

**BYLAWS OF THE ELKHORN RIDGE GOLF ESTATES
HOMEOWNERS ASSOCIATION, INC.**

Revised - September 7, 2022

**ARTICLE I
OFFICES AND DEFINITIONS**

The principal office of the Corporation (Association) shall be located at 6835 Saint Onge Road, Spearfish, SD. The Board of Directors shall have the power and authority to establish and maintain a branch or subordinate office at any other location within or without the State of South Dakota.

Hereafter, "Association" shall refer to the The Elkhorn Ridge Golf Estates Homeowners Association, INC and the Corporation so established; "Covenants" shall refer to The Declaration of Restrictions Easements and Covenants to Run with the Land for land as recorded as Doc. No. 2010-01497 on April 1, 2010 in the Lawrence County Register of Deed's Office and any Amendments to the Covenants as they may, from time to time, be amended; and, "Declarant" shall refer to ELKHORN RIDGE @ FRAWLEY RANCHES, LLC.

**ARTICLE II
MEMBERS**

SECTION 1. ANNUAL MEETING OF MEMBERS.

The annual meeting of the members (Annual Meeting) shall be held on a day and time in October or November of each year and at such place as specified by the Board of Directors.

SECTION 2. SPECIAL MEETINGS.

Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Board of Directors.

SECTION 3. PLACE OF MEETING.

The Board of Directors may designate any place within the State of South Dakota as the place of meeting for the Annual Meeting or for any special meeting called by the Board of Directors.

SECTION 4. NOTICE OF MEETING.

Written notice stating the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall, unless otherwise prescribed by statute, be delivered not less than ten or more than 30 days before the date of the meeting, either personally or by mail, by or at the direction of the President to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the books of the Association, with postage thereon prepaid.

SECTION 5. CLOSING OF BOOKS OR FIXING OF RECORD DATE.

For the purpose of determining members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or in order to make a determination of member for any other proper purpose, the Board of Directors of the Association may provide that the books shall be closed for a stated period but not to exceed, in any case, 30 days. If the books shall be closed for the purpose of determining members entitled to notice of or to vote at a meeting of members, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing the books, the

Board of Directors may fix in advance a date as the record date for any such determination of members, such date in any case to be not more than 30 days, and, in case of a meeting of members, not less than ten days prior to the date on which the particular action, requiring such determination of members, is to be taken. If the books are not closed and no record date is fixed for the determination of members entitled to notice of or to vote at the meeting of members the date on which notice of the meeting is mailed shall be the record date for such determination of members. When a determination of members entitled to vote at any meeting of members has been made as provided in this section, such determination shall apply to any adjournment thereof.

SECTION 6. VOTING RECORD.

The officer or agent having charge of the books for members of the Association shall make a complete record of the members entitled to vote at each meeting of members or any adjournment thereof, arranged in alphabetical order, with the address of each. Such record shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting for the purposes thereof.

SECTION 7. QUORUM.

A majority of the members of the Association entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of members. If less than a majority of the members are represented at a meeting, a majority of the members so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum. The rights and privileges defined in the Covenants Section 4.2 and Section 10.1.i shall apply to the determination of a quorum until such time as the Preferred Member status is relinquished in writing.

SECTION 8. PROXIES.

At all meetings of members, a member may vote in person or by proxy executed in writing by the member or by the duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Association or other person designated by the Board of Directors, before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of execution, unless otherwise provided in the proxy.

SECTION 9. VOTING.

Members, as that term is defined in the Articles of Incorporation, shall be entitled to one vote for each Lot or Parcel, as those terms are defined in the Covenants in which they hold the interest required for membership. In the case of joint ownership of an individual Lot or Parcel, only one vote per individual Lot or Parcel shall be allowed. Notwithstanding anything to the contrary, the Declarant referenced above shall be a permanent member of the Association and entitled to the privileges as such membership including the right to vote pursuant to the Covenants Section 4.2 and Section 10.1.i. Declarant, in its sole discretion and in the manner prescribed in the Covenants Section 10.1.i, may elect to relinquish its status as a member or Preferred Member of the Association at any time and without further obligation to the Association.

ARTICLE III
BOARD OF DIRECTORS

SECTION 1. GENERAL POWERS.

The affairs of the Association shall be managed by its Board of Directors.

SECTION 2. NUMBER, TENURE, AND QUALIFICATIONS.

