

**AMENDED AND RESTATED BY-LAWS  
OF  
TOWNE PARK HOMEOWNERS ASSOCIATION, INC.**

**September 13, 2016**

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**AMENDED AND RESTATED BY-LAWS  
OF  
TOWNE PARK HOMEOWNERS ASSOCIATION, INC.**

**August 14, 2016**

These amended and restated By-Laws correctly set forth the provisions of the By-Laws as amended, they have been duly approved as required by law, and they supersede the original By-Laws and all amendments thereto.

**ARTICLE I  
DEFINITIONS**

Article I. ***Section I. Definitions:*** The following words and phrases have the same meanings as set forth in the "Declaration of Covenants, Conditions and Restrictions (herein "the Declaration") for Towne Park, a Planned Residential Community, as executed and recorded in the records of Bernalillo County, New Mexico.

Article	Lot Restricted Area
Association	Master Ground Lease
Board	Master Ground Lessor
By-Laws	Mortgagee
Common Areas and Facilities	Property
Common Expenses	Regular Monthly Assessment
Conversion	Rules
Declaration	Tenant
Designated Voter	Unit
Eligible Unit Mortgagee	Unit Lease
Fiscal Year	Unit Lessee
Lot	Unit Owner

With the adoption of the Sixth Amendment to the Declaration of May 22, 2013, two types of memberships were created, Lessees and Owners. The rights of each are the same, therefore, the use of the terms for the purpose of these By-Laws are interchangeable.

**ARTICLE II  
PURPOSE**

Article II, Section 2.1 **Purpose:** Towne Park Homeowners Association, Inc. (herein "the Association") was incorporated as a nonprofit New Mexico corporation pursuant to the New Mexico Nonprofit Corporation Act, Sections 53-8-1 through 53-8-99 NMSA, 1978 Comp, as now or hereafter amended (herein "the Act"). The Association has all the rights and powers of a nonprofit corporation as set forth in the Act and its Articles of Incorporation, the Declaration, and these By-Laws for Towne Park. The purpose of the Association is to own and manage the Common Areas and Facilities created under the Master Ground Lease and to own the land and the Master Ground Lease for the leasehold for each of the 486 lots within Towne Park. The Association is required to sell individual leasehold interest to the owners of the houses located on

each lot when requested, as required by the mortgage contract with Los Alamos National Bank. The Association is to manage and operate the Common Areas and Facilities, and Lot Restricted Areas for the common use and benefit of all Unit Lessees. The Association is to establish the Rules for the administration and governance of all Common Areas and Facilities and Lot Restricted Areas, to assess and collect Regular Monthly Assessments, Special Assessments, Individual Assessments and other sums due the Association for such purposes and to perform all other rights, powers, duties, obligations and functions as more particularly set forth in the Declaration.

### **ARTICLE III**

#### **OFFICES**

Article III ***Section 3.1*** Offices: The principal office of the Association shall be located on the Towne Park Property at 425 Towne Park Dr. NE, Albuquerque, NM 87123. The Association may have such other offices as the Board may determine necessary or advisable.

### **ARTICLE IV**

#### **MEMBERS, MEETINGS and NOTICES**

Article IV, ***Section 4.1*** Membership: Every person or entity who owns the beneficial interest in the entire leasehold estate of any Unit within the Towne Park Property (herein "Unit Lessee/Owner") pursuant to a Unit Lease now or hereafter entered into with the Association (herein "the Master Ground Lessor"), including any purchaser under a contract of sale or lease with option to purchase, shall be a member of the Association, provided that any person or entity holding such interest as security for the payment of a debt or performance of an obligation (herein "mortgagee"), shall not be a member, unless such mortgagee acquires such interest at a judicial sale pursuant to foreclosure or by conveyance in lieu of foreclosure.

Article IV, ***Section 4.2*** Unit Lessee Voting Rights: Each Unit Lessee/Owner, not to exceed one vote per Unit per household, shall be entitled to one (1) vote for each Unit owned when voting to elect director(s), when any change to the Articles of Incorporation or the Declaration is proposed, and at other times when the Board submits an issue to the membership for vote (486 votes total). The signing of any petition is considered a vote and is limited to one vote per unit per household.

Article IV, ***Section 4.3*** Suspension of Membership and Voting Rights: The Board may suspend membership and voting rights for non-payment of assessments and/or violations of other provisions of the Declaration or the Rules, pursuant to the procedures set forth in these By-Laws.

