



**BYLAWS OF THE TURTLEBACK OWNERS ASSOCIATION, INC.
A NEW MEXICO NONPROFIT CORPORATION**

Date: January 23, 2007

ARTICLE 1

1.1. **Applicability.** These Bylaws provide for governance of the Turtleback Owners Association, a New Mexico nonprofit corporation, ("Association").

1.2. **Definitions.** Capitalized terms used herein without definition shall have the meanings specified for such terms in the Declaration of Restrictive Covenants By Turtleback Development Corporation, filed January 23, 2007, in the records of Sierra County at Reception No. 200700245 ("Declaration").

1.3. **Office.** The office of the Association and the Board shall be located at 120 Stagecoach Drive, Elephant Butte, NM 87935, or at such other place as may be designated from time to time by the Board.

**ARTICLE 2
ASSOCIATION**

2.1. **Purpose.** The Association shall be the entity responsible for ensuring management, maintenance, operation, and control of the Common Easements within the Property. The Association shall be the primary entity responsible for the Declaration and such reasonable rules regulating use of the Common Easements as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in the Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with the Declaration and these Bylaws.

2.2. **Membership.** Ownership of a Lot is required in order to qualify for membership in the Association. Any person, upon acquiring an ownership interest in a Lot, shall automatically become a member of the Association and be subject to these Bylaws. Each Lot shall have one Owner, regardless of the number of persons sharing ownership interest. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

2.3. **Annual Meetings.** Commencing with fiscal year 2009, or with fiscal year 2008 if the Association has at least 30 different Owners, the annual meetings of the Association shall be held between no earlier than 50 and no later than 35 days before the beginning of the fiscal year. At such annual meetings, regardless of whether a quorum is present, the Board shall be elected and (unless a special meeting is called for such purpose) the Association's budget shall be deemed ratified unless it is rejected by a majority vote of those present, in person or by proxy, at the time any such vote taken.

2.4. **Place of Meeting.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board.

2.5. **Special Meetings.** The President shall call a special meeting of the Association if requested by Members who are entitled to vote at least 25% of all the votes of the Association. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice, unless agreed to by more than 50% of the Members present and entitled to vote, either in person or by proxy.

2.6. **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 meeting, by mailing a copy of such notice, postage prepaid, at least 15 days, but not more than 50 days, before such meeting to each Member, addressed to the Member's address last appearing on the books of 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.

2.7. **Voting.** The Association shall have one class of voting Membership. One vote is allocated to each Lot regardless of the number of persons sharing an ownership interest, and such persons may choose among themselves how to allocate their vote and who shall be authorized to cast it. Except as otherwise provided by the Property Act, the Declaration or these Bylaws, a majority vote of those present, in person or by proxy, at the time the vote is taken at a duly convened meeting at which a quorum is present, is required to adopt decisions. No Member may vote at any meeting of the Association or be elected to or serve on the Board if (a) the Association holds a lien against their Lot and (b) the amount necessary to release such lien has not been paid at the time of such meeting or election, as determined by the Board.

2.8. **Electronic Voting.** If the Board should adopt a resolution so providing, the election of Directors may be conducted, in whole or in part, by mail, fax, or e-mail.

2.9. **Proxies.** A vote may be cast in person or by proxy. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such Lot. No proxy shall in any event be valid for a period in excess of 90 days after the execution thereof.

2.10. **Quorum.** In any meeting, the presence, in person or by proxy, of Members entitled to cast 20% of the votes of the Association, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting without notice other than announcement at the meeting, until a quorum shall be represented.

2.11. **Conduct of Meetings.** The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then-current edition of Robert's Rules of Order shall govern the conduct

of all meetings of the Association when not in conflict with the Declaration, these Bylaws or the New Mexico Nonprofit Corporation Act.

ARTICLE 3 BOARD

3.1. **Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors ("Board"). The Board shall be composed of three to five persons, all of whom shall be designees of the Declarant until the earlier of such time as (a) Declarant elects, in its sole discretion, after Declarant is no longer an Owner of 50% of the gross developable land within the Property or (b) Declarant is no longer an Owner of 95% of the gross developable land within the Property. As used in this Article 3, "gross developable land" excludes Common Easements.

3.2. **Term of Office.** Following the period of Declarant control, Board members shall be elected annually by the Members. Directors shall hold office for a term of two years. To ensure consistency on the Board, the Directors terms shall be staggered.

