

BY-LAWS OF THE QUIVIRA FALLS COMMUNITY ASSOCIATION

Adopted by a membership vote on April 28, 2009

References to bring the By-Laws into compliance with the 2011 "Kansas Uniform Common Interest Owners Bill of Rights Act" (KS 58-4600) are represented by *italics*.

ARTICLE I. NAME AND LOCATION

Section 1. Name. The name of the Corporation is QUIVIRA FALLS COMMUNITY ASSOCIATION, sometimes called QFCA or Association.

Section 2. Office Location, Meetings. The principal office of the Corporation is 10990 Westgate, Overland Park, Kansas 66210, where meetings of Members and Directors shall be held unless otherwise designated by the Board.

ARTICLE II. DEFINITIONS

Section 1. Association. The Quivira Falls Community Association, its successors and assigns.

Section 2. Property or Properties. The real property described in the Declaration of Covenants, Conditions, Restrictions, Dedications of Easements, and properties added to the Association.

Section 3. Common Area. All real property owned by the Association for the common use and enjoyment of the owners.

Section 4. Lot. Any plot of land shown upon any recorded subdivision plat of the Properties except the Common areas.

Section 5. Owner. The record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding persons or corporations having a mortgage, lien, or having an interest as security for the performance of an obligation.

Section 6. Declaration. Declaration shall mean and refer to the Declaration of Covenants, Conditions, Restrictions and Dedication of Easements applicable to the properties recorded in the Office of the Register of Deeds of Johnson County, Kansas.

Section 7. Member. Member shall mean and refer to the owner (if the unit is owned by a single person) or the person designated by the owner(s) of a unit to receive notices from the Association. There may only be one Member for each unit.

Section 8. Eligible Members. Members current in payment of dues, fees, assessments, charges, and fines not more than 90 days overdue who have not had their Membership rights suspended for violation of the Declarations, By-Laws, or rules and regulations, are considered to be Eligible Members. Ineligible Members are NOT Eligible to be elected a Director, nominate a member to be a Director, sign valid petitions, vote on issues involving assessments and fees, speak at Board meetings, or enjoy the use of common recreational areas. Such loss of rights is automatic and does not require Board action. The Board can also declare Members to be Ineligible if, while on the property, they attempt to or commit a crime, violate City Ordinances, possess illegal substances, create or be a public nuisance, shoot explosives or firearms, destroy or deface property, set fires, or for other sufficient cause. Services may not be withheld if the effect would endanger health, safety, or property of the Ineligible Members. *Sec. 8 (a) (6) (B) and (C) of the Kansas Uniform Common Interest Owners Bill of Rights, of ACT.*

ARTICLE III. MEETINGS OF MEMBERS

Section 1. Annual Meetings. Regular Annual Meetings of the Members shall be held at 7:30 p.m. on the first Monday of June each year at the office of the Association or such other place as the Board of Directors may direct.

Section 2. Special Meetings. Special meetings of the Members may be called by the President, by the Board of Directors, or upon the written request of one-fourth (1/4) of Members who are entitled to vote.

Section 3. Notice of Meetings of Members.

3. A. Written notice of regular and special meetings 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 fifteen (15) but not more than thirty (30) days before such meeting, to each Member entitled to vote; addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the purpose, place, day and hour of the meeting.

3. B. Notices of annual meetings shall be accompanied by the Association's annual report for the prior year, including the financial report, names, and information about the nominees for the election of Directors, any issue to be submitted to the Members for a vote, and instructions for using a mail ballot in lieu of attending the meeting in person.

Section 4. Quorum. The presence at the meeting of ten percent (10%)* of the Members entitled to vote, in person or by mailed ballots, shall constitute a quorum for any action except as otherwise provided. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. **(Note: Source- ARTICLE III Sec.3.a, p. 8, of the Declaration of Covenants, 1974 document.)*

Section 5. Mail Ballots. On any matter to be voted on by Eligible Members (as defined in Article II, Section 8, page 1,) each Eligible Member may vote in person or by mail.

Section 6. Voting.

6. A. The election of Directors shall be held from 4:00 p.m. to 8:00 p.m. on the day following the Annual Meeting.

6. B. Each Eligible Member may vote in person or by mail for the election of Directors or on any issue to be voted on by the Members. Members shall have until 3:00 p.m. on the day of the election to pay all dues, assessments, fines, and other charges due in order to become a qualified voter. Members who are delinquent in dues or fees are NOT Eligible to vote on issues involving assessments and fees.

Sec. 8 (a) (6) (B) and (C) of the Kansas Uniform Common Interest Owners Bill of Rights, of the ACT.

