

**SECOND REVISED AND RESTATED BY-LAWS**  
**OF**  
**TUCSON NATIONAL TOWNHOMES WEST, INC.**

**(Effective Date: February 16, 2012)**

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ARTICLE I  
DEFINITIONS AND APPLICABILITY

Section 1.01. Definitions. Unless the context otherwise specifies or requires, the words and phrases used in these By-Laws shall have the same meaning as defined in Article I of the Second Revised and Restated Declaration of Covenants, Conditions and Restrictions of Tucson National Townhomes West recorded in Docket 13766 at page 353 in the official records of Pima County, Arizona.

Section 1.02. By-Law Applicability. The provisions of these By-Laws shall be applicable to the Property which shall include all buildings erected, and all improvements made or to be made thereon. The mere acquisition or rental of any Lot will signify that these By-Laws are accepted, ratified and will be adhered to by such purchaser or tenant.

Section 1.03. Personal Application. All present or future Owners, tenants, or their employees, or any other person that might use the facilities on the Property in any manner, are subject to the regulations set forth by these By-Laws.

Section 1.04. Interpretation. These By-Laws shall be interpreted and construed pursuant to and in accordance with all matters set forth in the Declaration.

ARTICLE II  
MEMBERSHIP AND VOTING

Section 2.01. Membership. Each Owner of a Lot shall be a member of the Association ("Member"). The rights and obligations of any Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of a Lot, and then only to the transferee. Any transfer of ownership of a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each purchaser of a Lot shall notify the Association of his/her purchase within ten (10) days after he/she becomes the Owner of a Lot. No change in the ownership of a Lot shall be effective for voting purposes unless and until the Association is given actual written notice of such change and is provided satisfactory proof thereof.

Section 2.02. Voting. Subject to the provisions of Section 2.04, each Owner shall be entitled to one (1) vote for each Lot owned; provided, however, that in the event a Lot is owned by two (2) or more persons, the membership shall be joint and only one (1) vote may be cast with respect to any such Lot. If any Owner casts a vote representing a

certain Lot, it will be conclusively presumed for all purposes that such Member was acting with the authority and consent of other owners of the same Lot ("Co-Owners") unless an objection or protest is made by a Co-Owner prior to the completion of the vote in which case no vote for that Lot will be counted. In the event that more than one (1) vote is cast for a particular Lot, none of said votes shall be counted.

Section 2.03 Voting Procedures.

A. Action at a Meeting. In any action on a matter submitted to a vote of the Membership at a meeting, Members may vote in person or by absentee ballot.

B. Action Without a Meeting. Any action that Members may take at a meeting, including the election of directors, may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. Written ballots shall:

1. Set forth each proposed action;
2. Provide an opportunity to vote for or against each proposed action (other than election of directors);
3. State the number of responses needed to meet the quorum requirement;
4. State the percentage of approvals necessary to approve each action other than for an election of directors; and
5. Set forth the time by which the ballot must be delivered to the Association in order to be counted, which time shall not be less than three (3) days after the ballot is delivered.

C. Electronic Voting. The Board may allow and establish procedures for submittal of Members' votes by electronic means. This will apply to absentee ballots when there is action taken at a meeting, and to written ballots when action is taken without a meeting.

Section 2.04. Suspension of Voting Rights. Any Owner who is delinquent in the payment of an Assessment shall have no right to vote in any matter submitted to a vote of the Membership. If an Owner is otherwise in violation of the Declaration or the Association Rules, the Board may suspend such Owner's right to vote after providing him/her with notice of the violation and an opportunity to be heard before the Board.

ARTICLE III  
ADMINISTRATION

Section 3.01. Association Responsibilities. The Association shall have the responsibility of administering the Common Area, approving the annual budget, establishing and collecting assessments together with such other responsibilities as set forth in these By-Laws and the Declaration. In general, the Association shall be the representative of each Owner for every problem which affects more than one Lot.

Section 3.02. Annual Meetings of Owners. There shall be an annual meeting of the Owners at such time and place convenient to Owners as may be designated by the Board.