3.3. **Removal.** Any Director may be removed from the Board, for cause, by a majority vote of the Members. In the event of death, resignation or removal of a Director, his or her successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

3.4. **Compensation.** No Director shall receive compensation for their activities as a Director. However, any Director may be reimbursed for their actual expenses incurred in the performance of his or her duties.

3.5. **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 written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

ARTICLE 4 BOARD MEETINGS

4.1 **Regular Meetings.** Regular meetings of the Board of Directors shall be held quarterly at such place and hour as may be fixed from time to time by resolution of the Board.

4.2. **Special Meetings.** Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than seven days notice to each Director. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him or her at the time and place thereof. If all the Directors are present at a meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

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

ARTICLE 5
POWERS AND DUTIES OF THE BOARD

- 5.1. **Powers.** The Board shall have all powers provided by New Mexico Non-Profit Corporation Act, and also shall have power to:
- a. Adopt and publish rules and regulations;
 - b. Suspend the voting rights and right of a Member to use the Common Easements 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 60 days for violation of published rules and regulations;
 - c. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
 - d. Declare the office of a Director to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board;
 - e. Prepare a detailed line item budget on at least an annual basis for submission to and approval by the membership at either the annual meeting or at any special meeting specifically called for budget approval. The Board has authority to operate the affairs of the Association within the limits of the budget as provided in the Declaration. The Board does not have the authority to exceed the approved budget by more than 10% without the submission of a revised budget for adoption by a majority of the membership at a special meeting called specifically for that purpose;
 - f. Employ a Managing Agent (as independent contractor) or such other contractor or employees as they deem necessary, and/or appoint Member committees as they deem necessary, and to prescribe their duties;
 - g. Assure exterior maintenance of individual Structures and Lots. In the event an Owner shall fail to maintain the exterior of the buildings or any other improvements situated on their Lot in an aesthetic manner, in a safe manner, or in a manner that prevents the waste or misuse of water, the Association, after approval by a majority vote of the Board, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall become a special assessment to which such Lot is subject;
 - h. Fix and determine the amount of the annual assessment, establish reserves and determine capital assessments, all within the conditions described herein and in the Declaration;
 - i. Collect or cause to be collected assessments as provided herein and in the Declaration;
 - j. Establish fines, late fees, rate of interest, and the method by which interest shall be calculated;

- k. File all required governmental reports;
- l. Open bank accounts on behalf of the Association and designate the signatories thereon.

5.2. **Duties.** It shall be the duty of the Board to:

- a. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at any meeting when such statement is requested in writing by 25% of the Members who are entitled to vote;
- b. Perform all duties required by law, and supervise all Officers, agents and employees of the Association; and to see that their duties are properly performed;
- c. Fix the amount of the annual assessment against each Lot, as provided for and approved by the budget process stated herein and in the Declaration;
- d. Send written notice of each assessment to every Owner subject thereto, as provided for and approved by the budget process stated herein and in the Declaration;
- e. Foreclose the lien against any property for which assessments are not paid on a timely basis or to bring an action at law against the Owner personally obligated to pay the same. The lien shall be for the entire unpaid amount of the annual assessment, together with interest, notwithstanding that periodic payments may have been established for the convenience of the Members;
- f. Issue, upon request by any Member, a certificate setting forth whether or not any assessment has been paid on said Members Lot. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- g. Cause all Officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- h. Cause the Common Easements, including monumentation and landscaping along Turtleback Mountain Parkway, to be maintained to Peer Standards;
- i. Cause the exterior of all Structures to be maintained to comply with the Declaration;
- j. Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- k. Negotiate contracts for master insurance policies for the Common Easements as needed, and provide, in its discretion, liability insurance on the acts of Directors and Officers in connection with the Association's duties and activities;
- l. Cause all bills of the Association to be paid from assessment funds in a timely manner; and

- m. Delegate to one of its Directors, or to a person employed for such purpose, the authority to act on behalf of the Board on such matters relating to the duties of the Managing Agent.

5.3. **Managing Agent.** The Board may employ for the Association and Property a "Managing Agent" at compensation established by the Board and may delegate day-to-day operating responsibilities to the Managing Agent pursuant to a managerial contract.

ARTICLE 6 OFFICERS

6.1. **Officers.** The Officers of this Association shall be a president, a vice president, a secretary, and a treasurer, and such other Officers as the Board may create by resolution. The vice president may also be the secretary or treasurer.