Article IV, ***Section 4.4*** Annual Meeting of Members: Each annual meeting of members shall be held within two (2) months after the end of the Association's fiscal year, at a location in Albuquerque, New Mexico, as determined by the Board. At each annual meeting of Members, the President of the Association, or appointed designee, shall give a report of the financial condition of the Association.

Article IV, ***Section 4.5*** Notice: Each Unit Lessee/Owner shall register his/her address with the Election Committee. Notice of Annual Meetings will be given by the Election Committee, at the direction of the Board's President or Vice President, to all members at least ten (10) days, but not more than fifty (50) days in advance of the meeting and notice of Special Meetings will be given at least ten (10) days in advance of the meeting. Notice shall be in writing and shall be mailed by

regular mail, postage prepaid, to the member's address as registered with the Election Committee; provided, however, that if any member's registered address is a Unit, the notice may be delivered to the Unit. All notices shall state the date, time and place of the meeting.

Notice of any Special Meeting shall also state the purpose of the meeting. If any amendment to the Declaration or the Articles is to be considered at any annual or special meeting, the notice shall specifically set forth the nature of the amendment to be voted upon.

Article IV, ***Section 4.6*** Call of Meeting: The Board or the President shall have the authority to call Annual Meetings. The Board, the President, or a group of Association members having a petition representing at least 122 members (twenty-five percent (25%) of 486), has the authority to call a Special Meeting. All petitions must be reviewed by the Election Committee before the petition is initiated, to assure that the petition meets all the requirements set forth. Upon finding that the proposed petition has met the requirements, the Election Committee must provide the petitioners with the "Petition Document". On each page of the "Petition Document" must be the reason for the petition, the sponsors of the petition (10 sponsors are required), the beginning and ending dates of the petition, the printed names of the authorized voters and a space for the signature and date to be added when the petition is signed by each voter. Additional information may be added to the "Petition Document" as deemed necessary by the Election Committee. **Towne Park does not permit Door to Door solicitations. Door to door solicitation for signatures for a petition is no exception.** Signatures on petitions must be secured by setting up a "Petition Table" in the Clubhouse and all signatures must be secured at this table. (Exceptions may be made, by prior arrangement, for residents that require special accommodation due to health considerations, but signatures secured under this exception require a member of the Election Committee be present to validate the signature and circumstances requiring the exception.

The Election Committee shall determine if the requirements for the Special Meeting petition have been met. The Election Committee will inform the Secretary that a petition for a Special Meeting has been met and the Secretary will schedule the meeting as soon as possible, subject to all requirements for calling a meeting. The decision of the Election Committee is final and not subject to appeal. Petitions, once submitted to the Election Committee, whether approved or disqualified, become public information and results of the petition will be read into the minutes of the next Board meeting.

Article IV, ***Section 4.7*** Waiver of Notice: Any and all requirements for call and notice of meetings, regular or special, may be waived by any member, either by presence at the meeting in question, or by waiving notice of such meeting in writing, not less than five days before the meeting is held.

Article IV, ***Section 4.8*** Quorum of Membership: At a meeting of the Association's membership, the presence at such meeting of members, either in person, by absentee ballot or by proxy, entitled to cast twenty percent (20%) (98 members) of the total votes of those members entitled to vote on matters brought before the meeting, shall constitute a quorum for the transaction of business. Unless otherwise required by the Declaration, or by law, the majority vote of the members present in person, by absentee ballot or by proxy, entitled to vote with respect to a particular matter, shall decide such matter.

Article IV, ***Section 4.9*** Adjourned Meeting: If any meeting cannot be organized because a quorum has not been reached counting the members present in person, by absentee ballot or by proxy, the meeting cannot be convened and a meeting must be scheduled at another time when a quorum can be obtained.

Article IV, **Section 4.10 Proxies and Absentee Ballots:** At all meetings of members of the Association, any member may vote by proxy, provided the proxy is in writing, dated, signed by the member and filed with the Election Committee. Proxies may be given to a resident tenant of any member or to any other member, and may extend for a period stated in the proxy, or for eleven (11) months if not otherwise stated, provided, however, that every proxy shall automatically cease at such time as the person granting the proxy is personally present at the meeting or ceases to be a Unit Lessee/Owner (as defined in the Declaration).

Absentee Ballots must be in writing, dated, signed by the member and presented to the Election Committee on or before the date set for the vote. Absentee Ballots must be in a format and contain all elements subject to the vote as defined by the Election Committee.