- A. The Board of Directors shall consist of five people, four to be elected by the regular members and the fifth to be appointed by the Declarant as provided in the Covenants. At such time as Declarant, shall relinquish its status as a Preferred Member as defined in the Covenants Section 10.1.i, the power to appoint a member to the Board of Directors shall cease and any director so appointed shall serve out the remainder of his term. Thereafter, such position shall be filled by a vote of the membership.
- B. Board members elected by the membership may serve two (2) consecutive terms of three (3) years and may be eligible for election again after one (1) year. However, in the event there are not sufficient members to serve as Board members without violating the two (2) consecutive term limitation, the same may be waived until there are sufficient members available to serve as members of the Board of Directors. The appointment of the Declarant referred to in subsection A. above shall not be subject to the two consecutive term limitation for such period of time as the Declarant shall be entitled to appoint a member to the Board in accordance with subsection A. above.

SECTION 3. REGULAR MEETING.

Regular meeting of the Board of Directors shall be at least one (1) per calendar year with notice to be given.

SECTION 4. SPECIAL MEETINGS.

Special meetings of the Board of Directors may be called by any two (2) Directors. The persons authorized to call special meetings of the Board of Directors may fix any place within Lawrence County, South Dakota for holding any special meeting of the Board of Directors called by them.

SECTION 5. NOTICE.

Notice of any special meeting shall be given at least ten (10) days prior thereto by written notice delivered personally or mailed to each Director at his business address, or by telegram or email.

If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed, with postage thereon prepaid. If notice be given by email or FAX, such notice shall be deemed to be delivered when the email or FAX is delivered. Any Director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Business to be transacted at and the purpose of any regular or special meeting must be specified in the notice and only those items may be acted upon.

SECTION 6. QUORUM.

Three (3) Directors, provided at least one (1) of them shall be the Director appointed by the Declarant, shall constitute a quorum for the transaction of business at Directors meetings.

SECTION 7. MANNER OF ACTING.

The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. No individual Board member may make any public statement(s) without specific authorization from the Board.

SECTION 8. ACTION WITHOUT A MEETING.

Pursuant to SDCL 47-23-6, any action required or permitted to be taken by the Board of Directors at a meeting may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all the Directors entitled to vote with respect to the subject matter thereof.

SECTION 9. VACANCIES.

Any vacancy occurring at the Board of Directors may be filled by an affirmative vote of remaining Directors through less than a quorum of the Board of Directors. Such appointee will hold office until the next membership meeting at which time an election will be held.

SECTION 10. PRESUMPTION OF ASSENT.

A Director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

ARTICLE IV **OFFICERS**

SECTION 1. NUMBERS.

The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors.

SECTION 2. ELECTION AND TERM OF OFFICE.

The officers of the Association to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after the Annual Meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently possible. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he resigns or shall have been removed in the manner hereinafter provided.

SECTION 3. REMOVAL.

Any officer or agent may be removed by the Board of Directors whenever in its judgment for the best interests of the Association will be served thereby. Election or appointment of officer or agent shall not of itself create contract rights.

SECTION 4. VACANCIES.

A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

SECTION 5. THE PRESIDENT.

The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business end affairs of the Association. He shall, when present, preside at all meetings of the members and of the Board of Directors. He may sign, with the Secretary or any other proper officer of the Association thereunto authorized by the Board of Directors, deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors 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; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 6. THE VICE PRESIDENT.

In absence of the President or in the event of his death, inability or refusal to act, the Vice President shall perform the duties of the President and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

SECTION 7. THE SECRETARY.

- A. Keep the minutes of the proceedings of the members and of the Board of Directors in one or more books provided for that purpose;
- B. See that all of the notices are duly given in accordance with the provisions of these Bylaws or as required by law;
- C. Be custodian of the corporate records and of the seal of the Association and see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association;
- D. Keep a register of the post office address of each member which shall be furnished by such member;
- E. Have general charge of the books of the Association; and
- F. In general, perform all duties incident to the office and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

SECTION 8. THE TREASURER.

- A. Have charge and custody of and be responsible for all funds and securities of the Association;
- B. Receive and give receipts for moneys in the name of the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article V of these Bylaws; and
- C. In general, perform all duties incident to the office and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

SECTION 9. SALARIES.

No salaries shall be paid to the officers.

SECTION 10. COMMITTEES.

The only standing Committee of the Association shall be the Architectural Review Committee (ARC). The Board of Directors may create from time to time such other committees as they shall deem necessary to conduct the affairs of the Association. Unless otherwise provided herein, each standing committee shall consist of a chairman and two (2) or more members as determined by the Board, at

least one (1) of whom shall be a Director. Each committee member shall be initially appointed by the Board of Directors and require re-appointment annually by subsequent Boards.

