

AMENDED AND RESTATED
BYLAWS
OF
MONTEBELLA HOMEOWNERS ASSOCIATION

1. **Name and Location.** The name of the Corporation is Montebella Homeowners Association, referred to as the "Association". The principal office of the Association is located in Pima County, AZ. Meetings of Members and Directors will be held in Pima County, Arizona.
2. **Definitions.** The definitions in these Bylaws, unless the context requires otherwise, are the same as those set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for Montebella (the "Declaration"), recorded in the Office of the Pima County Recorder in Docket 9769 at Page 667 and as amended from time to time.
3. **Membership in the Association and Voting:**
 - a. Membership. Every Owner of a Lot within Montebella is a Member of the Association and will remain a Member for so long as such ownership continues. The following are not Members: (1) persons or entities who hold an interest in a Lot merely as security for the performance of an obligation, (2) a lessee or tenant of an Owner, (3) a purchaser or vendee under an executory contract of sale which has not "closed" and/or been recorded in the office of the County Recorder, Pima County, Arizona.
 - b. Number of Votes for each Member. Each Owner has one vote for each Lot owned.
 - c. Right to Vote. If a Lot is owned by more than one person and the Owners cannot agree on how to cast their votes, they will not be entitled to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will conclusively be presumed that the Owner was acting with the authority and consent of all other Owners of that Lot, unless an objection is made to the Board, in writing, at or prior to the time the vote or votes are cast. In the event more than one person casts or attempts to cast a vote for a particular Lot all the votes are void.
 - d. Suspension of Voting Rights. The voting rights of any Owner are automatically suspended during any period in which the assessment against the Lot remains unpaid, any other sums due to the Association have not been paid or if the Owner is in violation of the Governing Documents. A Member is "entitled to vote" if his/her voting rights have not been suspended.

- e. Voting.
 - i. Proxy voting is not permitted. The Association will provide for votes to be cast by the members in person and by absentee ballot and may provide for voting by some other form of delivery. Any action taken at an annual or special meeting of the members must comply with all of the following:
 - (1) The absentee ballot must set forth each proposed action.
 - (2) The absentee ballot must give the Member the opportunity to vote for or against each proposed action.
 - (3) The absentee ballot is valid for only one specified election or meeting of the members and expires automatically after the completion of the election or meeting.
 - (4) The absentee ballot must specify the time and date by which the ballot must be delivered to the board of directors in order to be counted, which must be at least seven days after the date that the board delivers the absentee ballot to the member.
 - (5) The absentee ballot cannot authorize another person to cast votes on behalf of the member.
 - ii. Votes cast by absentee ballot or other form of delivery are valid for the purpose of establishing a quorum.
 - iii. No business may be transacted at any meeting of the members, unless it was set forth in the absentee ballot.

4. **Meetings of Members:**

- a. Annual Meetings. The annual meeting of the Members will be held during the month of March of each year at a date and time selected by the Board.
- b. Special Meetings. Special meetings of the Members may be called at any time by the President, by a majority of the Board, or upon the written request of 20% of the Members who are entitled to vote. No business will be transacted at a special meeting except as stated in the notice.
- c. Notice of Meetings. Written notice of any meeting of the Members will be given by, or at the direction of, the secretary, even in the case of a special meeting called by the Members of the Association. The notice must be mailed by first class mail, postage prepaid, at least 15 days before the meeting to all Members of the Association. The notice will be addressed to the address of the Lot, unless the Member has provided written notice of a different mailing address to the Association. The mailing or delivery of the

notice to each Owner will be considered as notice served. This notice will specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

- d. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by absentee ballot of 10% of the Owners constitutes a quorum for the transaction of any business. If a quorum is not present, the Members will adjourn the meeting to another date and time and must send out absentee ballots to the Owners with the notice of the continued meeting. The Members may continue to adjourn the meeting and reset it to another date and time until a quorum is present, so long as notice is provided to the members.
- e. Order of Business. The order of business at all regular annual meetings of the Association will be as follows:
 - i. Roll call
 - ii. Proof of notice of the meeting
 - iii. Review and approval of the minutes of the previous year's annual meeting
 - iv. Report of officers
 - v. Election of Directors
 - vi. Unfinished business
 - vii. New business. No new business that requires the vote of the Members will be transacted at the meeting, unless the action was set forth on the absentee ballot that was mailed to the members prior to the annual meeting. Any motions that are made and seconded at the annual meeting will be tabled until the next annual meeting or until a special meeting can be held to allow for absentee ballots to be sent to all of the members, thereby giving all of the members the right to vote on that action item.