6. C. Ballots shall be marked in ink, cast in a ballot box, and counted after the time for voting has expired.

6. D. Mail Ballots.

6.D.1. Eligible Members shall be informed that they may vote In person or by mail, and shall receive a notice of election, a mail ballot, a numbered return envelope, and instructions on voting by mail, should they wish to do so.

6.D.2. Members voting by mail shall complete (but not sign) the ballot in ink, put it in the return envelope, seal, and sign the return envelope over the seal of the flap, deliver it to the office by noon of the day of the election or add a stamp and place it in the U.S. mail so that it will be received on or before the day of the election.

6.D.3. To be counted, mailed ballots must be received at the Association office on or before the regular mail delivery on Election Day.

6.D.4. Envelopes containing mail ballots shall be held at the sign-in table and when a Member seeks to vote in person, an election clerk will check to see if there is a ballot envelope from that Member; in which case, the Member can only vote in person if he/she then destroys the mail ballot.

6.D.5. Mail ballots are valid only at the meeting for which issued or at any reconvened-meeting following any adjournment(s) of the scheduled meeting, and will be counted with the ballots of Members voting in person to compute if a quorum is present.

6. E. For the purpose of ARTICLE III, the address of the Secretary will be deemed to be the office of the Association and the clerical election duties of the Secretary may be undertaken by staff or member volunteers under the Secretary's general supervision.

ARTICLE IV. BOARD OF DIRECTORS

Section 1. Number, Qualifications. The affairs of this Association shall be managed by a Board of nine (9) Directors who are Eligible Members and who are not living in the same unit as another Director

Section 2. Term of Office

2.A. Members shall elect three (3) Directors each year on the day following the Annual Meeting, who shall each serve for a three (3) year term and until their successors are elected, or unless they die, are removed, resign, or fail to attend meetings for three (3) unexcused consecutive monthly meetings.

2. B. Newly elected Directors' terms will commence with the first Board meeting following the election.

2. C. No Member shall be elected Director for more than two (2) consecutive 3-year terms.

2. D. The Immediate Past President may serve an additional year as an Advisory Director and serve as an Advisory Member of the Executive Committee, both with voice but no vote, if his/her term as Director has expired, following the end of his/her term as President.

Section 3. Replacement. In the event of death or resignation of a Director, his/her successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his/her predecessor.

Section 4. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Eligible Members of the Association as set forth below:

4. A. A recall election may be instituted by the receipt by the Board Secretary of a petition calling for a recall election for one or more named Directors, signed by at least one-fourth (1/4) of the Eligible Members, printing their name, unit, mail address, phone number, and the date of the petition, which must be less than six months old.

4. B. More than one piece of paper may be used to collect signatures so long as each identifies its purpose and the name(s) of the challenged Director(s), complies with these rules, and all signed petitions are presented to the Secretary at the same time.

4. C. The Secretary shall have five (5) business days to check the names, and if enough are valid, conduct a recall election on a regular business day within thirty (30) days of the receipt of the recall petition.

4. D. Directors whose removal is being sought will remain on the Board as Directors with full power unless, and until, the recall effort is successful and their successor(s) has/have been duly elected and attend(s) the first meeting after the election.

4. E. To remove a Director, a majority of Eligible Members must vote for the removal. If more than one removal is sought, each must be voted on separately.

4. F. If a Director or Directors is/are removed, an election for replacement Director(s) must be held within sixty (60) days of the recall election.

Section 5. Compensation. No Director shall receive compensation for services for the Association.

However, Directors may be reimbursed for actual expenses incurred in the performance of their duties if approved by the President or by the Vice President if the expenses are those of the President.

ARTICLE V. NOMINATION AND ELECTION OF DIRECTORS

Section 1. Election Committee. The Board Secretary shall conduct elections with a Committee made up of two (2) other Directors who are not officers, and at least two (2) non-board Eligible Members, all appointed by the President from volunteers, and if none, from Members contacted by Directors.

Section 2. Notice. Notice of the Annual Meeting and Election shall be posted on the office door, on the official notice board at least fifteen(15) but no more than thirty (30) days in advance, and publicized in other ways as available such as in the newsletter and on a Web page if there is one.