Article IV, **Section 4.11 Parliamentary Procedure:** Robert's Rules, Revised, shall be the parliamentary procedure used for all official meetings of the Association, where voting on motions is conducted.

## ARTICLE V BOARD OF DIRECTORS

Article V. **Section 5.1 Requirements:** Each individual whose name is placed on the annual ballot for election to a director position, must be a volunteer that is a Unit Lessee/Owner residing within the Towne Park Property; whose membership and voting rights have not been suspended; whose payment of Association assessments, ground rent payment, and other expenses due the Association are current; who has no outstanding violation of the governing documents; and who must submit a completed "Volunteer for TPHA Director Position" Form and an "Ethics For Directors & Committee Members Pledge" form to the Election Committee no later than December 15, preceding the Annual Meeting of Members.

Article V. **Section 5.2 Management Powers:** The property, affairs and business of the Association shall be managed by the Board of Directors, through the management company. The Board has the authority to perform, or cause to be performed, all rights, powers, functions and duties of the Association as set forth in the New Mexico Nonprofit Corporation Act, the Articles of Corporation, the Declaration, these By-Laws, and the Rules. The Board shall employ a management company qualified to administer the affairs of the Association and to supervise the operation, maintenance and repair of the Common Areas and Facilities, and Lot Restricted Areas, including without limitation, the collection of assessments, custody of Association funds, and payment of Common Expenses, and the performance of any additional duties of the Board, which the Board, by contract or otherwise, may delegate to such management company.

Article V, **Section 5.3 Rule-Making Authority:** The Board has the power to make and enforce uniformly applied rules governing the use of the individual Units, the Common Areas and Facilities, and the Lot Restricted Areas. Such rules may, without limitation, (i) regulate the use of the Common Areas and Facilities, and Lot Restricted Areas to assure the equitable and proper use and enjoyment thereof, by all persons entitled thereto (including the charging of reasonable admission and other fees); (ii) prohibit any conduct or activity in any Unit or on any part of the Common Areas and Facilities and Lot Restricted Areas that constitutes a nuisance in law or in fact or which would not be consistent or in keeping with the peaceful, quiet and reasonable use and enjoyment of any Unit, Common Areas and Facilities, and Lot Restricted Areas; (iii) prohibit, restrict or regulate the use of any portion of the Common Areas and Facilities and Lot Restricted Areas by the guests and tenants of any Unit Lessee/Owner; (iv) regulate and control vehicular traffic and the parking and storage areas of the Property; and (v) set forth the rules and procedures for implementation, operation and management of the Association.

Article V, **Section 5.4 Number and Term of Office:** The management of the affairs of the corporation shall be vested in a Board of Directors consisting of seven (7), but not less than five (5) directors, each to be elected to serve staggered three-year (3) terms, and limited to two (2) consecutive three (3) year terms. Following serving as a director for two successive three-year terms, after a period of one year off the Board, an individual is eligible to be elected to additional director terms, subject to the limitation in this section. At each annual meeting, an appropriate number of replacement directors shall be elected to replace those ending their three-year term, or for any other director vacancy that exists at the time of the election, still keeping a minimum of five directors on the Board. Persons elected or appointed by the Board to fill positions vacated by resignation or death, upon completion of the unexpired term, may run for reelection, but in no case may any Director serve more than six (6) consecutive years. Any portion of a year exceeding six (6) months, is to be considered 1 year in determining consecutive periods of service.

Article V, **Section 5.5 Removal of a Director:** Any director may be removed from office, with or without cause, by the vote or written consent of a majority vote of the Directors.