6.2. **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. The President shall be a member of the Board of Directors. Any other officers may, but need not, be Members or Directors.

6.3. **Term.** The Officers of the Association shall be elected annually by the Board and each shall hold office for two years unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

6.4. **Removal and Vacancy.** Any Officer may be removed from office with cause by the Board. Any Officer may resign at any time giving written notice to the Board, the president or the 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. 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 office he or she replaces.

6.5. **Powers and Duties.** The duties of the Officers are as follows:

- a. The president shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; and shall sign all leases, mortgages, deeds, promissory notes and other written instruments.
- b. The vice president shall act in the place and stead of the president in the event of his or her absence, inability or refusal to act.
- c. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members and their addresses, and shall perform such other duties as required by the Board. These duties may be assigned to the Managing Agent with the Board's approval provided the secretary shall retain oversight and authority for all assigned duties.
- d. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and other daily operating documents of the Association; keep proper books of account; shall prepare an annual budget and a statement of income

and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the Members; and shall perform such other duties as required by the Board. These duties may be assigned to the Managing Agent with the Board's approval provided the treasurer shall retain oversight and authority for all assigned duties.

ARTICLE 7 ARCHITECTURAL REVIEW COMMITTEE

7.1 **Number and Qualification.** The Board shall appoint at least one Architectural Review Committee ("Committee") composed of at least three persons. Committee members need not be Owners.

7.2. **Term.** Appointed Committee members serve at the pleasure of the Board.

7.3. **Compensation.** The Board, in its discretion, may determine appropriate compensation for Committee members, which may be paid by design review fees, as a Common Expense, or both. Appointed Committee members may be reimbursed for actual expenses incurred in the performance of their duties.

7.4 **Duties.** The Committee shall implement the Turtleback Mountain Resort Design Guidelines which include, but are not limited to, the Architectural Guidelines, Landscaping Guidelines, Design Review Process, and Construction Regulations.

ARTICLE 8 INDEMNIFICATION AND NON-LIABILITY

8.1 **Liability of Directors, Officers, Members and Association.** To the extent allowed by law, the Directors and Officers shall not be liable to the Association for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. To the extent allowed by the New Mexico Nonprofit Corporation Act, the Association hereby indemnifies and holds harmless and agrees to defend each of the Directors and Officers from and against all contractual liability to others arising out of contracts made by the Directors and Officers on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the New Mexico Nonprofit Corporation Act, the Declaration or these Bylaws. Directors and Officers shall have no personal liability with respect to any contract made by them on behalf of the Association. Every agreement made by the Officers, the Board or the Managing Agent on behalf of the Association shall, if obtainable, provide that the Officers, Directors or the manager are acting only as agents for the Association and shall have no personal liability thereunder (except as Members), and that each Member's liability thereunder shall be limited to the percentage such Member's vote(s) bear in proportion to the total number of the votes of the Association.

8.2. **Association Liability.** The Association shall not be liable for any failure of utility or other service to be obtained by the Association or paid for as a Common Expense. Except to the extent of insurance for same, the Association shall not be liable for injury or damage to any person or property caused by the elements, another Member, by any other person, or resulting from electricity, water, snow or ice which may leak or flow from or across any portion of the Common Easements, or from any pipe, drain, conduit, appliance or equipment. The Association shall not be liable to any Member for loss or damage, by theft or otherwise, of articles or property which may be stored upon any of the Common Easements. No diminution or abatement of any assessment, as herein or elsewhere provided, shall be

claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Easements or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any municipal or other governmental authority.

8.3. Common or Interested Directors. Each Director shall exercise his powers and duties in good faith and with a view of the interests of the Association and the Property. No contract or other transaction between the Association and any of its Directors, or between the Association and any corporation, firm or association (including the Declarant) in which any of the Directors of the Association are Directors or Officers or are pecuniarily or otherwise interested is either void or voidable because any such Director is present at the meeting of the Board or any committee thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if the common Directorate or interest is disclosed and the contract or transaction is commercially reasonable to the approving body at the time it is authorized, ratified, approved or executed. Any common or interested Director may be counted in determining the presence of a quorum of any meeting of the Board or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if such Director were not such Director or Officer of such Association or not so interested.