5. Board of Directors; Selection; Term of Office:

- a. Number. The Board will consist of three directors, each of whom must be either a member of the Association, or a person designated by a partnership, Corporation, limited liability company or trust to represent that entity. Only one Owner of a Lot may serve on the Board at any one time. The number of directors may be decreased or increased by a vote of the members of the Board. In the event of any increase in the number of Directors, those positions will be filled by a vote of the Members at the next annual meeting of the Association. If the Board votes to decrease the number of directors, then the positions (or whatever number are being reduced) which are to be filled at the election held at the next annual meeting, will not be filled.

- b. Qualification of Directors. Before a Member is qualified to serve as a director, he/she must be in good standing with the Association. This means that the Member must be current in the payment of any and all sums due to the Association, including, but not limited to any assessments, interest, late charges, attorney fees, court costs and fines or penalties. A Member is also not in good standing if he/she is in violation of the Governing Documents at the time that the nominating committee is soliciting volunteers to run for election to the Board. If a Member is not in good standing then he/she is not eligible for election to the Board.
- c. Term of Directors. The directors will be elected at the annual meeting of the members. The directors elected will serve one-year terms and can be re-elected for subsequent one-year terms.
- d. Removal of Directors. At any regular or special meeting of the Association at which a quorum is present, any member of the board of directors can be removed by the members, with or without cause, by the vote of a majority of the members who are voting. For purposes of the removal of a director, a quorum exists if 20% of the owners are present at the meeting, or have returned an absentee ballot. The procedure for removing directors is as follows:
 - i. A petition signed by the Owners entitled to cast at least 25% of the votes in the Association which requests the removal of a member of the board must be submitted to the Board.
 - ii. Once the petition has been received by the Board, the board must notice a special meeting of the Association. The notice of this special meeting must be given to the Owners at least 10 days before the meeting. Such notice must be either hand-delivered or sent by first class mail to the mailing address for the Owner as reflected in the Association's records. An absentee ballot must be sent with the notice of the special meeting in accordance with the requirements in Paragraph 3.e and each absentee ballot must give the member the right to vote for or against the removal of the named director who is proposed to be removed. The absentee ballot may also set forth the names of person(s) to be elected in the event that the vote is in favor of removal of that director with a place on the absentee ballot to vote for or against the person to fill the vacant position. The names of those to be elected in the event that a director is removed will be chosen by the nominating committee that was formed for the most recent election of directors, or in the event any of those Members are unable or unwilling to serve, by a nominating committee selected by

the Board. No person whose removal has been requested by the requisite number of directors may serve on the nominating committee choosing potential new directors.

- iii. The special meeting must be held within 30 days from receipt of the petition requesting the removal of a director.
- iv. A petition asking for the removal of the same member of the board cannot be submitted more than once during each term of office for that board member.
- e. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by vote of the Owners will be filled by a vote of the majority of the remaining Directors, even though they constitute less than a quorum, and each elected person will fill the unexpired term of the director that he/she replaced.
- f. Compensation. The Board may provide compensation to those serving as Directors of the Association. A Director may also be reimbursed for his/her actual expenses incurred in the performance of his/her duties. Directors will be reimbursed for any out-of-pocket funds used to pay for previously approved services or materials needed in conducting the business of the Association. Nothing contained in this section prohibits a person serving as a director from contracting with the Association to provide services outside of the scope of his/her duties as a director, provided, however, that such services are secured by the Association at the prevailing market rate or lower so as to avoid a conflict of interest by such Director.
- g. Action Without a Meeting. The Directors have the right to take any action in the absence of a meeting which could have been taken at a meeting by obtaining the written approval of **all** the Directors. Such action has the same effect as though taken at a meeting of the Directors.

