

**BYLAWS  
OF  
ROSE CREEK RANCH  
HOMEOWNERS ASSOCIATION, INC.**

**COPY**

**27 April 2008**

**ARTICLE 1  
GENERAL**

**1.1 Purpose**

The Rose Creek Homeowners Association, Inc., is an Arizona non-profit corporation organized for the purpose of acting as the Association pursuant to a Declaration of Covenants, Conditions and Restrictions for Rose Creek Ranch, a subdivision recorded in the Office of the County Recorder of Gila County, Arizona.

**1.2 Conflict with Declaration**

Should any provision of these Bylaws be inconsistent or conflict with any provision of the Declaration, such provision of the Declaration shall supersede and take precedence over any such provision of these Bylaws.

**1.3 Application of Bylaws**

All present and future Owners, Occupants and their respective licensees, invitees and employees shall be subject to and be bound by all of the provisions of these Bylaws. The act of Ownership or the mere occupancy of a Lot shall establish a conclusive presumption that these Bylaws are accepted, ratified and will be complied with by such Owner or Occupant.

**ARTICLE II  
DEFINITIONS**

- 2.1**            **“Association”** shall mean and refer to the Rose Creek Ranch Homeowners Association, Inc., an Arizona non-profit corporation, its successors and assigns.
- 2.2**            **“Board”** shall mean and refer to the Board of Directors of the Association.
- 2.3**            **“Declarant”** shall mean Rose Creek Ranch LLC
- 2.4**            **“Declaration”** shall mean the Declaration of Covenants, Conditions and Restrictions for Rose Creek Ranch, recorded on

30 April 2008 as Document No. 2008-006075 of the Official Records of the Gila County Recorder, as the same may be amended from time to time.

- 2.5           **“Lot”** shall mean and refer to the numbered parcels of real property within the Rose Creek Ranch subdivision, together with all improvements constructed, or to be constructed, thereon and appurtenances thereto.
- 2.6           **“Majority” or “Majority of Members”** shall mean the Members of the Association holding more than fifty percent (50%) of the votes entitled to be cast with respect to the affairs of the Association.
- 2.7           **“Member”** shall mean an Owner of a Lot. Declarant shall also be a Member as set forth in paragraph 3.6. If a Member is a corporation or partnership, the Member shall be represented by an officer, partner, agent or employee of such Member.
- 2.8           **“Mortgage”** means any recorded, filed or otherwise perfected instrument given in good faith and for valuable consideration which is not a fraudulent conveyance under Arizona law as security for the performance of an obligation, including without limitation, a deed of trust, but shall not include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code. **“Mortgagee”** means a person secured by a Mortgage, including a trustee and beneficiary under a deed of trust, and **“Mortgagor”** means the party executing a Mortgage, including a Trustor under a deed of trust. **“First Mortgage”** means a mortgage which is the first and most senior of all mortgages upon the same property.
- 2.9           **“Occupant”** shall mean a person or persons, other than a Member, in rightful possession of a Lot.
- 2.10          **“Owner”** shall mean or refer to the record owners, whether one or more person or entities, of the fee simple title, whether or not subject to any Mortgage, of any Lot. **“Owner”** shall include a purchaser of a Lot under an agreement for sale within the meaning of Arizona Revised Statutes Section 33-741. **“Owner”** does not include persons or entities, who hold an interest in a Lot merely as security for the performance of an obligation,
- 2.11          **“Person”** shall mean a natural individual, corporation, partnership, trustee or other entity capable of holding title to real property.

- 2.12** “Rules” shall mean the rules and regulations established by the Board from time to time, as amended, for the use of the Common Areas, for easements made for the benefit of the Association, for the use of private roadways within the Rose Creek Ranch subdivision and the access roadways between State Route 288, in and near the Rose Creek Ranch subdivision which are subject to management by the Association.
- 2.13** Other capitalized words and terms used in these Bylaws but not defined herein shall have the same meaning as set forth in the Declaration except where the context requires a different meaning.

### **ARTICLE III MEMBERS**

**3.1 Eligibility.**

The Membership of the Association shall consist of all Owners of Lots in the Rose Creek Ranch subdivision described in Exhibit “A” to the Declaration and shown on the plat attached as Exhibit “B” to the Declaration. Declarant shall also be a Member of the Association for as long as it owns Lots, as set forth in paragraph 3.6 below. Membership in the Association shall be mandatory and no Owner during its ownership of a Lot shall have the right to relinquish or terminate its Membership in the Association.

**3.2 Succession.**

The Membership of an Owner shall terminate when it ceases to be an Owner of a Lot, and its Membership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interest.