In addition, any director or directors may be removed from office **for cause** by the submission to Election Committee of a Recall Petition representing at least 248 members (fifty-one percent (51%) of 486) supporting removal of the director or directors. Any Recall Petition by Association members shall be effected by filing a written petition with the Election Committee, signed by the required number of members. All petitions must be reviewed by the Election Committee before the petition is initiated, to assure that the petition meets all the requirements set forth. Such petitions shall specifically set forth the cause for removal, the names of the sponsors of the petition, a minimum of ten (10). Sitting Directors may not serve as sponsors of Recall Petitions, as they have the authority to participate in the removal of a Director by vote of the Board. Recall Petitions shall have a beginning date and an ending date for the petition period. Petitions for removal of a director may not exceed ninety (90) days from the beginning date until the ending date. Upon finding that the proposed petition has met the requirements, the Election committee must provide the petitioners with the "Petition Document". On each page of the "Petition Document" must be the reason for the petition, the sponsors of the petition, the beginning and ending dates of the petition, the printed names of the authorized voters and a space for the signature and date to be added when the petition is signed by each designated voter. Additional information may be added to the "Petition Document" as deemed necessary by the Election Committee. **Towne Park does not permit Door-to-Door solicitations. Door-to-door solicitation for signatures for a petition is no exception.** Signatures on petitions must be secured by setting up a "Petition Table" in the Clubhouse, and all signatures must be secured at this table. (Exceptions may be made, by prior arrangement, for residents that require special accommodation due to health considerations, but signatures secured under this exception require a member of the Election Committee be present to validate the signature and circumstances requiring the exception.) The Election Committee shall determine if the requirements for the Recall Petition have been met and that all signatures are valid and meet the voting requirements set forth in Article IV, Section 4.2 Upon validation of the Recall Petition, the Election Committee will inform the Secretary. The Secretary will prepare a statement for removal, or notation of the failure of the Petition and stating the cause of the failure, to be presented at the next Board meeting or a Special Board meeting, for reading into the minutes of the Board meeting. The decision of the Election Committee and the action of the Secretary are final and not subject to appeal. Petitions once submitted to the Election Committee, whether approved or disqualified, become public information and are to be made available to any member that wishes to review the petition.

Article V, **Section 5.6 Vacancy:** In the event of a vacancy occurring by reason of the resignation, removal from office, as provided in Section 5.5 of this Article, death or otherwise, of a director,

the remaining directors may, by a majority vote, appoint a successor to fill a vacancy for the unexpired term of his/her predecessor in office. If more than three (3) Director positions are vacated at one time for any reason, reducing the number of Directors to less than four (4), a Special Election shall be held within 90 days to return the number of Directors to seven (7). The individual receiving the most votes shall be elected to the longest remaining term.

Article V, ***Section 5.7 Compensation***: Directors shall not receive any compensation or remunerations for their services except for reimbursement for their out-of-pocket expenses incurred for the benefit of the Association. No person may stand for election or serve as a Director if they, or their immediate family, solicits or provides services for compensation to the Association, Towne Park residents or Towne Park contractors. (Due to the potential for conflict of interest, the Board may not authorize exceptions to this prohibition.)

Article V, ***Section 5.8 Annual Meeting***: The Annual Meeting of the Board will be held within two weeks following the Annual Meeting of the Members.

Article V, ***Section 5.9 Special Meeting***: Special meetings of the Board of Directors may be held at any time and place when called by the President, or by the Vice-President in the absence of the President, or by a majority of the Board.

Article V, ***Section 5.10 Notice***: In the absence of an announcement of a subsequent Board Meeting at a previous meeting of the Board, a notice of the time, place, date and purpose of every special meeting of the Board, shall be given by the Secretary or by the officer or director calling the meeting, by mailing the same to each director at his residence or business address, not less than three (3) days before such meeting; provided that such notice may be dispensed with if all directors are present at the meeting, or if those not present shall, at any time, waive notice thereof.

Article V, ***Section 5.11 Quorum of Directors***: A quorum at any meeting of the Directors shall consist of more than 50% (a majority) of the voting membership of the Board. A majority of the Directors present, if a quorum is present, shall decide any question that shall come before the meeting, except as otherwise provided by law, by the Declaration or these By-Laws. Provided, however, that an absolute majority of the entire Board must vote to recommend any proposed amendment to the Declaration or the Articles.

Article V, ***Section 5.12 Minutes and Records***: It shall be the duty of the Board to cause to be kept, a complete record of all its acts and of the Association's affairs.

Article V, ***Section 5.13 Action without Meeting***: Any action required or permitted to be taken at any meeting of the Board of Directors, may be taken without a meeting, if written consent setting forth the action so taken, shall be signed by all the Directors and such written consent is filed with the minutes of the proceedings of the Board.

## **ARTICLE VI**

### **OFFICERS**

Article VI, ***Section 6.1 Officers***: The officers of the Association shall be a President, Vice-President, Secretary, and Treasurer. The Officers shall be elected from among the directors during the Annual Meeting of the Board, or at a special meeting of the Board called for that purpose. Such officers shall hold office until the next Annual Meeting of the Board and until their successors are elected and qualified. The same person shall not serve as both President and Secretary.