Section 3.03. Special Meeting of Owners. A special meeting of the Owners may be called at any reasonable time and place by written notice of the Board or by the Owners representing at least twenty-five percent (25%) of the votes entitled to be cast by the Members. No business shall be transacted at a special meeting except as stated in said notice.

Section 3.04. Notice of Meeting. Written notice of each meeting of the Owners shall be given by, or at the direction of, the secretary or person authorized to call the meeting, at least ten (10) but not more than fifty (50) days before such meeting, to each Owner entitled to vote there at. Notice shall be sent to the Owner's address last appearing on the books of the Association or supplied by such Owner to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting and in the case of a special meeting, the purpose of the meeting.

Section 3.05. Quorum. The presence at any meeting, in person or by absentee ballot, of 51% or more of the owners entitled to vote shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the owners present may adjourn the meeting to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time and date the original meeting was called. At the subsequent meeting, the presence in person or by absentee ballot, of twenty-five percent (25%) or more of the owners entitled to vote shall constitute a quorum. Except as otherwise provided in these Bylaws or in the Declaration, action may be taken at any meeting of the owners upon the affirmative vote of the owners having a majority of the total votes present at such meeting either in person or by absentee ballot.

Section 3.06. Business of the Annual Meeting. The business at all annual meetings of the Association shall consist of the following:

Roll Call.

Proof of notice of meeting or waiver of notice.

Reading of the minutes of preceding meeting.  
Report of officers.  
Report of committees.  
Election of Directors.  
Unfinished business.  
New business.

#### ARTICLE IV DIRECTORS

Section 4.01. Number and Qualifications. The affairs of the Association shall be managed by a Board consisting of not less than three (3) nor more than nine (9) directors elected by the Members. The Board may increase or decrease the number of directors consistent with this subsection and any such change shall be effective for the next election of directors. Directors may succeed themselves indefinitely, but in no instance shall there be more than one (1) director from any particular Lot on the Board at the same time. Each director shall be an Owner, spouse of an Owner (or individual who shares a common household with an Owner), or if an Owner is a corporation, partnership or trust, an officer, director, partner, agent, trustee or beneficiary. Any director who ceases to qualify as same during his/her term of office shall be deemed to have resigned on the date his/her qualification ceased.

Section 4.02. Term of Office. Each director shall serve a term of three (3) years and until his/her successor is duly elected. The terms of directors shall be staggered and the Board may select which directors shall serve for one-year or two-year terms in order to establish or re-establish staggered terms.

Section 4.03. Vacancies. A vacancy on the Board caused by any reason shall be filled by a vote of the remaining directors, even though they constitute less than a quorum, and any director so appointed shall serve for the balance of his/her predecessor's unexpired term,

Section 4.04. Removal of Directors. One or more directors may be removed from the Board, with or without cause, by the affirmative vote of a majority of Members entitled to vote and voting on the matter at a meeting duly held in conformance with the procedures set forth in A.R.S. § 33-1813. The quorum requirement of a meeting to remove a director shall be the presence of Members, in person or by absentee ballot, representing at least twenty percent (20%) of the total votes of the Association.

Section 4.05. Organization Meeting. The first organization meeting of a newly elected Board shall be held immediately following the annual meeting, and no notice shall be necessary to the newly elected directors in order to legally constitute such meeting.

Section 4.06. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by the Board, but at least two (2) meetings shall be held during each fiscal year.

Section 4.07. Special Meetings. Special meetings of the Board may be called by the President or upon the written request of at least two (2) directors.

Section 4.08. Notice of Meetings. Notice of Board meetings shall be given to Members at least forty-eight (48) hours in advance of such meetings by newsletter, conspicuous posting, or other reasonable means as determined by the Board unless emergency circumstances require action by the Board before notice can be given. Except for matters that the Board, at its election, may address in executive session as set forth in A.R.S. § 33-1804, Members (or any person designated by a Member in writing as the Member's representative) shall be permitted to attend regular and special Board meetings and speak at an appropriate time before the Board takes formal action on any matter.