6. **Nomination and Election of Directors:**

- a. Nomination. After the termination of the Development Period, nomination for election to the Board will be made by a Nominating Committee. The Nominating Committee will consist of a Chair, who must be a Member of the Board, and two or more Members of the Association (who may also be Directors). The Nominating Committee will be appointed by the Board prior to the date of the annual meeting of the Members. The names of those persons who served on the Nominating Committee will be announced at the annual meeting. The Nominating Committee will send a notice to the members soliciting volunteers to run for election to the Board and from those names, the Nominating Committee will make as many nominations for

election to the Board as it may, in its discretion, determine, but not less than the number of vacancies that are to be filled. Nominations must be made from among Members. The nominating committee will count and verify the ballots collected at the regular annual meetings.

- b. Nominations from the Floor. There will not be any nominations from the floor.
- c. Election. Pursuant to Article VI, Section 5 of the Declaration, cumulative voting is permitted. Members are entitled to cast the number of votes as there are directorships to be filled. In the event that there are two or more positions to fill, the Member may cast all of his/her votes for one candidate or may spread the votes among the candidates. For example, if there were three positions to be filled, each Owner would have three votes to cast and could cast three votes for one candidate, one vote for each of the three candidates, or two votes for one candidate and one vote for another candidate. The persons receiving the highest number of votes are elected. If the required number of directors is on the ballot but the requirement number are not elected by the Members, the Board, at its option, may appoint a director to serve until the next annual meeting of the Members, or send out absentee ballots to all of the members with the name(s) of candidates to be elected, without the necessity of calling another annual meeting.

7. **Meetings of Directors:**

- a. Organizational Meeting. The first meeting of a newly elected Board of Directors will be held within 10 days after the election at a place determined by the Directors at the meeting at which the Directors were elected, and no notice is required to be provided to the newly elected Directors to legally constitute such meeting, provided a majority of the whole Board is present.
- b. Regular Meetings. Regular meetings of the Board will be held at least quarterly at a date, place and hour determined by the Board.
- c. Special Meetings. Special Meetings of the Board can be held when called for by the President, or by two Directors, after not less than three days notice to each Director.
- d. Notice of Board Meetings. Board meetings may be called by the President on three days notice to each Director, given personally, by mail, telephone or any electronic manner. The notice will state the date, time, place and purpose of the meeting. Special meetings of the Board can be called by the President or Secretary upon the written request of at least two Directors. A majority of the Directors may waive the three-day notice requirement for calling a special meeting and convene a special meeting on any date, time

and place as agreed upon by a majority of the Directors.

- e. Quorum. A majority of the number of Directors will constitute a quorum for the transaction of business. Any decision made by a majority of the Directors present at a duly held meeting at which a quorum is present is regarded as the act of the Board. Board members may attend Board meetings by telephone or other electronic means. If a quorum is not present at any meeting of the Board, the majority of those present may adjourn the meeting. If a quorum is present at any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.
- f. Attendance of Members at Board Meetings. Any Member of the Association may attend any Board meeting, unless the meeting is a closed meeting of the Board. The Association will provide notice to the Members of the date, time and place of such meeting at least 48 before the scheduled meeting, unless there are exigent circumstances requiring that the meeting be held on less than 48 hours.

8. Powers and Duties of the Board:

- a. Powers. The Board has all of the powers of a Board of an Arizona nonprofit Corporation, subject only to those limitations set forth in the Governing Documents. The Board has the power to do any and all lawful acts which may be authorized by the Governing Documents and any acts which may be necessary or incidental to the exercise of any of the express powers of the Association. In addition to any other powers, the Board has the specific power to:
 - i. adopt and publish rules and regulations governing the use and occupancy of the Lots and the Common Areas and to establish penalties for any infractions of such rules;
 - ii. employ a manager, an independent contractor, or any employees which the Board deems necessary, and to prescribe their duties;
 - iii. enter into contracts, whether written or oral, or contract for services for the Association;
 - iv. declare the office of a member of the Board vacant in the event that Director is absent from three consecutive regular meetings of the Board;
 - v. act as the representative of each Owner for every problem which effects more than one Lot.