Article VI, **Section 6.2 President**: The President shall be the Chief Executive Officer of the Association and when present, shall preside at all meetings of members and at meetings of the Board; shall have general supervision of the affairs of the Association; shall sign or countersign all certificates, contracts and other instruments of the Association, as authorized by its Board, the Articles, the Declaration or these By-Laws; shall make reports to the Directors and members; and shall have all such other duties and powers as are incident to his office or properly delegated by the Board.

Article VI, **Section 6.3 Vice-President**: In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice-President shall perform the duties of the President. The Vice-President shall perform such other duties as the President or the Board may, from time-to-time, direct or assign.

Article VI, **Section 6.4 Secretary**: At meetings where the management company representative is not in attendance, the Secretary shall keep the minutes of such meetings. The Secretary shall also supervise the management company's custody of the Association's meeting minutes book; shall sign with the President such instruments as requiring such signature; shall supervise the management company's recordings of the names of all members of the Association, together with their addresses, as registered by such members; and shall perform such other duties as are incident to the office, or as properly required by the Board.

Article VI, **Section 6.5 Treasurer**: The Treasurer shall supervise the management company's custody of all monies of the Association, and shall ensure that regular books of account are maintained; shall, if directed by the Board, cause an annual audit of the Association's books of account to be made by an independent certified public accountant at the completion of each fiscal year; shall prepare or cause to be prepared, the annual budget, and shall perform such other duties as are incident to the office, or as properly required by the Board.

Article VI, **Section 6.6 Substitution**: Any officer may be expressly authorized by the Board to perform any function which is usually performed by any other officer.

Article VI, **Section 6.7 Removal from Office**: Any officer may be removed from office by a majority vote of the entire Board at any lawful meeting; and any vacancy in any of the offices described in this Article, however caused, may be filled by the Board at any lawful meeting.

## ARTICLE VII

### RECORD AND BOOKS

Article VII, **Section 7.1 Maintaining Records**: The Association shall keep, or cause to be kept, detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Areas and Facilities, and Lot Restricted Areas, specifying and identifying the maintenance and repair expenses of the Common Areas and Facilities and Lot Restricted Areas and other expenses incurred, as well as minutes of the proceedings of its members and Board, and shall keep at the principal office, a record providing the names and addresses of its members. All books and records of the Association may be inspected by any member, or his agent or attorney, or by any person authorized to inspect the same by the Declaration, for any proper purpose at convenient hours on working days that shall be set and announced.

**ARTICLE VIII**  
**COMMITTEES**

Article VIII, **Section 8.1 Standing Committees**: The Board of the Association shall appoint the following standing committees:

(a) **Architectural Control Committee** shall approve or disapprove any proposed changes or alterations to any and all improvements or fixtures to be constructed on the Lots, other than the interior of the Unit dwelling, by Unit Lessees/Owners and all improvements or fixtures to be constructed on the Common Areas and Facilities or the Lot Restricted Areas prior to the commencement of any such construction, all as more particularly set forth in the Declaration and the rules. The chair of the ACC shall be a Board member and serves at the pleasure of the Board.

(b) **The Maintenance Committee** shall advise the Board on all matters pertaining to maintenance, repair or improvements of the Common Area and Facilities and the Lot Restricted Areas. The Chair of the Maintenance Committee shall be a Board member and serve at the pleasure of the Board.

(c) **The Finance Committee**, as authorized by action of the Board in 2013 and reauthorized in February 2015, is responsible for supervising the investment and security of all funds of Association funds not held in the operating accounts. The Committee is composed of the Treasurer, the Vice President and a non-officer Board Director. The Finance Committee also serves as advisor to the Management Company/Agent and Board on issues of budget and long-term capital improvement projects.

(d) **The Election Committee** is a permanent committee authorized to supervise all election and voting-related activities, and to determine compliance with the Articles, the Declaration, these By-Laws and the Laws/Regulations of the State of New Mexico. The Election Committee was authorized by the Board in 2014, instead of securing an Accounting Firm to supervise elections and related activities. The Election Committee maintains the authorized voter listing and is responsible for determining if Board candidates meet the requirements to stand for election. The Election Committee serves as the review authority for requested Mediation and Arbitration issues. (The Election Committee is authorized by the New Mexico Homeowners Association Act and is not subject to the control of the Board as noted in the statute. The Board is limited to authorization of the Committee Chairs and has approval authority to accept or reject, but not rewrite, revisions to the Committee's written procedures.) Decisions of the Election Committee are final and are not subject to appeal.

