

**BYLAWS OF  
AR RANCH ESTATES PHASE II HOMEOWNERS ASSOCIATION, INC.  
(a South Dakota nonprofit corporation)**

**ARTICLE I  
NAME AND LOCATION**

The name of the corporation is AR Ranch Estates Phase II Homeowners Association, Inc. (“Association”). The Association is a South Dakota nonprofit corporation whose initial principal office shall be located at 13167 Arapahoe Dr., Piedmont, SD 57769. The Association may from time to time determine and designate such other offices as may be appropriate under the circumstances. The Association shall maintain a Registered Office in accordance with South Dakota law.

**ARTICLE II  
DEFINITIONS**

“Association” shall mean and refer to the AR Ranch Estates Homeowners Association, Inc. its successors and assigns.

“Common Areas” shall mean any Lot or other area within the Property that is dedicated for the common use of the Owners, whether such Common Areas are owned by the HOA or publicly dedicated. As of these Bylaws, it is expected that the Declarant will eventually transfer Green Space Lot 1 to the ownership of the Association.

“Covenants” shall mean the Declaration of Covenants, Conditions, and Restrictions for AR Ranch Estates Phase II dated \_\_\_\_\_ and recorded \_\_\_\_\_ as Document # \_\_\_\_\_ with the Meade County Register of Deeds, which cover Phase II of AR Ranch Estates.

“Declarant” shall mean and refer to Rafter Properties, LLC, a South Dakota limited liability company, and its successors and assigns.

“Lot” shall mean and refer to any plat of land shown upon any recorded plat or subdivisions map of the Property. As to any unplatted area, “Lot” shall mean a contiguous parcel of real property on the Property owned by an Owner.

“Owner” shall mean the record owner, whether one or more persons, trusts, or entities, of a fee or undivided fee interest to any Lot, including contract sellers.

“Owner Contractor” shall mean a contractor who is the record owner, whether one or more persons, trusts, or entities, of a fee or undivided fee interest to any Lot, including contract sellers, who has purchased a Lot for the purpose of constructing a dwelling upon the Lot for purposes of re-sale.

“Owner Occupant” shall mean the record owner, whether one or more persons, trusts, or entities, of a fee or undivided fee interest to any Lot, including contract sellers, but specifically

excluding Owner Contractors.

“Property” shall mean Lots 1 thru 35 inclusive, Green Space Lot 1, and Dedicated Public Right-of-Way for 220<sup>th</sup> Street, Conestoga Loop, Cavesson Way, Wrangler Court, and Goodnight Court of AR Ranch Estates Phase II, which is generally known as Phase II of AR Ranch Estates, and any and all other real property that may later be annexed into AR Ranch Estates and made subject to the Covenants and accordingly brought within the jurisdiction of the Association.

“Subdivision” shall mean Phase II of AR Ranch Estates.

### **ARTICLE III MEMBERS**

**Section 1: Membership.** Every Owner of a Lot (except for the Common Areas) shall be a Member of the Association (each, a “Member” and collectively, the “Members”). Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot. Upon completion of the development of the planned residential development and the transfer of all Lots intended for development, the Declarant will deed to the Association the Lots that will become the Common Areas, including, but not limited to the Green Space Lot 1. The Common Areas shall not be subject to assessment and there shall be no vote associated with the ownership of any portion of the Common Areas.

**Section 2: Voting.** Each Member who is an Owner Occupant shall be entitled to one (1) vote for each Lot owned by such Member. When more than one person holds an interest in any Lot, all such persons shall be Members; however, all such Members, when considered in total, shall never have more than one (1) vote per any one (1) Lot. Members who are Owner Contractors shall not be entitled to vote on any matters for the Association.

**Section 3: Membership Certificates.** The Association shall **not** issue any capital stock or Membership certificates to the Members.

**Section 4: Transfer of Membership.** The rights of each Owner shall be appurtenant to his or her ownership of a Lot and may not be separate from such Membership, and shall automatically pass to the heirs, successors, and assigns of the Owner upon the recommendation of a change in ownership of the Lot.