- b. Duties. The Board has a duty to:
- i. maintain a complete record of all of its acts and corporate affairs and to prepare an annual operating budget at least thirty days prior to the end of the fiscal year. The budget will include reserves for capital items.
 - ii. supervise all officers, agents and employees of the Association and to see that their duties are properly performed;
 - iii. designate and dismiss all personnel necessary for the maintenance and operation of the common areas.
 - iv. determine the amount of the Annual Assessment against each Lot based upon each Lot 's share of the operating budget, in accordance with the provisions of the Declaration;
 - v. send written notice of the amount of the Annual Assessment to every Owner on or before December 1 of each year for the next year's Annual Assessment;
 - vi. determine all maintenance and repair expenses on the basis of at least three independent bids, whenever possible. The bids will be submitted by reputable licensed contractors or persons in the business of performing such maintenance and repairs. The Board will select the best bid which does not need to be the lowest bid and the Board's decision in this regard will be final and conclusive.
 - vii. assert a lien against any Lot for which assessments are not paid within 30 days after the due date and/or bring an action at law against the Owner personally obligated to pay the assessments;
 - viii. provide, upon a request by any Owner, or his/her agent, a certificate setting forth whether or not any assessment has been paid. The Board may charge a reasonable fee for the issuance of the certificate. If a certificate states that an assessment has been paid, such certificate will be conclusive evidence of such payment;
 - ix. procure and maintain adequate liability and hazard insurance on property owned by the Association, directors and officer's liability insurance and fidelity insurance on officers or employees who have fiscal responsibilities to the Association, in such amounts as the Board deems appropriate;

- x. use any insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance and pay any balance remaining to the Owners and their mortgagees as their interests may appear;
- xi. grant and convey easements, rights-of-way, parcels or strips of land in, on, over or under any common areas for the purpose of constructing, erecting, operating or maintaining (1) roads, streets, walks, pathways and driveways; (2) temporary overhead or permanent underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, telephone, cable television and other purposes; (3) sewers, storm drains and pipes, drainage easements, water systems, water, heating and gas lines or pipes; and (4) such improvements as may be permitted in the Declaration;
- xii. maintain and repair drainage and other easements, private pedestrian walkways, sidewalks, roadway rights-of-way, parking lots, median strips, entry details, walls or other areas not maintained by governmental entities or Owners;
- xiii. obtain or pay for, as the case may be, any other property, or services, which the Board deems necessary including security services for the common areas and facilities;
- xiv. regulate the use and if determined feasible by the Board, provide for appropriate safety measures for all common areas including, but not limited to, private roadways and parking areas;
- xv. construct new improvements or additions to the common areas or demolish or replace existing improvements; provided that in the case of any improvements, additions or demolition involving a special assessment, the Association will obtain the approval of the Owners having two-thirds (2/3rds) of the total vote present, voting either in person or by absentee ballot at an annual or special meeting called for the purpose of approving plans and the maximum total cost of such work to be performed. The Board will levy a special assessment on all Owners for the cost of such work pursuant to these Bylaws and the Declaration;
- xvi. assign parking spaces;
- xvii. utilize water metered to the Lots for watering plants, trees and shrubs in the common area; provided, however, and on the condition that, the Association reimburses Owners on a fair and equitable basis for the

cost of water it uses. The Board's determination of the amount to be paid to the Owners as reimbursement for the use of the water will be final and conclusive;