8.4 Committee Actions. Neither the Declarant, the Association, its Officers and Directors, the Committee, nor any individual member thereof shall be liable in damages to anyone submitting a request to the Committee (including any appeal to the Board arising from such a request), to any Owner, or to anyone claiming through any Owner for any damage, loss, or prejudice suffered or claimed on account of:

- a. The approval, conditioned approval, failure to approve, or disapproval of any plans, requested variance, or appeal, whether or not defective. The Committee may take any action with regard to plans, variances, and appeals as authorized the Design Review Process.
- b. The construction or performance of any work, whether or not pursuant to approved plans or in conformance with a requested variance. In reviewing plans, requested variances, and appeals, the Committee considers only aesthetic matters reflected therein, and not the structural adequacy, advisability or safety of any matter contained therein. The Committee shall not be responsible for any defects in said plans, requested variance, or appeal, or any Structure or Improvement whether or not completed according to the plans.
- c. The development or manner of development of any Lot or portion thereof within the Property.
- d. Delay, so long as the Committee has acted within the timeframes specified in these Bylaws, the Declarations and the Design Guidelines, or as may have been extended by mutual written agreement of the Committee and the submitting Owner, or as may be reasonably necessary due to acts of force-majeure.
- e. Mistake in judgment, negligence or nonfeasance of itself, its agents or employees, arising out of or in connection with the approval, conditioned approval, failure to approve, or disapproval of any plans, requested variance, or appeal.

Pursuant to the Declaration, by the acquisition of title to any Lot in the Property, and in consideration thereof, each Owner thereby has agreed not to file suit against the Declarant, the Association, its Officers and Directors, the Committee, nor any individual member thereof, to recover damages in connection with any of the foregoing events. Anyone submitting plans, a request for a variance or an appeal to the Committee for approval has for himself, and his successors and assigns, by the submitting of the same, waived all claims for damages resulting from any of the foregoing acts or omissions. Without in any way limiting the generality of the foregoing, the Declarant, the Association, its Officers and Directors, the Committee, or any individual member thereof may consult with or hear, on an individual basis, any Owner or agent of the Owner with respect to any plans, requested variance, or appeal submitted to it.

ARTICLE 9 BOOKS AND RECORDS

9.1 **Inspection.** The books, records, and papers of the Association shall be subject to inspection by any Member, during reasonable business hours, and upon reasonable notice to the Association, and upon such reasonable conditions as the Board may impose.

ARTICLE 10 ASSESSMENTS

10.1 **Covenant to Pay.** By the Declaration, each Member is deemed to covenant and agree to pay to the Association all annual assessments, including reserves and capital improvement costs, which shall be due and payable and such special and/or additional assessments as are allowed by the Declaration and these Bylaws.

10.2 **Consensual Lien for Non-Payment.** The annual, special and additional assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

10.3 **Annual Assessments.**

- a. Each Lot shall be allocated an equal share of the Common Expenses, regardless of the purchase price, size or location of the Lot. The initial assessment against each Lot shall be the sum of Seventy-Five Dollars (\$75.00) per month. Upon completion of a House or other habitable Structure on a Lot, an additional assessment of Twenty Five Dollars (\$25.00) per month shall commence, for that Lot, for the provision of high speed internet service to the Lot. At the Lot Owner's discretion, the additional assessment amount can be applied towards any service then being provided to owners in Turtleback Mountain Resort by Orange Broadband or its successors. During the period of Declarant Control, all assessments shall be payable directly to the Declarant, and the Declarant shall pay any deficit for Common Expenses.
- b. At least 80 days before the beginning of each fiscal year, the Board shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Easements, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be

Common Expenses by this Declaration, the Association's Bylaws or a resolution of the Board of Directors and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Common Easements and the rendering to the Owners of all contracted services, including solid waste disposal. Such budget may also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements ("Common Expenses"). No later than 65 days before the beginning of the fiscal year, the Board shall send to each Owner a copy of the budget in a reasonably itemized form which sets forth the amount of the Common Expenses, including reserves and any additional assessments payable by each Owner. Unless a majority of the Members present or voting by proxy at the annual meeting or at a special meeting called for the purpose of considering the budget reject the budget, the budget shall be deemed ratified, whether or not a quorum is present. The date for any special meeting would be set not less than fourteen (14) days or more than thirty (30) days after mailing to the owners the copy of the proposed budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Members shall continue until such time as the Members ratify a subsequent budget proposed by the Board of Directors.