**Section 5: Annual Meetings.** The purpose of the Annual Meeting of the Members is to elect directors and to transact such other matters as may properly come before the Members. The Annual Meeting of the Members shall be held at the time and place designated by the Board of Directors. Failure to hold the Annual Meeting of the Members at the designated time shall not work a forfeiture or dissolution of the Association. The Annual Meeting of the Members shall be held on the third (3<sup>rd</sup>) Tuesday in the month of April at such time and place as may be designated by the Board of Directors. In the event an annual meeting falls on a legal holiday it shall occur on the first day following such holiday.

**Section 6: Special Meetings.** Special Meetings of Members may be called by the President or by a majority of the Board of Directors in office or by Members owning 25% or more of the

outstanding votes of the Association. The purpose of each Special Meeting shall be stated in the notice and may only include purposes that are lawful and proper for Members to consider.

**Section 7: Notice of Meetings.** Written or printed 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 be delivered personally or by mail not less than ten (10) days or no more than sixty (60) days before the date of the meeting. Notice shall be given by or at the direction of the President or the Secretary or the person calling the meeting to each Member of record entitled to vote at the meeting. If mailed, such notice shall be deemed to have been delivered when deposited in the United States mail addressed to the Member at his or her address as it appears in the record of the Association with postage thereon prepaid.

**Section 8: Waiver of Notice.** A written Waiver of Notice signed by a Member, whether before or after the meeting, shall be the equivalent of giving such notice. Attendance of a Member at a meeting shall constitute waiver of notice of such meeting, except when the Member attends for the purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

**Section 9: Action without Meeting.** Any action of the Members may be taken without a meeting, without prior notice and without a vote, if a consent in writing setting forth the action so taken is signed by a majority of the Members of the Association. Within ten (10) days after obtaining such authorization by written consent, notice must be given to those Members who have not consented in writing.

**Section 10: Quorum.** The presence at the meeting of Members or qualified proxies as more fully set forth herein of **60%** of the total voting Members shall constitute a quorum. If, however, a quorum is not present at any meeting, the voting Members who are present may adjourn such meeting and reschedule such meeting until a quorum can be represented.

**Section 11: Proxies.** Each Member entitled to vote at a meeting of Members or to express consent or dissent without a meeting may authorize another person or persons to act for him by Proxy. Every Proxy shall be in writing and shall be signed by the Member or his otherwise duly authorized attorney-in-fact. No Proxy shall be valid for a period of more than six (6) months from the date of its issuance and may be revoked by the Member at his pleasure at any time upon revoking the same in writing.

**Section 12: Books and Records.** Any Member of the Association shall have a right for any proper purpose and at any reasonable time and written demand to examine and make copies of any relevant books and records associated with the Association.

## **ARTICLE IV BOARD OF DIRECTORS**

**Section 1: General Powers.** Subject to the limitations of the Articles of Incorporation, these Bylaws, and South Dakota law, all corporate power shall be exercised by or under the authority of the Board of Directors, and the management and affairs of the Association shall be controlled by the

Board of Directors.

**Section 2: Directors.** The number of directors shall be the number of directors elected from time to time in accordance with these Bylaws, but shall never be less than three (3) nor more than five (5), absent an amendment to these Bylaws. The directors shall be Members of this Association. Notwithstanding the preceding, until such time as at least half of the total Lots have been sold or otherwise transferred by the Declarant, it shall not be required that the directors be Members of the Association. The initial directors of the Association shall be JD Hewitt, Mark Haberman, and Julie Hewitt, who shall serve until at least half of the total Lots have been sold or otherwise transferred by Declarant. At such time that half of the total Lots have been sold or otherwise transferred pursuant to the preceding, the Members shall hold a Special Meeting for the purpose of electing directors consistent with the provisions herein. At the Special Meeting for the election of the directors, the Members shall elect three (3) directors to serve until the next annual meeting of Members. As the first annual meeting of Members following the date that at least half of the Lots have been sold or otherwise transferred by the Declarant, the Members shall elect one (1) director for a one-year term, one (1) director for a two-year term, and one (1) director for a three-year term. In the event that it is determined that the Board of Directors shall consist of more than three (3) individuals, any additional directors shall be elected for two-year terms and three year terms accordingly. At each subsequent annual meeting, the Members shall elect the number of directors whose terms are expiring as of that date and each newly elected director shall be elected for a three-year term.