- xviii. select and employ a Trust Company, Bank, or Professional Management Company, in Tucson, Arizona, to collect and disburse funds of the Association, under such terms and conditions approved by the Board;
- xix. maintain the Common Areas as provided for in the Declaration.
- c. Management. The Board will control, maintain, manage and improve the common property as provided in these Bylaws, the Articles and the Declaration. Such right and power of control and management will be exclusive. In managing the common property, the Association accepts all responsibility for the control, maintenance and liability of such common property.
- d. Taxes. Owners will pay all real estate and personal property taxes which may be assessed against their respective Lots. The Association will pay all taxes levied upon any property conveyed, leased or otherwise transferred to the Association, to the extent not assessed to Owners.
- e. Fidelity Insurance. The Association will purchase and maintain in force, fidelity coverage against dishonest acts on the part of directors, officers, managers, trustees, employees, or volunteers responsible for handling funds belonging to or administered by the Association. Such fidelity insurance will designate the Association as the named insured and will be written in an amount sufficient to provide protection, which is, in no event, less than 1-1/2 times the Association's estimated annual operating expenses and reserves, and must provide for at least 10 days notice to the Association and first mortgagees servicing FNMA owned mortgages before cancellation or substantial modification of the insurance. In connection with such coverage, an appropriate endorsement to the policy will be obtained that covers any persons who serve without compensation will be added, if the policy would not otherwise cover volunteers.
- f. Assessments. The Board will levy and collect assessments pursuant to the provisions of these Bylaws and Article VII of the Declaration. The assessments levied by the Association will be used for the benefit of the members and their guests, for the improvement and maintenance of the common areas and for all purposes set forth in the Articles, Declaration and these Bylaws. The Board the Association may provide that Association dues, charges or assessments may include an adequate reserve fund for maintenance, repairs and replacement of those elements of the common

areas and common property owned by the Association that must be replaced on a periodic basis. All dues, charges and assessments imposed by the Association will be paid on a periodic basis in regular installments rather than by special assessments.

g. Authorized Payments by the Association. The Board has the exclusive authority to make payments out of the Associations' funds for the benefit of each Owner. This authority includes but is not limited to the following:

- i. Water service for the common areas.
- ii. Utility services for the common areas.
- iii. All goods, materials, supplies, labor, services, maintenance, repair, alterations, reconstruction and insurance which the Board is authorized to obtain and pay for pursuant to these Bylaws and the Declaration or which are authorized by the Owners for the convenient operation of the common property.
- iv. Worker's Compensation Insurance to the extent necessary to comply with any applicable laws.
- v. Professional management services, legal, accounting and other services contracted for by the Board if it is deemed necessary by the Board for the operation and maintenance of the common property, protection of any of the common property or in the best interest of the Owners.
- vi. All costs of enforcing the provisions of these Bylaws and the Declaration including attorney fees and court costs, provided that all costs incurred for the enforcement of the provision of these Bylaws and the Declaration against any Owner will be assessed especially against such Owner.

h. Liability of Board Members. No Member of the Board is personally liable to any Member, his/her family, guests, tenants or assigns for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, its representatives or employees provided that such Board Member has, upon the basis of such information as may be possessed by him/her, acted in good faith.

9. **Damage and Destruction:** In the case of damage by fire or other casualty to the common property or exteriors of the Dwellings Units:

a. Destruction; Proceeds Exceed 80% of Reconstruction Costs. If the amount available from the proceeds of the Association's insurance policies for the restoration and repair is at least 80% of the estimated cost of restoration and

repair, a Reconstruction Assessment, with each Owner contributing a like sum, may be levied by the Association to provide the necessary funds for such reconstruction and repair, over and above the amount of any insurance proceeds available for such purposes.

