section 8. Vacancies.** Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of the majority of the remaining Directors. A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

**Section 9. Presumption of Assent.** A Director of the Association who is present at a meeting of the Board of Directors at which action on any matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

**Section 10. Powers and Duties of Directors.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association, and may do all acts and things as are required by law, by these By-laws, by Resolution of the Association, or by the Covenants.

- The Board shall have the power to contract for improvements to, and maintenance of any property owned by the Association, and for the purchase of liability insurance therefore, and for such other insurance as the Board deems advisable.
- The Board shall have the power to levy and collect annual dues assessments and for a reserve account for emergency or unanticipated expenses not to exceed \$50,000.
- The Board shall have the power to levy and collect special assessments, which are separate and distinct from the annual dues assessment, but only after a membership vote held in accordance with Article VI, Section 2.
- The Board shall have all power and authority allowed by Montana law to collect the assessment.



- The Board shall have the power to enter into and carry out contracts as necessary to its duties herein.
- The Board shall have the power to establish a bank account for the Association and to keep records in accordance with common accounting procedures.
- The Board shall prepare income tax returns for the Association, if required by state or federal law, and pay all taxes owed.
- The Board may seek to enforce the Covenants.

**Section 11. Removal of Directors.** Any Director may be removed by a vote of a majority of the Members entitled to vote, at any regular or special meeting of the Association called for that purpose. In the event of such removal, a successor may then and there be elected to fill the vacancy thus created.

**Section 12. Liability of Directors.** In addition to any other liabilities, a Director who votes for or assents to any distribution contrary to law shall, unless he or she complies with the standard provided in this Article for the performance of the duties of the Directors, be liable to the Association, jointly or severally with all other Directors so voting or assenting, for the amount or the value of such distribution in excess of the amount of such distribution which could have been made without a violation of law.

**Section 13. Conflict of Interest.** No contract or other transaction between the Association and one or more of its Directors (or related business or other entity) is automatically void because of such relationship. Such contract or transaction is proper if:

- The fact of such relationship or interest is disclosed or known to the Board of Directors and a majority of the Board, without counting the votes of any conflicted Director, approves the contract or transaction.
- The fact of such relationship or interest is disclosed or known to the Members entitled to vote and the Members authorize, approve, or ratify such contract or transaction by vote or written consent; or
- The Contract or transaction is fair and reasonable to the Association.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or the Association which authorizes, approves, or ratifies such contract or transaction.



**Section 14. Meetings by Teleconference or Videoconference.** Directors of the Board or any committee designated thereby may participate in a meeting of the Board or committee by means of a conference telephone, conference video, or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means constitutes presence in person at a meeting.

#### ARTICLE IV. OFFICERS

**Section 1. Number.** The officers of the Association may also be Directors of the Association. The officers of the Association shall be a President, one or more Vice-Presidents, a Secretary, and a Treasurer, each of whom shall be named by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President, Secretary and Treasurer.

**Section 2. Election and Term of Office.** The officers of the Association to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members. If the election of officers shall not be held at such meeting such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided.

**Section 3. Removal.** Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interest of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

**Section 4. Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

**Section 5. President.** The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He or she shall, when present, preside at all meetings of the shareholders and of the Board of Directors. He or she may sign, with the Secretary or any other proper officer of the Association thereunto authorized by the Board of Directors, any deed, mortgages, bonds, contracts, or other instruments which the Board of



Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

**Section 6. The Vice-Presidents.** In the absence of the President or in the event of his or her death, inability or refusal to act, the Vice-President (or in the event there be more than one Vice-President, the Vice-Presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President.

**Section 7. The Secretary.** The Secretary shall: (a) keep the minutes of the meetings of the members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the Association records; (d) keep a register of the post office address and, if possible, an email address of each member which shall be furnished to the Secretary by such shareholder; and (e) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

**Section 8. The Treasurer.** The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all such monies in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article V of these By-Laws; and (b) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

## **ARTICLE V. CONTRACTS, CHECKS AND DEPOSITS**

**Section 1. Contracts.** The Board of Directors may authorize 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, and such authority may be general or confined to specific instances.