Section 3. Candidates. Eligible Members may nominate themselves or other Eligible Members, provided a nominating form is submitted to the Secretary thirty (30) days* before the Election, giving name, unit

address, phone number, email address, date nominee acquired his/her unit, education, business and/or community experience, employer and job title (most recent if retired), signature and date, with a statement that they are in good standing, have never been convicted of a crime nor have any unsatisfied civil judgments against them. On that form, they will be asked to describe their vision for QFCA, why they want to be a Board Member, their skills or training, and experiences in other organizations. If the forms are in order, the Secretary shall certify them as official candidates and arrange at least one well-advertised public forum to Members where each candidate shall have an equal opportunity to meet and greet Members, briefly speak, and answer questions.

**(Note: The submission date for the completed nominating forms must be set so that the information can be included in the mailing before the Annual Meeting.)*

Section 4. Nominating Committee. The Nominating Committee shall consist of two (2) Directors and a non-Board Member in Good Standing, all appointed by the President. The Nominating Committee may solicit Members to run for election as Directors and will interview persons who are interested in running for the Board.

Section 5. Election. Election to the Board of Directors shall be by secret, written ballot. At such election, Eligible Members may vote in person, or by a mailed ballot, for each nominee(s) they wish to elect. The three (3) persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI. MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors may be called by the President or by any two (2) Directors, after not less than three (3) days' notice to each Director; except in the event of an emergency, the three (3) days notice requirement may be waived provided that an effort was made to notify each Director in some manner (personal, telephone, electronic, land mail, or other.)

Section 3. Notice of Special Meetings. Notice of Special meetings shall be posted on the Association office door.

Section 4. Quorum. Five (5) Directors present shall constitute a quorum. Proxies are not allowed for Directors' meetings.

Section 5. Action Taken Without a Meeting.

5.A. 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 the Directors.

5.B. In an urgent situation, the Directors may conduct telephonic meetings if five (5) or more can each hear one another and minutes reflecting what was done are prepared, signed by all Directors present, and approved at the next meeting.

5.C. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE VII. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. In addition to the powers enumerated here and in the Declarations, the Directors have all of the powers granted by law.

Section 2. The Board of Directors' Powers and Duties are:

2.A. Rules.* To adopt and publish rules and regulations including rules governing the use of common areas and facilities and the personal conduct thereon of Members and their guests, tenants, children, and invitees; contractors and tradesmen; and to establish and levy fines and penalties for infractions including suspension of good standing status.

*(Note: See also Article XIII, Section 3 of this document.)

2.B. Delegation. The Board may delegate enforcement of its rules and regulations to employees and a Management Company including the imposition of pre-established fines and penalties.

2.C. Sanctions. Sanctions may include fines, cost of removal of unauthorized items on common property, suspension of Member's voting rights and access to the Association's recreational facilities, including the clubhouse, when in default in the payment of any assessment levied by the Association, whether called "dues," "water fees," or some other name, or special one-time assessments for special purposes or when in continuous or material violation of other rules and regulations.

2.D. Powers. Exercise for the Association all powers, duties, and authority and vested in, or delegated to, this Association and not reserved to the Membership by these By-Laws, the Articles of Incorporation, or the Declaration.

2.E. Absences. Declare the Office of a Member of the Board of Directors to be vacant in the event that such Member shall be absent from three (3) unexcused consecutive regular meetings of the Board of Directors.

2.F. Manager, Management Company. Employ or contract with a manager, employees, or a Management Company to oversee and manage the day-to-day affairs of the Association, and to contract with an attorney, accountant, engineer, architect, contractor, tradesman, or others as needed and to prescribe their responsibilities, evaluate their performance, and terminate as appropriate.

Section 3. Duties. It is the duty of the Members of the Board of Directors to exercise the degree of care and loyalty to the Association required of an officer or director of a Kansas corporation under existing law.

(Note: The standard generally is to exercise duties as a reasonable and prudent person would, however Sec. 4. (a) of the Act imposes an obligation of good faith in the performance of duties governed by the Act. Whether these are the same or different, and if so how, is up to the courts.) Sec. 4 (a), Sec 9 (a), and Sec. 21 (a) of the ACT.)

The Board of Directors may by contract not to exceed three years in length, delegate the management of the day to day affairs of the Association, including receiving, depositing, recording, paying out monies of the Association, being responsible for the duties of the association such as maintenance of units and grounds, hiring and managing employees necessary to accomplish the associations duties, get competitive bids and recommend for board approval outside contractors and tradesmen and supervise their work, prepare and recommended an annual budget and as needed, special assessments, advise on long range plans and perform such other duties and activities as may be desired, to a management company or to association employees under such terms and conditions as the board may deem advisable and appropriate.
Sec. 10 (a) (4) of the ACT

3.A. Records. Keep a record of its acts and corporate affairs and present a report of the year's events to the Members at the Annual Meeting or at any Special Meeting when so requested in writing by one fourth (1/4) of the Members who are entitled to vote.