- b. Destruction; Proceeds Less Than 80% of Reconstruction Costs. If the amount available from the proceeds of the Association's insurance policies for such restoration and repair is less than 80% of the estimated cost of restoration and repair, the improvement will not be replaced or restored unless approved by the vote or written consent of 2/3rds of the Members.
- c. Rebuilding Not Authorized; First Mortgagee Approval. Notwithstanding the foregoing, unless at least 51% of the Eligible Mortgage Holders, based on one (1) vote for each Mortgage held, have given their prior written approval, the Association cannot use hazard proceeds for losses to any Common Area for other than the repair, replacement or reconstruction of such improvements.
- d. Open Common Area; First Mortgagee Approval. In the event of a determination not to replace or restore the improvements in the Common Area, and provided that in the event of such determination, the Association obtains the additional written consent of 51% of such Eligible Mortgage Holders, based on one vote for each Mortgage held, the Common Area will be cleared and landscaped for open Common Area to be used by the Owners pursuant to Article IV of the Declaration, and the costs thereof will be paid for with the insurance proceeds, and any deficiency may be raised by imposing a Reconstruction Assessment to be uniformly paid by the Owners. The Reconstruction Assessment will be in an amount determined by the board.
- e. Distribution of Proceeds; Excess proceeds. In the event any excess insurance proceeds remain, the Board will retain such sums in the general funds of the Association. Notwithstanding anything to the contrary contained in this section, the distribution of any insurance proceeds for any damage or destruction to the Common Area will be subject to the prior rights of Mortgagees.
- f. Reconstruction.
 - i. Insurance Proceeds. The insurance proceeds arising out of damages to the common areas will be paid to a bank or trust company designated by the Board, to be held in separate trusts for the benefit of Owners and their mortgagees, as their respective interests may appear. The Board is authorized to enter, on behalf of the Owners, into an agreement with such insurance trustee relating to its powers,

duties and compensation, on terms approved by the Board that are consistent with these provisions.

- ii. Contractor Bids. The Board will obtain firm bids from two (2) or more licensed contractors, to rebuild any portions of the common area in accordance with the original plans and specifications with respect thereto and will, as soon as possible thereafter, select the best bid which need not be the lowest bid.
- iii. Reconstruction Assessment. Upon acceptance of the bid, the Board will impose a Reconstruction Assessment on the Owners to make up any deficiency between the total insurance proceeds and the contract price of repairing or rebuilding the damaged property and such assessment and all insurance proceeds, whether or not subject to the liens of mortgagees, will be paid to the insurance trustee to be used for such rebuilding. If two (2) or more assessments are levied, the Board may allow the Owners to make periodic payments over a period of not to exceed 20 years and the Board may borrow money to pay the deficiency. The Board may secure the loan with an assignment of the Association's right to collect such assessments, or by a pledge of any personal property held by it in trust for the Owners, or by both.

10. Owners' Maintenance Responsibilities:

- a. Owners' Maintain the Lot. The maintenance, repair, upkeep and repainting of Dwelling Units and any other improvements on a Lot are the sole responsibility of each Owner. If any Owner fails to maintain his/her Lot or the exterior of his/her Dwelling Unit or any other improvement on a Lot in a manner in keeping with the general neighborhood, the Association, upon the approval by two-thirds of the votes of the Board, has the right, through its agents or employees, to enter onto the Lot, and repair, maintain and restore the Lot, including the interior sides of the perimeter yard walls or fences, and any improvements erected on the Lot. The cost of such repair and maintenance will be added to and become part of the assessment to which such Lot is subject. The Board, in its sole discretion, has the right to determine whether or not a Lot or the exterior of a Dwelling Unit and any improvements erected on a Lot are in need of maintenance, repair and upkeep in order to conform to the standards of the general neighborhood, and the Board will use a reasonably high standard to determine whether such maintenance, repair and upkeep are required so that the Lots as a whole will reflect a high pride of ownership.
- b. Entry onto the Lot. The Board, its authorized agents and contractors have the right enter, at any reasonable time, upon any exterior portion of any Dwelling Unit for the purpose of carrying out its duties and obligations for

exterior maintenance and landscaping pursuant to the terms of the Declaration.