**3.3 Annual Meetings.**

The first annual meeting of the Members shall be held within one (1) year from the first close of escrow for the sale of a Lot after the Declaration is recorded, at such hour and such place as may be specified in a written notice of such meeting, and each subsequent regular annual meeting of the Members shall be held each year at such place as may be designated in the written notice of such meeting.

**3.4 Special Meetings.**

Special meetings of the Members may be called at any time by the President or by a majority of the Board, or upon written request of more than one-fourth (1/4) of the Members.

### **3.5 Notice of Meetings.**

Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or Person authorized to call the meetings, by mailing a copy of such notice, postage prepaid, at least ten (10) days prior but not more than fifty (50) days prior to the date of such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books and records of the Association. 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.

### **3.6 Voting.**

The Association shall have two (2) classes of voting Membership:

**Class A:** Class A Members shall be all Owners of Lots with the exception of the Declarant, as such term is defined in the Declaration, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds an interest in any Lot, all such Persons shall be Members. The voting for such Lot shall be exercised as such Persons among themselves determine or, in the absence of such determination, as determined by the Board of Directors, but in no event shall more than one (1) vote be cast, with respect to any Lot. If any Owner or Owners cast a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such Owner or Owners were acting with the authority and consent of all other Owners of the same Lot.

**Class B:** The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned by Declarant. The total votes which a Declarant shall be entitled to cast may be cast in such proportion on any matter as Declarant may determine. Each Class B Membership shall cease and be converted to Class A Membership, without further act or deed, upon the happening of any of the following events:

- (i) Upon the expiration of one hundred twenty (120) days following the first date when the total votes entitled to be cast by the Class A Membership equal or exceed the total votes entitled to be cast by the Class B Membership or
- (ii) Five (5) years after the conveyance of the first Lot to an additional Owner other than Declarant, occurring after the date that the Declaration is recorded.

If any lender to whom Declarant has assigned, or hereafter assigns, as security all or substantially all of its rights under the Declaration succeeds to the interest of such Declarant by virtue of said assignment, the Class B Memberships formerly held by such Declarant shall not be terminated thereby, and such lender shall hold the Class B Memberships on the same terms as such were held by such Declarant.

### **3.7 Quorum.**

The presence of Members or of proxies entitled to cast twenty-five percent (25%) of all the votes of each class of Members shall constitute a quorum. If the required quorum is not present, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than an announcement at the meeting, until a quorum shall be present.

### **3.8 Proxies.**

At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Any proxy shall automatically become null and void upon conveyance of the subject Lot owned by the Member that issued the proxy.

## **ARTICLE IV BOARD OF DIRECTORS**

### **4.1 Number.**

The affairs of this Association shall be managed by a Board of at least three (3) and no more than seven (7) directors (hereinafter "Director"). So long as there is a Class B Membership, the Directors need not be Owners.

### **4.2 Term of Office.**

At the first annual meeting of the Members, all Directors shall be elected for a term of one (1) year. Until such time as the first annual meeting may be held, Declarant shall appoint the initial Board of Directors.

### **4.3 Qualifications**

Except as otherwise provided herein, each Director shall be an Owner or the spouse of an Owner (or if a Member is a corporation, partnership or trust, a Director may be an officer, authorized agent, partner or trustee of such Member). If a Director shall cease to meet such qualification during his/her term, said Director will thereupon cease to be a Director his/her place on the Board shall be

deemed vacant. The requirements of this section shall not apply to Directors elected as a result of any of the votes cast by the Class B Member.

#### **4.4 Removal.**

Any Director may be removed from the Board, with or without cause, by a Majority vote of the Members of the Association at a properly noticed meeting of the Members. In the event of death, resignation or removal of a Director, his/her successor shall be selected by a majority of the remaining members of the Board (or by the remaining Director if there is only one) and shall serve for the unexpired term of his/her predecessor until the next annual meeting of the Members or until such time as the Members may meet specifically to elect by Majority vote a new Director to serve the remaining open term

#### **4.5 Compensation**

No Director shall receive compensation for any service he/she may render to the Association. However, any Director may be reimbursed for his/her actual expenses incurred in the performance of his/her duties as Director, when and if approved by the Board.

#### **4.6 Action Taken Without a Meeting.**

The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

### **ARTICLE V NOMINATION AND ELECTION OF DIRECTORS**

#### **5.1 Nomination.**

Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting by any Member not in default, and any Member may offer to stand for election. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors at least forty-five (45) days prior to each annual meeting and shall serve until such annual meeting has been concluded. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

## **5.2 Election.**

Election to the Board of Directors shall be by secret written ballot or oral vote. Those candidate for election to the Board receiving the greatest percentage of votes cast either in Person or by proxy at the meeting shall be elected.