Article VIII, **Section 8.2 Other Committees**: The Board may appoint such other Committees as the Board deems necessary or desirable, and shall specify the functions of any such additional committees.

## **ARTICLE IX**

### **FISCAL YEAR**

Article IX, **Section 9.1 Fiscal Year**: The fiscal year of the Association shall be the calendar year or such other period as the Board may, by resolution, determine.

## **ARTICLE X**

### **ENFORCEMENT PROCEEDINGS**

(Article X is a provision to codify the enforcement procedures utilized by the Board. No part of this Article is to be interpreted as authority of any member to challenge the management authority of the Board through mediation or arbitration)

Article X, **Section 10.1 Authority of the Board**: The Board shall have the authority to establish a fine schedule that the management company shall apply for a member's non-compliance with any criteria specified in the Declaration, By-Laws, Rules, and the Unit Lease. The established fine schedule shall be specified in the rules. In addition, the Board may assess fines and also suspend rights of membership, including any member's right to vote, and use and enjoyment in the Common Areas and Facilities and Lot Restricted Areas, in order to enforce all provisions of the Declaration and the Rules, subject to the limitations and procedures of these By-Laws. The Board shall not, however, deny any Unit Lessee/Owner, his Tenant or immediate family, guests or invitees the right of vehicular and pedestrian access over, through and across the private streets and side walks of the Common Areas and Facilities or the Lot Restricted Areas to the extent reasonably necessary, to permit access to such Unit Lessee/Owners's Unit.

Article X, **Section 10.2 Amount of Fine**: The Board may not establish a fine schedule for any single violation in excess of Two-Hundred Fifty Dollars (\$250) (herein "the Maximum Fine"). Multiple days or fine periods shall be considered a single event unless the Board approves a larger penalty for extreme non-compliance issues

Article X, **Section 10.3 Appeal of Fine**: A Unit Lessee/Owner may appeal any fine assessed by the management company. The appeal shall be in writing and shall contain information on the situation that resulted in the fine. In addition, the Unit Lessee must provide his/her rationale why the management company's fine assessment is inappropriate. The appeal shall be mailed to the Towne Park Homeowners Association, Board of Directors, 425 Towne Park Dr. NE, Albuquerque, NM 87123 or deposited in one of the mail drop slots at the Towne Park Clubhouse. After receipt of the written appeal, the Board shall determine what action, if any, it will take on the matter and the Unit Lessee/Owner will be informed of the Board's decision in writing.

Article X, **Section 10.4 Complaints and Hearings**: Any Unit Lessee, any Director or any employee of the Association's Management Company shall have the right to file a written complaint with the Secretary setting forth any alleged violation of the Declaration or Rules by any Unit Lessee, his tenant, any member of the Unit Lessee's immediate family who resides in the Unit, or any guests or invitees of any Unit Lessee. If the President of the Association concludes that any written complaint sets forth a violation, the President shall direct the Secretary to mail written notice to the Unit Lessee, at the Unit Lessee's address as registered with the Management Company, by certified or registered mail, postage prepaid and return receipt requested, advising such Unit Lessee of the nature of the violation and directing that he/she appear at a meeting of the Board for a hearing with respect to such violation. Such notice of violation must be mailed at least ten (10) days prior to the hearing and shall be accompanied by a copy of the written complaint. The Board shall conduct the hearing with respect to any such violation.

The Unit Lessee/Owner shall have the right to be represented by legal counsel and may present witnesses or other evidence subject to examination by the Board. If the Unit Lessee shall fail or refuse to appear, unless excused by the President for good cause, or if the Board shall determine, after hearing the evidence, that the alleged violation has been proven, then the Board may impose such fine, not to exceed the Maximum Fine then in effect, and/or may suspend all or any part of the Unit Lessee's/Owner's membership or voting rights and easement rights, with respect to the Common Areas and Facilities and Lot Restricted Areas, or portions thereof, as the Board deems appropriate under all the circumstances.

The Board shall not, however, deny any Unit Lessee/Owner, his Tenant or immediate family, guests or invitees the right of vehicular and pedestrian access over, through and across the private streets and sidewalks of the Common Areas and Facilities or the Lot Restricted Areas to the extent reasonably necessary to permit access to such Unit Lessee's Unit.

Any fine imposed by the Board may be collected in the same manner as Individual Assessments pursuant to the Declaration. The Board shall not be required to conduct the hearing required by this Section, in accordance with any particular rules of evidence or procedure, but shall conduct such hearing in a fair and impartial manner.