10.4 Special Assessments. Special assessments include emergency and unanticipated costs that were not included in the Association's budget, but which should be borne equally by all Owners in the same manner as annual assessments. Special assessments also shall include fines imposed by the Association for violation of this Declaration, the Association's Bylaws, the Design Guidelines or any rules established by the Association, as well as costs incurred by the Association under Article 5 of the Declaration, and any such special assessment shall be borne exclusively by the Owner or Owners incurring the same. Special assessments may be established at any regular or special meeting of the Board, provided that no lien shall attach to any Lot relating to any unpaid special assessment until the earlier of 60 days after receipt of notice of the special assessment by the Lot Owner or 5 days after any special meeting of the Association called for the purpose of discussing the special assessment.

10.5 Fines. The Board shall establish a policy regarding fines imposed by the Association for violation of the Declaration, the Bylaws, the Design Guidelines, or any rules established by the Association, as well as costs incurred by the Association under Article 5 of the Declaration. The policy shall include the amounts that will be charged, may identify different categories of violations (if any), and may identify the procedure by which the Board will process alleged violations. The policy shall be made part of the Rules & Regulations of the Association.

ARTICLE 11 THE SIERRA DEL RIO GOLF COURSE

11.1 Proximity to the Sierra del Rio Golf Course. The Property is situated adjacent to and around the Sierra del Rio Golf Course. Activities taking place on the Golf Course may result in (a) accident, loss, damage, injury, or death ("Harm") to persons, pets, personal property, and real property located in Turtleback Mountain Resort or (b) trespass or nuisance, including but not limited to golfers, golf carts and/or golf balls entering the property.

11.2 Mutual Covenants Among Association Members. By the acquisition of title to any Lot in the Property, and in consideration thereof, such Lot being in proximity to the Sierra del Rio Golf Course, EACH MEMBER HAS ACKNOWLEDGED THE POTENTIAL FOR HARM ARISING FROM ACTIVITIES TAKING PLACE ON THE SIERRA DEL RIO GOLF COURSE AS A RESULT OF THE PROXIMITY TO THE SIERRA DEL RIO GOLF COURSE, and has been deemed to covenant that:

- a. Neither the Declarant nor the Association nor Turtleback Mountain Partners nor the Sierra del Rio Golf Course shall be responsible for nor have any liability for Harm to persons, pets, personal property, or real property located on the Property, where such Harm or alleged Harm arises from activities taking place on the Sierra del Rio Golf Course.
- b. Neither the Declarant nor the Association nor Turtleback Mountain Partners nor the Sierra del Rio Golf Course shall be responsible for trespass or nuisance caused by activities taking place on the Sierra del Rio Golf Course, including but not limited to golfers, golf carts and/or golf balls entering any Lot.
- c. Each Member shall be solely responsible for the Member's personal safety, as well as the safety of the Member's family, guests, invitees, tenants, pets, personal property, and real property, and to take every precaution to provide for such safety and well-being.
- d. Each Member releases the Declarant, the Association, Turtleback Mountain Partners and the Sierra del Rio Golf Course from any claim of Harm, trespass, or nuisance arising from activities taking place on the Sierra del Rio Golf Course, agrees to not sue or otherwise make any claim against Declarant, Association, Turtleback Mountain Partners or Sierra del Rio Golf Course for the same, and to waive all claims for damages resulting from any such actual or perceived Harm, trespass or nuisance.
- e. Each Member agrees, to the extent not disallowed by statute, to indemnify the Declarant, the Association, Turtleback Mountain Partners and the Sierra del Rio Golf Course from claims of Harm, trespass, or nuisance arising from activities taking place on the Sierra del Rio Golf Course where such claims are raised by the Member's guests, invitees or tenants

ARTICLE 12 AMENDMENTS

12.1 Amendment. These Bylaws may be amended by the Declarant during the period of Declarant control or, following Declarant control, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members, present in person or by proxy. Provided however, that the power to amend aforesaid shall not authorize any amendment:

- a. Permitting the sale, conveyance, lease, transfer, mortgage, pledge, granting of any deed of trust, or hypothecation of the Common Easements to any entity besides a governmental entity or a utility service provider, provided however, that nothing in this paragraph shall limit the Declarant's rights pursuant to Article 6 of the Declaration, or
- b. Altering the right of each Lot Owner to membership in the Association with rights appurtenant thereto, or

- c. Causing these Bylaws to be inconsistent with the Declaration.

**ARTICLE 13
MISCELLANEOUS**

13.1 Member Address for Purposes of Notice. A Member's address shall appear on the books of the Association for the purpose of notice to the Member. A Member may change this address by providing written notice to the Association, which shall become effective thirty (30) days after receipt by the Association.