## **ARTICLE VI MEETINGS OF DIRECTORS**

### **6.1 Regular Meetings.**

Regular meetings of the Board may be held monthly without notice, at such place and hour as may be affixed from time to time by resolution of the Board.

### **6.2 Special Meetings.**

Special meetings of the Board may be held and called by the President of the Association, or by any two (2) Directors, after not less than three (3) days' notice to each Director, or within reasonable time after the presentation to the President of the Association of a petition signed by one-quarter (1/4) of the Class A Members.

### **6.3 Quorum.**

A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

The Board shall have the power to:

- (a) Elect and remove the Officers of the Association;
- (b) Enforce the provisions of the Declaration and Rules;
- (c) Suspend the rights of a Member to vote during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days, for any other infraction of the Declaration, these Bylaws, or published Rules promulgated by the Board.

- (d) Engage the services of an agent or other professionals upon such terms and for such compensation as the Board may approve;
- (e) Make repairs within the individual Lots where such repairs are required for the welfare or safety of other Lot Owners.
- (f) Declare the office of a Member of the Board (unless a Member which was elected by the Class B Member) to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board;
- (g) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Members by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- (h) Open bank accounts on behalf of the Association and designate the signatories thereon;
- (i) Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year and
- (j) In the exercise of its discretion, enforce by legal means the provisions of the Declaration and Rules.

## **ARTICLE VII OFFICERS AND THEIR DUTIES**

### **7.1 Enumeration of Officers**

The officers of the Association (hereinafter "Officers") shall be a President, who shall at all times be a member of the Board of Directors, a Secretary and a Treasurer, and such other Officers as the Board may from time to time provide for by resolution.

### **7.2 Election of Officers.**

The election of Officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members. Until such time as the first annual meeting of the Members may be held to elect Directors and Officers, or an initial Board of Directors is appointed by Declarant, Declarant may appoint the initial Officers.

### **7.3 Term.**

The Officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless such Officer shall sooner resign, or shall be removed or otherwise be disqualified to serve.

### **7.4 Special Appointments.**

The Board may elect such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

### **7.5 Resignation and Removal.**

Any Officer may be removed from office with or without cause, by a majority vote of the members of the Board, except for those Officers elected by Class B Members. Any Officer may resign at any time giving written notice to the Board, the President and Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

### **7.6 Vacancies.**

A vacancy in any office may be filled by appointment by the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the Officer replaced.

### **7.7 Multiple Offices.**

Any two (2) or more offices may be held by the same Person except the offices of President and Secretary.

### **7.8 Duties.**

The duties of the Officers are as follows:

- (a) **President:** The President shall be the Chief Executive Officer of the Association and shall supervise and control all of the business and affairs of the Association. He/she shall, when present, preside at all meetings of the Members and all meetings of the Board of Directors. He/she may sign, with or without any other Officer of the Association as authorized by the Board, deeds, mortgages, bonds, contracts or other instrument which the Board has authorized to be executed, except where the signing and execution

thereof has been expressly denied by a vote of the majority of the Board, or delegated by the Board or by these Bylaws to some other Officer or Agent of the Association or shall be required by law to be otherwise signed or executed. He/she shall have the power to appoint and remove one or more administrative Vice Presidents of the Association and such other assistants to the various elected Officers of the Association as is necessary for the accomplishment of their duties. In general, he/she shall perform all duties incident to the office of the President and such other duties as may be prescribed by the Board.

- (b) **Secretary:** The Secretary shall keep the minutes of all meetings and proceedings of the Board of the Members in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these Bylaws, or as required by law; be custodian of the records and seal of the Association, and see that the seal of the Association is affixed to all documents, when such is duly authorized; keep or cause to be kept under his/her general supervision by a register or transfer agent appointed by the Board, a register of the name and post office address of each Member as furnished by such Member; have general charge of the transfer books of the Association; and, in general, perform all duties incident to the office of the Secretary and such other duties as may be assigned to him/her by the President of the Board.
- (c) **Treasurer:** The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Association; receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all monies in the name of the Association in such banks, trust companies or other depositories as shall be directed by the Board; shall sign all checks and promissory notes of the Association, except in those instances where the Board has delegated the authority to sign checks to a managing agent employed by the Association; shall keep proper books of account; shall cause an annual audit or review of the books of the Association to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Members at the regular annual meeting of the Members, and shall deliver a copy of such to the Members.