Section 4.09. Board of Director's Quorum. At all meetings of the Board, the presence in person, via speakerphone or via video-conferencing of a majority of the actual number of directors in office shall constitute a quorum for the transaction of business. The act of a majority of directors present at a duly held meeting shall be an act of the Board.

Section 4.10. Action taken without a Meeting. Any action that may be taken at a meeting of the Board may be taken without a meeting if all directors consent to such action in writing and the matter has been previously addressed at a Board meeting open to the Members, or emergency circumstances require immediate action by the Board. Any action taken by unanimous written consent shall be reflected in the minutes of the next regular Board meeting.

Section 4.11. Powers and Duties of the Board. The Board shall have all the powers of an Arizona non-profit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Association's Articles of Incorporation, these By-Laws and the Declaration. The Board shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under and by virtue of said Articles, these By-Laws and the Declaration, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association. Without in any way limiting the generality of any of the foregoing provisions, the Board shall have the following powers, authority, and duties:

- A. Cause the Common Area to be maintained.
- B. Determine and collect assessments from Owners.



- C. Employ and supervise such employees or independent contractors as they deem necessary and prescribe their duties.
- D. Maintain insurance coverage as provided for in the Declaration and to use the insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance.
- E. Grant and convey to any person easements, rights-of-way, parcels or strips of land in, on, over or under any Common Areas.
- F. Retain and pay for accounting and legal services, including court costs, necessary for enforcement of these By-Laws, the Declaration and the Association Rules, and to assess legal fees and costs incurred for the enforcement of the provisions of these By-Laws, the Declaration, and the Association Rules against any Owner in conformance with the Declaration.
- G. Maintain and repair any drainage and other easements, roads, roadways, roadway rights-of-way, parking lots, median strips, walls or other areas not maintained by Owners or governmental entities.
- H. Obtain or pay for, as the case may be, any property or services, which the Board deems necessary.
- I. Enter at any reasonable time upon any Lot for the purpose of carrying out its duties and obligations for landscaping or other maintenance pursuant to the Declaration.
- J. Cause an Owner to repair in a good and workmanlike manner and in conformance with the original plans and specifications any damage to property owned by the Association or to the exterior of his Lot caused by the Owner or any of his guests, agents or members of his family. In the event that the Association requires an Owner to repair such damage, and such Owner fails to make or complete such repairs within a reasonable length of time, such Owner does hereby irrevocably authorize the Association to repair such damage, and the Association shall so repair said damage in a good workmanlike manner in conformance with the original plans and specifications and shall assess such Owner the cost thereof.

In the event of a dispute between an Owner and the Board with respect to the cause of damage or the extent of repairs necessitated or with respect to the cost thereof, then upon written request of the Owner delivered to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted and the parties cannot agree on an arbitration procedure, then the matter shall be submitted to three (3) arbitrators, one chosen by the Board, one chosen by said Owner and these two arbitrators shall choose a third arbitrator. If the two arbitrators cannot agree as to the selection of the third arbitrator, then the same shall be selected by the presiding Judge of the Superior Court of Pima County, Arizona. A determination by any two of the three arbitrators shall be

binding upon said Owner and the Association who shall share the cost of arbitration equally. In the event one party fails to choose any arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and authority to choose both arbitrators.

- K. Adopt and publish Association Rules as the Board deems necessary governing the use of all private roadways and parking areas including, but not limited to, safety measures and overnight parking, and to establish penalties for the violation thereof.
- L. Construct new improvements and/or demolish existing improvements to the Common Areas; provided, however, that should any such project require an expenditure of more than \$15,000.00 of Association reserves or a Special Assessment, such project shall be approved by not less than two-thirds (2/3) of Owners entitled to vote and voting on the matter.
- M. Assign guest parking spaces.
- N. Select a federally insured commercial or savings bank to serve as a depository for the funds of the Association.
- O. Issue such certificates concerning the current status of an Owner's assessments which may be required by any licensed title insurance company or lending institution.
- P. Employ, at their sole discretion, a professional property management agent or company, at a compensation agreed to by the Board to perform such duties and services as the Board shall direct; provided, however, that the Board shall not enter into any contracts which would bind the Association for a term of more than two (2) years unless reasonable cancellation provisions are included in such contracts.
- Q. To require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate bonds. The premiums on such bonds shall be paid by the Association.
- R. Levy and collect assessments pursuant to the provisions of these By-Laws and the Declaration.
- S. Provide for the keeping of books with detailed accounts affecting the administration of the Common Areas and to perform an annual financial audit, review or compilation of the Association which shall be completed no later than one-hundred and eighty (180) days after the end of the fiscal year and be made available to Members upon request within thirty (30) days after its completion.
- T. Adopt and publish such Association Rules as the Board deems necessary governing the use of the Common Area and establish penalties for the violation thereof.
- U. Make payments out of the Association's funds as authorized in these By-Laws and by the Declaration for the benefit of the Owners.
- V. Pay all taxes levied upon Common Area or any property conveyed, leased or otherwise transferred to the Association.