13.2. Conflict Among Documents. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

In witness whereof, these Bylaws have been executed and attested by the President and the Secretary on behalf of the Association, this 23rd day of January, 2007.

**TURTLEBACK OWNERS ASSOCIATION, INC.
A NEW MEXICO NONPROFIT CORPORATION**

By: _____
Sheila A. Stagner, as Secretary

By: _____
Jack L. Whitt, as President

COPY

**SUBMIT ORIGINAL AND A COPY
TYPE OR PRINT LEGIBLY**

**Nonprofit Corporation
ARTICLES OF INCORPORATION**

The undersigned, acting as incorporator(s) to form a corporation under the New Mexico Nonprofit Corporation Act, adopt the following Articles of Incorporation:

ARTICLE ONE: The name of the Corporation is: Turtleback Owners Association, Inc.

ARTICLE TWO: The period of duration is: perpetual

ARTICLE THREE: The purpose for which the corporation is organized is: Homeowners Association

ARTICLE FOUR:

(1) The New Mexico street address of the corporation's initial registered office is: Suite 1700, 201 Third St., NW, Albuquerque, NM 87102

(P.O. Box is not acceptable. Provide a description of the geographical location if a street address does not exist)

(2) The name of the initial registered agent at the address of the initial registered office is: Michelle Henrie

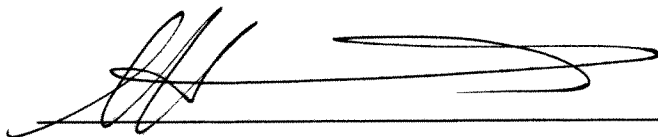
ARTICLE FIVE: The names and addresses of the initial board of directors are: *(minimum number of directors required is three) (attach schedule if needed)*

NAME	ADDRESS
Russell Whitt	P.O. Box 990, Elephant Butte, NM 87935
Jack Whitt	P.O. Box 990, Elephant Butte, NM 87935
Sheila Stagner	P.O. Box 990, Elephant Butte, NM 87935

ARTICLE SIX: The name and address of each incorporator is: *(attach schedule if needed)*

NAME	ADDRESS
Michelle Henrie	201 Third St. NW, Ste. 1700, Albuquerque, NM 87102

Dated: 11/8/06



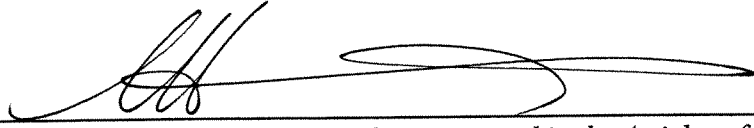
Signature of Incorporator(s)
(each person named in Article Six must sign)

STATEMENT OF ACCEPTANCE OF APPOINTMENT
BY DESIGNATED INITIAL REGISTERED AGENT

I, Michelle Henrie,

hereby acknowledge that the undersigned individual or corporation accepts appointment
as Initial Registered Agent of Turtleback Owners Association, Inc.,

the corporation which is named in the annexed Articles of Incorporation.



*(Sign on this line if the registered agent named in the Articles of Incorporation is an individual.
If this line is signed, the two lines below do not apply and must be left blank.)*

.....
CORPORATION ACTING AS A REGISTERED AGENT ONLY

(If the following lines are used, the signature line above does not apply and must be left blank)

*(If the registered agent named in the Articles of Incorporation is a corporation, type or print the name
of that corporation here.)*

By _____
(An authorized officer of the corporation being appointed as registered agent must sign here)



OFFICE OF THE
PUBLIC REGULATION COMMISSION

CERTIFICATE OF INCORPORATION

OF

TURTLEBACK OWNERS ASSOCIATION, INC.

2804961

The Public Regulation Commission certifies that the Articles of Incorporation, duly signed and verified pursuant to the provisions of the
NONPROFIT CORPORATION ACT
(53-8-1 to 53-8-99 NMSA 1978)
have been received by it & are found to conform to law.

Accordingly, by virtue of the authority vested in it by law, the Public Regulation Commission issues this Certificate of Incorporation & attaches hereto, a duplicate of the Articles of Incorporation.

Dated: NOVEMBER 14, 2006

In testimony whereof, the Public Regulation of the State of New Mexico has caused this certificate to be signed by its Chairman and the seal of said Commission to affixed at the City of Santa Fe.

Chairman

Bureau Chief