## 7.9 Committees.

The Board may appoint an Architectural Committee, or the Board may act in the capacity of the Architectural Committee, as provided in the Declaration. In

addition, the Board shall appoint other committees as the Board may deem appropriate to carry out the purposes of the Association.

### **ARTICLE III BOOKS AND RECORDS**

#### **8.1 Books and Records.**

The books, records and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, and copies may be purchased at reasonable cost from the Association.

### **ARTICLE IX INDEMNIFICATION**

#### **9.1 General.**

To the full extent permitted by Arizona law, the Association shall indemnify and hold harmless each of its Directors and Officers, each member of any committee appointed by the Board, the Board, and Declarant, against any and all liabilities arising out of any acts of the Directors, Officers, Committee Members, Board, or Declarant (including any and all Officers, Directors, owners and employees of Declarant), or arising out of their status as Directors, Officers, committee members, Board, or Declarant, unless any such act is a result of gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses including, by way of illustration but not of limitation, attorney's fees and costs reasonably incurred in connection with the defense of any claim, action or proceeding, whether civil, criminal, administrative or other, in which any such Director, Officer, committee member, Board, Declarant or Director or Officer, owner or employee of any Declarant, may be involved by virtue of such Person having the status of a Director, Officer, committee member, Board, Declarant, or Declarant's Director Officer, owner or employee; provided, however, that such indemnity shall not be operative with respect to any matters to which such Person shall have been finally adjudged in such action or proceeding to be liable for gross negligence or criminal intent in the performance of his/her duties.

## **ARTICLE X AMENDMENTS**

### **10.1 Amendments.**

These Bylaws may be amended, changed or modified at a regular or special meeting of the Board of Directors called for that purpose. These Bylaws may not be amended if such Amendment would be inconsistent with the Declaration or the Articles.

## **ARTICLE XI FINES**

### **11.1 Power to Impose Fines.**

Pursuant to the power granted to the Board by the Declaration, the Board shall have the right to impose reasonable fines against an Owner for a violation of any provision of the Declaration or Rules by the Owner, his family, tenants or guests.

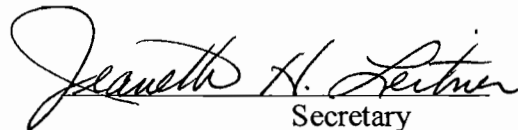
### **11.2 Notice of Violation.**

- (a) The Board may serve a “notice of violation” against an Owner for a violation of any provision of the Declaration or Rules. A notice of violation shall contain:
  - (i) A description of the violation,
  - (ii) The approximate time and place at which the violation was observed,
  - (iii) The amount of the fine to be paid by the Owner for such violation,
  - (iv) The name of the persons issuing the notice of violation, and
  - (v) A statement advising the Owner of the Owner’s rights to request a hearing pursuant to the Bylaws.
  
- (b) A notice of violation shall be deemed to have been served if delivered personally to the Owner named in the notice of violation or sent to the Owner by registered or certified United States mail, return receipt requested, postage prepaid. A notice of violation served by mail shall be deemed to have been received by the Owner to whom the notice was addressed on the earlier of the date the notice was actually received or three days after the notice is deposited in the United States

mail. A notice of violation given by mail shall be addressed to the Owner at the address that the Owner has shown on the records of the Association. If a Lot is owned by more than one person or entity, a notice of violation to one of the joint Owners shall constitute notice to all of the joint Owners.

- (c) The Owner shall pay the fine set forth in the notice of violation to the Association within twenty (20) days after the notice of violation is served on the Owner unless prior to that time the Owner requests a hearing on the violation pursuant to the Bylaws.
- (d) Any Owner served with a notice of violation may request a hearing on the violation. A request for a hearing must be addressed to the Secretary of the Association and must be actually received by the Association within twenty (20) days after the service of the notice of violation. Upon receipt of a request for a hearing pursuant to this section, the President or any other officer of the Association shall schedule a hearing on the violation before the Board and actually notify the Owner requesting the hearing of the date, time and place of the hearing. Any fine which is affirmed by the Board following a hearing shall be paid by the offending Owner within twenty (20) days after the notice of the action of the Board is served upon the Owner. Service of the notice from the Board shall be made in the same manner as service of a notice of violation.
- (e) Any fines imposed pursuant to this Article shall be the joint and several liability of all the joint Owners of a Lot. Any unpaid fines may result in a lien on the associated Lot as such liens are permitted to be established by the Board as set forth in the Declaration.

I hereby certify that the foregoing Bylaws were duly adopted by the Board of Directors of the Association on the 21 day of July 2008.

  
Secretary