**Section 3: Annual Meetings.** The Board of Directors shall hold its annual meeting at the same place as and immediately following each Annual Meeting of the Members for the purpose of election of officers and the transaction of such other business as may come before the meeting. If a majority of the directors are present at the Annual Meeting of Members, no prior notice of the Annual Meeting of the Board of Directors shall be required. However, another place and time for the meeting may be fixed by written consent of all directors.

**Section 4: Regular Meetings.** Regular meetings of Board of Directors may be held without notice at such time and at such place as may be determined from time to time by the Board of Directors.

**Section 5: Special Meetings.** A Special Meeting of the Board of Directors may be called by any Member of the Board.

**Section 6: Action without Meeting.** Any action of the Board of Directors may be taken without a meeting if a consent in writing setting for the action so taken signed by all Directors is filed with the Minutes of the Board of Directors. Such consent shall have the same effect as a unanimous vote.

**Section 7: Quorum.** A majority of the Directors in office shall constitute a quorum for the transaction of business. If less than a quorum is present, then a majority of those Directors present may adjourn the meeting from time to time without notice until a quorum can be obtained.

**Section 8: All Vacancies.** A vacancy occurring on the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors even though it is less than a quorum of

the Board of Directors. A director elected to fill a vacancy shall hold office until the next election of directors by the Members. A director's position shall not pass as the result of the sale or transfer of a lot owned by a director/Member.

**Section 9: Removal.** Any director may be removed from the Board of Directors by a majority of the voting Members, at a Special Meeting called for that purpose. In the event of a resignation, removal, or death of a director, his or her successor will be selected from the remaining Members of the Association who shall serve the unexpired terms otherwise set forth herein.

**Section 10: Compensation.** No Member of the Board of Directors shall receive compensation for any service rendered to the Association. However, a director may be reimbursed for actual out-of-pocket expenses incurred in the performance of his or her duties.

**Section 11: General Duties and Authority of the Board of Directors.**

- A. **Enforce Covenants.** The Board of Directors shall have the authority to enforce the Covenants and to collect monies for the enforcement of the Covenants.
- B. **Establish Committees.** Subject to the approval of 75% of the Membership, the Board of Directors shall have the authority to establish one or more committees to carry out the duties and obligations of the Association, including, but not limited to establishing a Design Committee to enforce the Covenants.
- C. **Annual and Special Assessments.** The Board of Directors shall fix the amount of the Annual Assessments against each Lot and any Special Assessment required, in a manner consistent with the provisions of these Bylaws and the Covenants.
- D. **Insurance.** To the extent the Association owns any real or personal property insure to make certain the same is properly insured.

**ARTICLE V  
OFFICERS**

**Section 1: Officers.** The officers of this Association shall be the President, Vice President, and Secretary/Treasurer, each of whom shall be a Member of the Association and shall be elected by the Board of Directors. Notwithstanding the preceding, until such time as half of the Lots have been sold or otherwise transferred by the Declarant it shall not be required that the officers are Members of the Association. At such time as half of the Lots have been sold or otherwise transferred by the Declarant, the Board of Directors shall call a special meeting to elect Officers of the Association who are Members of the Association. At all times, if a Member of the Association is a corporation, limited liability company, or other entity, any officer of such entity may serve as an officer of the Association. The failure of the Board of Directors to elect a President, Vice President and/or Secretary/Treasurer shall not affect the existence of the Association.