The ARC shall be responsible for reviewing all plans for construction within the Elkhorn Ridge Golf Estates to ensure compliance with the provisions of the Covenants and to advise the Board of Directors on the same. All non-complying architectural matters shall be reviewed, included in and made a part of the approval process whenever requests are submitted for architectural improvements or modifications. The ARC shall have the authority to prepare an Architectural Standards Manual, review and approve or disapprove variances, assess fines for non compliance with standards and regulations adopted by the ARC or the Association. No member of the ARC may be concurrently a Director. The Board of Directors shall be the ultimate arbiter of the compliance of such plans with the requirements of the said Covenants.

Other committees may be formed based upon special needs identified by the membership or directors. Committees will operate under policies established by the Board of Directors and will make no public statements regarding the Association without specific authorization from the Board of Directors or the membership.

ARTICLE V

CONTRACTS, DEPOSITS AND BOOKS AND RECORDS

SECTION 1. CONTRACTS.

The Board of Directors may authorize any Director, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

SECTION 2. DEPOSITS.

All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

SECTION 3. BOOKS AND RECORDS.

The Board of Directors shall direct a designated Director to report to the State of South Dakota. Reports shall be on forms prescribed and furnished by the Secretary of State of the State of South Dakota and the information contained therein shall be given as of the date of the execution of the report. Reports shall be executed for the Association by the President of the Board of Directors.

The Association shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors and shall keep at its registered office or principal office a record of the names and addresses of its members.

ARTICLE VI

ASSESSMENTS

SECTION 1. ANNUAL ASSESSMENT.

The Board of Directors shall establish an annual assessment for maintenance, insurance, and general association business at the first meeting of the Board of Directors following the Annual Meeting. Said assessment shall be based upon an "Annual Budget" prepared by the Board of Directors; and, presented to and approved by the membership at the Annual Meeting. If no Annual Budget is approved at the Annual Meeting, the annual assessment established by the Board of Directors immediately following the Annual Meeting may not exceed the annual assessment of the prior year.

A notice of assessment shall be sent to each member. Payment terms shall be specified in the notice. The annual assessment will be due on January 31 of each calendar year OR thirty (30) days after said notice of assessment is postmarked, whichever is later. A “late fee” not to exceed twenty-five dollars (\$25), may be established by the Board of Directors if a second notice of assessment is required. Interest shall accrue on assessments at the rate of one and one-half percent (1½%) per month from the date on which they are due as set forth in the first notice of assessment.

SECTION 2. SPECIAL ASSESSMENT.

The Association, upon approval of two-thirds (2/3) of the members present and voting at a special meeting at which a quorum exists, may establish a special assessment for dedicated purposes.

A notice of special assessment shall be sent to each member. Payment terms shall be specified in the notice. The due date of the special assessment shall be set by the Board of Directors or shall be due thirty (30) days after said notice of special assessment is postmarked, whichever is later. A “late fee” not to exceed twenty-five dollars (\$25) may be established by the Board of Directors if a second notice of special assessment is required. Interest shall accrue on special assessments at the rate of one and one-half percent (1½%) per month from the date on which they are due as set forth in the first notice of special assessment.

SECTION 3. ASSESSMENT AS LIEN.

An annual assessment and/or a special assessment shall be a lien against the Lot or Parcel of the member as of the date on which the the amount of the assessment was determined. The Association shall be entitled to foreclose its lien and shall be entitled to collect reasonable legal fees and expenses in such a foreclosure action. The Association may also personally sue the member for the amount of the assessment, together with legal fees and interest.

SECTION 4. LIEN FOLLOWS PROPERTY.

Transfer of any Lot or Parcel by whatever means, shall not extinguish any lien for an unpaid assessment.

ARTICLE VII DIVIDENDS

The Board of Directors may not declare and the Association may not pay corporate dividends.

ARTICLE VIII CORPORATE SEAL

The Board of Directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the corporation and the state of incorporation and the words “Corporate Seal”. The seal shall be stamped or affixed to such documents as may be prescribed by law or custom or by the Board of Directors.

ARTICLE IX WAIVER OF NOTICE

Whenever any notice is required to be given to any member or Director of the Association under the provisions of these Bylaws or under the provisions of the Articles of Incorporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE X
AMENDMENTS

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by the Board of Directors or by a two-thirds (2/3) majority of the members at any regular or special meeting of the membership. However, no amendment shall be effective which would be contrary to the rights and obligations as are established in the Covenants.

ARTICLE XII
DISSOLUTION

Upon dissolution of this Association for any reason whatsoever the Board of Directors shall, by appropriate instruments, transfer all of the assets and liabilities to another South Dakota non-profit Corporation.

DATED this seventh (7th) day of September, 2022.

As President of the Elkhorn Ridge Golf Estates Homeowners Association, INC, I hereby certify that the foregoing Bylaws were duly approved at a meeting of the Board of Directors of the Elkhorn Ridge Golf Estates Homeowners Association held on September 7, 2022.



Stanley S. Smith