**Section 2. Checks, Drafts, etc.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

**Section 3. 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 Board of Directors may select.

#### **ARTICLE VI. BUDGET AND DUES**

**Section 1. Amount.** Prior to the annual meeting, the Board of Directors may prepare an estimated Association budget for the coming year along with an estimated annual dues assessment for each member for the coming year. Each annual dues assessment shall be equal to the total estimated common expenses for the coming year, plus a reasonable reserve allowance for replacement of improvements. Assessments shall be due and payable on such date(s) as determined by the Board of Directors. In addition, the annual dues assessment may be changed by the Board at any time it determines that the change is necessary or advisable but by no more than ten percent (10%) of the current year's annual dues assessment. Written notice of the amount of any changed annual dues assessment shall be given, by mail, email, or otherwise, to each unit owner at least thirty (30) days in advance of the payment due date for the revised assessment. Except for changes in the amount of the annual dues assessments, no bills or other notices need be given by the Association. Assessments must be based upon and computed by taking the total amount of the assessment and dividing it by the number of lots in the Yellowstone Club Estates Subdivision.

**Section 2. Special Assessments.** Special assessments may be made by the Board of Directors only upon an affirmative vote of the majority of the members entitled to vote but only after the reserve account has been depleted to a level where the only monies left are funds sufficient to cover usual and customary expenses. These special assessments may be used for any purpose authorized by the membership, including the creation or supplementation of a reserve account for future or anticipated expenses.

#### **ARTICLE VII. FISCAL YEAR**

The fiscal year of the Association shall be the calendar year.



**ARTICLE VIII. WAIVER OF NOTICE**

Whenever any notice is required to be given to any member or director of the Association under the provisions of these By-Laws or under the provisions of the Articles of Association or under the provisions of the Montana Non-Profit Association Act, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein shall be deemed equivalent to the giving of such notice.

**ARTICLE IX. LIABILITY INSURANCE**

The Board of Directors may purchase liability insurance as they deem appropriate from time to time for protection of the directors individually and the members for acts or omissions connected with the operation of the Association.

**ARTICLE X. AMENDMENTS**

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the affirmative vote of a majority of the members of the Association at the annual meeting of the Association or at a special meeting called for that purpose.

**ARTICLE XI. INDEMNIFICATION OF DIRECTORS AND OFFICERS**

The Association may indemnify any person in accordance with the procedures outlined in Mont. Code Ann. 35-2-416, *et seq.*

IN WITNESS WHEREOF, the foregoing First Amended and Restated By-Laws of Yellowstone Club Estates Owners' Association, Inc., a non-profit Association, were duly adopted the 3<sup>rd</sup> day of May, 2016, by the Members of the Association, at the annual meeting of the membership.

YELLOWSTONE CLUB ESTATES  
OWNERS ASSOCIATION, INC.

By:   
Printed Name Reg Gibbs

Title: President

Address: 3507 Tommy Armour Circle  
Billings, Montana

HOA

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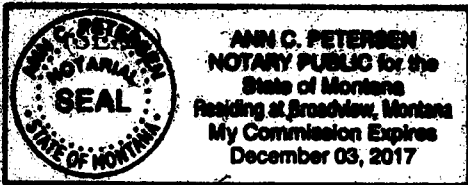
YELLOWSTONE CLUB ESTATES  
OWNERS' ASSOCIATION, INC.

By: Fay S Danielson  
Printed Name: Fay S Danielson  
Title: Secretary  
Address: 3522 Bobby Jones Blvd  
Billings, Montana 59106

STATE OF MONTANA )  
:SS.  
County of Yellowstone )

On this 3<sup>rd</sup> day of May, 2016, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Res Gibbs, known to me to be the President of the Association, and acknowledged to me that he/she executed the within instrument on behalf of said company, having first been authorized to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written.



Ann C Petersen

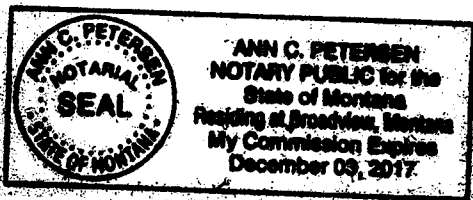
Printed Name: Ann C. Petersen  
Notary Public for the State of Montana  
Residing at: Broadview, Montana  
My Commission Expires: 12-3-2017

STATE OF MONTANA )  
:SS.  
County of Yellowstone )

On this 3<sup>rd</sup> day of May, 2016, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Fay Danielson, known to me to be the Secretary of the Association, and acknowledged to me that he/she executed the within instrument on behalf of said company, having first been authorized to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written.

(SEAL)



Ann C Petersen

Printed Name: Ann C. Petersen  
Notary Public for the State of Montana  
Residing at: Broadview, Montana  
My Commission Expires: 12-3-2017