3.B. Dues and Assessments*. To fix the amount or rate of the annual dues, charges, and assessments against each lot at least thirty (30) days in advance of each dues increase or assessment, except that Special Assessments may be increased pursuant to a Membership vote effective on the date specified in the vote.

**(Note: Under Article Five, Sec. 2. b., p. 13, of the Declaration of Covenants, 1974 document, dues may be increased annually by the Board of Directors up to the amount of the increase of the Kansas City Consumer Price Index for Urban Wage Earners, All Items, published by the U. S. Department of Labor, Bureau of labor Statistics; and an additional three percent (3%). Any increase above that amount requires a favorable membership vote.)*

3.C. Notice. Send written notice of each assessment or dues increase to every Owner subject thereto at least thirty (30) days in advance of each assessment period.

3.D. Liens. File liens for delinquent dues, assessments, charges, and fines with the Registrar of Deeds of Johnson County, Kansas when more than ninety (90) days overdue.

3.E. Legal Action. Utilize a collection agency or bring an action at law against the Owner(s) to recover monies, allowable interest, and costs including attorney's fees and to foreclose the lien.

3.F. Certificate. Issue or authorize an officer, employee, or agent to issue, upon demand, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate says an assessment has been paid, such

certificate shall be conclusive evidence of such payment to third parties to whom issued.

3.G. Insurance. Procure and maintain adequate liability and hazard insurance on property owned by the Association.

3.H. Bonds. Cause all officers or employees having fiscal responsibilities to be bonded as deemed appropriate.

3.I. D & O Insurance. Procure and maintain Directors' and Officers' liability insurance.

3.J. Common Areas. Cause the common areas to be maintained.

3.K. Legal Proceedings. Promptly notify the unit owners of any legal proceeding in which the Association is a party other than those involving rule enforcement or actions to collect monies due.

Sec. 8 (a) 94) of the ACT

ARTICLE VIII. OFFICERS OF THE ASSOCIATION

Section 1. Officers. The Officers of this Association shall be a President, Vice-President, Secretary, and Treasurer who shall be at all times Members of the Board of Directors, and such other officers with such duties as the Board may from time to time establish.

Section 2. Election of Officers. The election of Officers (by the nine Directors) shall take place at the first meeting of the Board of Directors following each Annual Meeting of the Members.

Section 3. Term Limits. The Officers of this Association shall hold office for one (1) year unless he/she shall sooner resign, or shall be removed or otherwise disqualified to serve. No Officer shall serve more than two (2) one-year consecutive terms in any one (1) office.

Section 4. Removal and Resignation. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to 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; the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies. A vacancy in any office may be filled by appointment of the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the officer he/she replaced.

Section 6. Duties of the Officers

6.A. President. The President shall preside at meetings of the Board of Directors, the Members, and of the Executive Committee; shall see that orders and resolutions of the Board are carried out; shall sign all legal documents and written instruments for the Association and he/she, or the Treasurer, shall co-sign all checks and bank instruments, except as provided elsewhere herein.

6.B. Vice President. The Vice President shall act in the place and stead of the President in the absence, inability or refusal to act of the President, and shall exercise and discharge such other duties as may be delegated by the Board.

6.C. Secretary. The Secretary shall record the votes and keep the minutes of meetings of the Association, keep and affix the Corporate seal as required; attest to the signature of the President when required; serve notices of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their unit, and if different, their mailing addresses; be in charge of elections, and perform other duties required by the Board. Some or all of these duties may be delegated to an agent, Member volunteer, employee, or an employee of a Management Company under the Secretary's general supervision, except the duty to attest to the signature of the President

6.D. The Treasurer or the Management Company under his/her general supervision shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolutions of the Board of Directors; shall sign or co-sign all checks, bank and financial instruments, keep proper books of account; recommend to the Board an annual audit* examination of the Association's financial books and records by a certified public accountant at the completion of each fiscal year; arrange to have tax returns prepared and filed and taxes paid; and shall prepare an annual budget, a statement of income and expense, a balance sheet to be presented to the Membership at its regular Annual meeting and/or at such other times as required by the Board, and deliver a copy of each to the

Members.

**(Note: Article Five, Sec.3, p. 12-13, of the Declaration of Covenants, 1974 document, requires the Board to employ a firm of Certified Public Accountants to render a written audit of each year's operations and make it available to members and mortgagees upon reasonable notice at the office.)*

6.E. Committees. The President, with the advice and consent of the Board, shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors may appoint other committees and assign them duties as deemed appropriate.