- c. Damage to Association Property. If any property owned by the Association is damaged or destroyed by an Owner or any of his/her guests, agents or members of his/her family, that Owner irrevocably authorizes the Association to repair the damage, and the Association will repair that damage in a good workmanlike manner in conformance with the original plans and specifications. The Owner will then be required to repay the Association in the amount actually expended for the repairs.
- d. Resolution of Disputes. In the event of a dispute between an Owner and the Board regarding the cause of damage or the extent of repairs necessitated or the cost of such repairs, then upon written request of the Owner delivered to the Association, the matter will be submitted to arbitration under rules adopted by the Board. If no such rules have been adopted, then the matter will be submitted to three arbitrators, one chosen by the Board, one chosen by the Owner and these two arbitrators will choose a third arbitrator. If the two arbitrators cannot agree on the selection of the third arbitrator, then the third arbitrator will be selected by the presiding Judge of the Superior court of Pima County, Arizona. A determination by any two of the three arbitrators is binding upon the Owner and the Association who will equally share the cost of arbitration, unless the arbitrator makes a specific finding that one of the parties should be solely responsible for the costs of arbitration. If one party fails to choose an arbitrator within 10 days after receipt of a request in writing for arbitration from the other party, then the other party has the right and authority to choose both arbitrators.
- e. Charges for Repairs. Each Owner agrees that the charges for repairs as determined in the section must be paid within 10 days after completion of the work and if not paid will become a lien upon the Owner's Lot until paid in full. The amount owed by the Owner to the Association can be collected in the same manner as delinquent assessments under the provisions of Article VIII of the Declaration. Nothing contained in this paragraph relieves any insurance company from the payment of any and all amounts which would be payable under any policy or policies of insurance in effect.
- f. Prompt Repairs. Each Owner must promptly perform all maintenance and repair work within his/her own Lot, which if neglected would affect the entire Montebella subdivision or in part belonging to other Owners. Each Owner is expressly responsible for the damages and liabilities that his/her failure to do may engender.
- g. Payment of Utilities. All the repairs of internal installations in the Dwelling Units, such as water, light, gas, power, sewage, telephones, air conditioners,

heating equipment, roof, doors, windows, lamps and all other internal accessories belonging to that Dwelling Unit will be made at the Owners' expense. In addition, Owners are responsible for all glass surfaces, exterior television antennas, exterior lighting fixtures, common walls as provided for in the Declaration, and landscaping, at their sole expense.

- h. Reimbursement by Owners. Each Owner will reimburse the Association for any expenditures incurred in repairing or replacing any portion or all of the common area and facilities damaged by the Owner, his/her family, tenants and guests, except to the extent covered by insurance.
- i. Structural Alterations. Owners will not, without the written consent of the Board, make any structural alterations in the common areas or facilities or remove any improvements, fixtures or landscaping from such common areas.

11. **Officers and their Duties:**

- a. Enumeration of Offices. The officers of the Association are the president, vice-president, secretary and treasurer, who will at all times be Members of the Board, and such other offices as the Board may from time to time by resolution, create.
- b. Election of Officers. The election of officers will take place at the first meeting of the Board following the annual meeting of the Members.
- c. Term. The officers of the Association will be elected annually by the Board at the organizational meeting following the election of directors at the annual meeting. Officers will hold office for one year unless that officer resigns or is removed or is otherwise disqualified to serve prior to the expiration of the term of office.
- d. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom will hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.
- e. Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. All resignations take effect on the date the notice of resignation is received or at any later date specified in such notice. Unless otherwise specified in the notice, the acceptance of a Director's resignation is not necessary to make it effective.