Any Director who files a written complaint pursuant to this Section, shall not participate as a member of the Board which hears that written complaint.

Article X, ***Section 10.5 Monetary Violations:*** The Board or Management Company shall not impose any fine with respect to any failure by a Unit Lessee/Owner to pay Regular Monthly Assessments, Special Assessments, Individual Assessments or other payments by a Unit Lessee/Owner, as required by the Declaration (herein "Monetary Violations"). The Board may, however, in addition to the Association's other remedies as set forth in the Declaration, suspend membership and voting rights and rights to use the Common Areas and Facilities and Lot Restricted Areas, or portions thereof, for any monetary violation not cured within sixty (60) days after written notice of such monetary violation is mailed to the Unit Lessee/Owner by certified or registered mail, postage prepaid and return receipt requested. The Unit Lessee/Owner may, within such sixty (60) day period, make written request to the management company for a hearing before the Board with respect to such monetary violation, and if the Unit Lessee so requests, the Board shall conduct a hearing following the same procedures as required by Section 10.4 above for other violations. The Board shall not, with respect to any Monetary Violation, suspend the right of vehicular and pedestrian ingress and egress through and over the Common Areas to and from their respective Units by the Unit Lessee, members of his immediate family who reside in the Unit, his Tenant, or such Unit Lessee's guests and invitees.

Article X, ***Section 10.6 Judicial Enforcement:*** As also provided in the Declaration, the Board may, or cause to be filed, legal proceedings or suits in equity to enforce, collect or enjoin as may be necessary with respect to any enforcement action imposed by the Board pursuant to this Article; and should the Board prevail in any such legal or equitable proceeding, the Board shall be entitled to recover all attorney fees, court costs and other expenses incurred in connection with such proceedings.

Article X, ***Section 10.7 Dispute Resolution:*** Except as provided elsewhere in these documents and in issues relating to actions of the Board regarding the Board's specific authority to manage the affairs of the Association, any controversy or claim arising out of or relating to the Articles of Incorporation, the Declaration, these By-Laws, or Rules may be a basis for Mediation and/or Arbitration, provided the issue relates to an economic penalty placed against a member. Mediation and Arbitration are processes intended to eliminate undue economic hardship on individuals that cannot secure an amicable resolution with the Board. Mediation and Arbitration

are not to be used as a method by a minority of members to frustrate the Board's ability to manage the affairs of the Association in a professional, efficient manner. The Election Committee is the final arbitrator as to whether an issue is subject to Mediation and/or Arbitration. If the Election Committee determines that there are grounds for Mediation and/or Arbitration, the Election Committee will arrange for a Mediator or Arbitrator and direct the Board to participate in the Mediation or Arbitration as soon as the service may be arranged. Determinations of the Election Committee are final and not subject to appeal.

Mediation: The parties shall first attempt to settle the dispute by mediation. Mediation is a form of dispute resolution sometimes used as a means of resolving disputes short of binding arbitration. Mediation provides to the parties the assurance that the settlement will be acceptable. It offers the advantage of informality, with reduced time and expense in resolving disputes. In mediation, the neutral person may meet with the parties, jointly or separately, in order to help them reach a settlement. The most common advantages to mediation are: (1) Parties are directly engaged in negotiating the settlement. (2) The mediator, as a neutral third party, can view the dispute objectively and assist the parties in exploring alternatives that they might not have considered on their own. (3) Because mediation can be scheduled early in the dispute, a settlement can be reached much more quickly than in litigation. ~~(4) Parties generally save money through reduced legal costs and less staff time.~~ (5) Parties may enhance their relationship.

Arbitration: In the event the dispute is not settled by mediation, the dispute shall be submitted to binding arbitration. The parties may agree upon a person to act as sole arbitrator or they may request the services of a local or national company or group that provides arbitration and dispute resolution services. The determination of who to use will be mutually acceptable. The Arbitrator shall not have any power to add to, subtract from, modify, or alter in any manner, the provisions of the Articles, the Declaration, these By-Laws, or the Rules. The decision of the Arbitrator shall be limited to and be based solely on the provisions contained in the valid governing documents applicable at the time the dispute arose. The Arbitrator is to render a reasoned, written decision that includes findings of fact and conclusions. Each party shall pay the fees and costs of his/her own legal representative, if any. Each party shall pay one-half of the cost of a court reporter, if any, plus the entire cost of a transcript if they order a copy. The party which is unsuccessful in the arbitration proceeding shall pay the fees and expenses of the Arbitrator, unless the Arbitrator, based on the merit of the facts presented by the parties, determines as part of his award, that each party should pay a proportionate share of only the Arbitrator's fees and costs.