ARTICLE V  
OFFICERS

Section 5.01. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and Treasurer, all of whom shall be directors. Any office may be combined with any other office, except the offices of President and Secretary.

Section 5.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

Section 5.03. Removal of Officers. Upon an affirmative vote of a majority of the directors, any officer may be removed either with or without cause and his/her successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

Section 5.04. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and the Board. The President shall have all of the general powers and duties which are usually vested in the office of President of a corporation, including but not limited to the power to appoint committees from among the Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5.05. Vice-President. The Vice-President shall take the place of the President and perform duties whenever the President shall be absent or unable to act. If neither the President or the Vice-President is able to act, the Board shall appoint some other member of the Board to do so on any interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board.

Section 5.06. Secretary. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association; the Secretary shall have charge of such books and papers as the Board shall direct, and shall in general perform all the duties incident to the office of the Secretary.

Section 5.07. Treasurer. The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association and the deposit of all monies and other valuable effects in the name, and to the credit of the Association, in such depositories as may from time to time be designated by the Board, to the extent that such duties are not delegated by the Board to a property management company. All funds of the Association over which the Treasurer has direct control shall only be

withdrawn upon his/her signature, or such other persons as may be designated by the Board.

## ARTICLE VI AMENDMENTS

Section 6.01. By-Laws. These By-laws may be amended by the affirmative vote of Owners representing a majority of the total votes in the Association or two-thirds (2/3) of those Owners eligible to vote and voting on the matter, whichever is less. These By-Laws shall not be amended as to be inconsistent with or in opposition to any provisions in the Declaration or the Association's Articles of Incorporation.

## ARTICLE VII INDEMNIFICATION

Section 7.01. Indemnification. The Association shall indemnify every director and officer, and his/her heirs and personal representatives, against all loss, cost, and expense, including attorney's fees and costs, reasonably incurred by him or her in connection with any action, suit or proceeding to which he or she may be a party by reason of his or her being or having been a director or officer of the Association in all circumstances in which, and to the extent that, such indemnification is permitted by A.R.S. §§10-3851 and 10-3856, as such provisions may hereafter be amended or renumbered, or the analogous provision of any future Arizona nonprofit corporation code. Any indemnification hereunder shall be made by the Association only as authorized by the Board pursuant to A.R.S. §10-3855, as it may hereafter be amended or renumbered, or the analogous provision of any future Arizona nonprofit corporation code. In the event of a settlement of any action, suit or proceeding, indemnification shall be provided only in connection with such matters covered by the settlement as to which indemnification is permitted as set forth above. The foregoing right shall not be exclusive of other rights of indemnification to which such director or officer may be entitled pursuant to law. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason of or arising out of or in connection with the foregoing indemnification provisions shall be treated by the Association as a common expense.

## ARTICLE VIII

Section 8.01. Books and Records. Except for those records exempted by A.R.S. § 33-1805, all financial and other records of the Association shall be made reasonably available for examination by any Owner or any person designated by the Owner in writing as the Owner's representative. The Association shall have ten (10) business days to fulfill a request for examination. Upon an Owner's request for copies of records, the Association shall have ten (10) business days to provide same and may charge a fee of not more than fifteen cents (15¢) per page.