- f. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy will serve for the remainder of the term of the officer he/she replaces.
- g. Multiple Offices. The office of secretary and treasurer may be held by the same person. No person will simultaneously hold more than one of any other office, except in the case of special offices created pursuant to this Article.
- h. Duties. The duties of the officers are as follows:
 - i. President: The president will preside at all meetings of the Board and the Members; will carry out the orders and resolutions of the Board; will sign all leases, mortgages, deeds and other written instruments and agreements and will cosign all checks and promissory notes. The president has the power to appoint committees from among the Owners from time to time as he/she may in his/her discretion decide are appropriate to assist in the conduct of the affairs of the Association.
 - ii. Vice President: The vice president will act in the place of the president in the event of his/her absence, inability or refusal to act, and will exercise and discharge such other duties as may be required of him/her by the Board. If neither the president nor the vice president is able to act, the Board of Directors will appoint some other member of the Board to do so on an interim basis
 - iii. Secretary: The secretary will record the votes and keep the minutes of all meetings of the Board and Members; provide notice or direct that notice of meetings of the Board and of the Members be mailed in accordance with the provisions of these Bylaws; keep current records of the names and addresses of the Members and perform such other duties as required by the Board.
 - iv. Treasurer: The treasurer will receive and deposit in appropriate bank accounts all monies of the Association and will disburse such funds as directed by resolution of the Board; will sign all checks and promissory notes of the Association; keep proper books of account, cause an annual review of the Association books to be made by an independent committee appointed by the President at the completion of each fiscal year; and with the assistance of the Budget Committee, prepare an annual operating budget and a statement of income and expenditures to be presented to the Members at the annual meeting, and deliver a copy of each to the Members. The treasurer will cause an annual review, compilation or audit of the books of the Association to be performed within 180 days after the end of the association's fiscal year

and will make that audit, review or compilation available upon request to the unit owners within 30 days after its completion.

- i. Delegation of Duties. The officers may delegate their duties to a Property Manager hired by the Board, including the collection of assessments, the purchase of services and goods and the payment of expenses of the Association.

12. Mortgages:

- a. Mortgage Protection. First mortgagees are granted the right to jointly, or singly pay taxes or other charges which are in default and which may or have become a charge against any common areas or other common property owned by the Association, and such first mortgagees may, jointly or singly, pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage when there is a lapse of a policy for such common areas or common property and any first mortgagees making such payments will be entitled to immediate reimbursement from the Association.
- b. Mortgagees' Priorities. Nothing in these Bylaws gives an Owner, or any other party, priority over any rights of a first mortgagee of a Dwelling Unit pursuant to the terms of such first mortgagee's mortgage in the case of a distribution of an Owner's insurance proceeds or condemnation awards for losses to or a taking of common areas or other common property owned by the Association.
- c. Written Notification to Mortgagees. Each first mortgagee will, upon notice to the Association, be entitled to a written notification from the Association of any default in the performance by the Owner of a Lot encumbered by the mortgage in favor of such mortgagee or any obligation under these Bylaws or under the Declaration, Articles of Incorporation, Rules and Regulations of the Association which is not cured within 60 days.
- d. Notice to Association. An Owner who mortgages his/her Lot will notify the Association through the management agent, if any, or the President of the Association in the event there is no management agent, giving the name and address of his/her mortgagee. The Association will maintain such information in a book entitled "Mortgagees of Lots".
- e. Notice of Unpaid Assessments. At the request of a mortgagee of a Lot, the Association will provide information to the mortgagee regarding any unpaid assessments due from an Owner.

- 13. Books and Records:** The Association's books and records are available for inspection by any Member. In accordance with Arizona law, any Member wishing

to review these books and records must provide a written request setting forth the proper purpose for the inspection. Upon receipt of the request, the Member will be entitled to inspect the records during reasonable business hours and to have copies made of any documents, at the Member's expense. The Governing Documents are available for inspection by any Member at the principal office of the Association, where copies may be purchased at a cost of 15 cents per page.

14. **Amendments:** A majority of the Members voting in person or by absentee ballot at any regular or special meeting of the Members may amend the Bylaws.

15. **Miscellaneous.**

a. Fiscal Year. The fiscal year of the Association will begin on the first day of January and end on the last day of December of every year.

b. Conflicts between Documents. In the event of any conflict between the Bylaws, Articles of Incorporation and Declaration, the Declaration will prevail. If there is a conflict between the Bylaws and the Articles of Incorporation, the Articles will prevail.

c. Acts Inconsistent with Declaration. Neither the Association nor the Board nor any agent or employee of the Association is authorized or empowered to take any action inconsistent with the provisions of the above referenced Declaration.

These Bylaws were adopted on _____, 2009 with the approval of the Owners of a majority of the Lots within Montebella.

Montebella Homeowners Association

By: _____

Its: _____

President

Attest:

Secretary