## **ARTICLE XI**

### **INDEMNIFICATION**

Article XI, **Section 11.1** In the absence of fraud or bad faith and to the extent legally permitted by the Act, the officers and directors of the Association shall not be personally liable for any act or failure to act, performed by them within the scope of their authority, or while acting as they may reasonably believe proper for the benefit of the Association, nor shall said Officers and Directors be personally liable with respect to any debts or other liabilities of the Association. The Association shall indemnify and hold its present and past Officers and Directors harmless with respect to any and all lawsuits or claims against any said Officer or Director, based upon acts performed or omitted to be performed by them while acting within the scope of their authority, or while acting as they reasonably believed to be proper for the benefit of the Association, including any attorney fees and court costs incurred in connection with any such claim or lawsuit. The Board may procure and maintain, as a Common Expense, such Directors and Officers liability insurance as the Board deems necessary or advisable.

**ARTICLE XII**  
**AMENDMENTS**

Article XII, **Section 12.1** Amendments to By-Laws: The By-Laws of the Association shall be subject to alteration, amendment or repeal; and new By-Laws may be adopted by the affirmative vote of an absolute majority of the entire Board of Directors, provided the same are not inconsistent with the New Mexico Nonprofit Corporation Act or any provisions of the Articles or Declaration.

Article XII, **Section 12.2** Amendments to Articles of Incorporation or Declaration: The Articles of Incorporation or the Declaration ~~may only be amended~~ by the vote required in the Articles or Declaration.

Article XII, **Section 12.3** Amendment Procedure: Only a majority of the Board shall have the right to propose an amendment to the Articles or Declaration. Any amendment proposal by members, must be submitted in writing to the Secretary and signed by a quorum of the membership. All proposed amendments of the Declaration or the Articles must first be considered and voted upon by the Board, which shall recommend for or against the proposed amendment at the next meeting of members at which the proposed amendment is to be submitted for a vote of the members. If the Board concludes that the proposed amendment requires the approval of the Master Ground Lessor or the Eligible Unit Mortgagees, then the Board shall seek any required approval. If such approvals are withheld or rejected, the Board shall not submit the proposed amendment for a vote of the members. If all required approvals are obtained, the Board shall submit the proposed amendment, whether or not the Board recommends its' adoption, to a vote of the members at a duly called meeting at which a quorum is present.

**ARTICLE XIII**  
**SAVINGS CLAUSE**

Article XIII, **Section 13.1** Savings Clause: If any provision of these By-Laws, under present law or any future law, is declared by a court of competent jurisdiction to be void or unenforceable, then such provision only, shall be void but all other provisions hereto shall remain in full force and effect.

Approved at Albuquerque, New Mexico, on September 13, 2016 by a unanimous vote of the Board of Directors.

**Towne Park Homeowners Association Board of Directors**

James Enoch Jones, President \_\_\_\_\_

Notary: \_\_\_\_\_

Christina M. Farmer, Secretary \_\_\_\_\_

I voted to approve these revised By-Laws:

Paul Bowdoin, Vice President \_\_\_\_\_

Tim Walker, Treasurer \_\_\_\_\_

James P. Gilliam, Board Director \_\_\_\_\_

Glenn Harrington, Board Director \_\_\_\_\_

Tom Bussell, Board Director \_\_\_\_\_

**AMENDED AND RESTATED BY-LAWS  
OF  
TOWNE PARK HOMEOWNERS ASSOCIATION, INC.**

Approved at Albuquerque, New Mexico, on September 13, 2016 by a unanimous vote of the Board of Directors.

**Towne Park Homeowners Association Board of Directors, 2015-2016**

James Enoch Jones, President

\_\_\_\_\_

Notary:

\_\_\_\_\_

Christina M. Farmer, Secretary

\_\_\_\_\_

I voted to approve these revised By-Laws:

Paul Bowdoin, Vice President

\_\_\_\_\_

Tim Walker, Treasurer

\_\_\_\_\_

James P. Gilliam, Board Director

\_\_\_\_\_

Glenn Harrington, Board Director

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Tom Bussell, Board Director

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