6.F. Officer Term Limits. No Director shall serve in the same office for more than two (2) consecutive one-year terms.

6.G. Executive Committee. The four officers, plus the Immediate Past President, shall form the Executive Committee, which shall meet from time to time on the call of the President to advise him/her and to act for the Board in an emergency situation when it is not possible to convene a meeting of the Board; in which case, the Secretary shall make a written record or prepare a set of minutes of the meeting at which any such action was taken.

ARTICLE IX. BOOKS AND RECORDS

The Association and its agents shall retain its records, make them available for examination and copying by a unit owner or his agent, and may charge for copying or inspection*, as required or allowed by law. *Sec. 15 of the Act*

**(Note: Board adopted copying and inspection fees apply)*

ARTICLE X. ASSESSMENTS, LIENS, ENFORCEMENT

Section 1. As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments, often called "dues" or "fees" and payable monthly, to secure the payment of which a continuing lien exists upon the property against which the assessment is made until paid.

Section 2. Any assessment, which is not paid when it is due, is delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of one and one-half percent (1 ½%) per month, (eighteen percent (18%) per annum,) and the Association may record its lien and a lien penalty of two hundred and fifty dollars (\$250); and bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and collect the fee due and accrued interest, penalties, costs, and reasonable attorney's fees.

Section 3. No Owner may waive or evade liability for paying assessments by not using the common areas, abandoning his/her property, or undertaking or paying for repairs to his unit.

Section 4. Any waiver, delay in enforcement, or reduction of penalties and interest as part of an amnesty program or of a settlement agreement with a Member shall not constitute precedent or waiver of Association's rights as to other Members or as to that Member in another situation.

ARTICLE XI. CORPORATE SEAL The Association shall have a seal in a form adopted by the Board of Directors.

ARTICLE XII. AMENDMENTS TO THE BY-LAWS

The By-Laws may be amended by a vote of a majority of the Eligible Members who vote in person or by mail ballots provided at least a quorum of ten (10%) percent of the Members vote. Proposed By-Laws amendments must be first approved by the Board of Directors who shall set the date and time for the election. Unless otherwise provided, amendments will become effective on the day of a favorable vote.*

**(Note: Notwithstanding the above, the Board can amend Article IX without membership vote if required by applicable law changes or by judicial decision.)*

The President (or Vice President if the President is not available) may prepare (or have prepared,) execute, and record amendments certified by the Secretary of the Association. *Sec. 10 (a) (5) of the ACT*

Amendments to the By-laws submitted by a member and endorsed by the signatures and addresses of fifteen percent (15%) of the unit owners must be submitted to a vote of the unit owners under the terms and conditions set forth for Board approved submissions. *Sec. 10 (a) (6) of the ACT*

ARTICLE XIII. MISCELLANEOUS

Section 1. Document Conflicts. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control, and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 2. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year.

Section 3. Policies, Procedures, and Rules.* The Board may adopt operating policies, procedures, and rules not inconsistent with the Covenants, By-Laws, or with any relevant laws or City Ordinances, or Kansas law, for the efficient operation of the Association and for the guidance of the staff, manager, and Members. Such policies, procedures, and rules will apply to all Members equally in their terms and in their application; will be maintained in a manner readily accessible to Members; and be available on an Association Web page, if established). New or changed policies, procedures, and rules shall become effective fifteen (15) days after the Members are notified thereof via newsletter, email (if available), posting where notices are posted, and given on the Web page (if any), unless a shorter or immediate effective date is necessary for reasons of public health and safety or urgency. Copies are to be given to new owners.

**(Note-See also Article VII, Section 2A.)*

The Association will not discriminate on the basis of race, creed, color, religion, nationality, age, sex, disability, nor will it tolerate discrimination by staff, contractors, owners, tenants, guests or invitees.

Section 5. Pets. Pet owners on the property, whether residents or not, must obey the Overland Park pet ordinances.

Section 6. Fines. The Board may levy fines for the violation of the Overland Park Pet Ordinances and for violations of its By-Laws, rules and regulations. The Board may delegate authority to its employees or to a management company to enforce the By-Laws, rules, and regulations of the Association and levy pre-set fines for the violation thereof.

Section 7. Checks. A duly authorized management company may issue checks in the name of, and for the Association, upon such terms and conditions as the Board may from time to time establish.

Notes:

1. When required by law the Board of Directors can amend By-laws without a membership vote.
2. Other parts of the ACT (KS 58-4600) must be followed but need not be included in the By-laws or Covenants. The entire ACT may be found on the QFCA official website: www.quivira-falls.com