**Section 2: Election and Term of Office.** The officers of the Association shall be elected annually by the Board of Directors at its meeting after each Annual Meeting of the Members. Each

officer shall hold office until a successor shall be duly elected and shall have been qualified or until his or her death, resignation, or removal.

**Section 3: Removal.** Any officer may be removed from the office at any time with or without cause, upon the affirmative vote of the majority of the Board of Directors, whenever in their judgment the best interest of the Association will be served. In the event an officer/Board of Director sells his or her Lot, he or she will cease to be a Member of the Board and an officer.

**Section 4: Duties.** The duties of an officer are as follows:

- A. **President.** The President shall preside at all meetings of the Board of Directors and shall see that all orders and resolutions of the Board are carried out, shall sign or cause to have signed all contracts, or other written documents appropriately to be signed on behalf of the Association.
- B. **Vice President.** The Vice President shall act in the place instead of the President in the event of his absence, inability or refusal to act, shall exercise the discharge of other duties as appropriate and required by the Board of Directors.
- C. **Secretary/Treasurer.** The Secretary/Treasurer shall record the votes and keep the minutes of all meetings and proceedings of the Board. The Secretary/Treasurer shall also receive and deposit in the appropriate bank account all monies of the Association and shall disburse such funds as directed by a resolution of the Board, shall sign all checks or other instruments that may be appropriate directed by the Board.

## **ARTICLE VI ASSESSMENTS**

**Section 1: Creation of Lien and Personal Obligation of Assessment.** Until such time as the same has been changed by the Board of Directors, each Owner of any Lot shall be assessed as follows (collectively, the "Assessments"):

- A. **Annual Assessments.** Annual assessments to be established and collected as hereinafter provided ("Annual Assessments"); and
- B. **Special Assessments.** Special assessments for capital improvements and services to be established and collected as hereinafter provided, and other special assessments provided for throughout this Agreement ("Special Assessments").

The Assessments, together with interest, costs, and reasonable attorney's fees shall be a charge on the land against each Lot to the extent it is not paid and should be a continuing lien upon such Lot until it has been paid. Any such lien shall be subordinate to any first mortgage upon the Lot. Such lien shall be a personal obligation of the person who was the Owner at the time of the assessment. Personal obligations of the Assessments shall not pass to the successor in interest to such Lot unless it is expressly assumed by them.

**Section 2: Purpose of the Assessments.** The Assessments levied by the Association shall be used for the improvement and maintenance of the Common Areas, road maintenance for the Property, snow removal for the Subdivision, the enforcement of the Covenants, and any other purpose incidental thereto.

**Section 3: Annual Assessments.**

A. **Permitted Expenditures.** The Annual Assessment to the Owners of the Lots may include any regular expenditure needed for the purposes described in Section 2, including, but not limited to:

1. All operating expenses of the Association including, but not limited to services contracted by the Association for the benefit of the Property, such as snow removal, road maintenance, and Common Area maintenance, including, but not limited to maintenance of the drainage easements running through Green Space Lot #1 and any other part of the Common Areas;
2. The cost of necessary management and administration, including fees paid to any management agent by the Association; and
3. Any amounts needed to establish a reserve account in an amount determined to be necessary by the Association, including, a general operating reserve account and/or a reserve account for replacements.

B. **Amount of Annual Assessment.**

1. **Annual Assessment Period.** The Annual Assessment period shall run from June 1 of each year to May 31 of the following year (each, an “Annual Assessment Period”).
2. **Initial Annual Assessment.** The initial Annual Assessment amount has been set by the Declarant at \$420 per Lot.
3. **Subsequent Annual Assessments.** For each Annual Assessment Period hereafter, the amount of the Annual Assessment to be levied shall be set by the Board of Directors at their annual meeting in an amount determined sufficient to meet the regular expenses detailed in Section 3 above. The Board of Directors shall fix the amount of the Annual Assessment at the Annual Meeting and shall provide written notice of the Annual Assessment to every Owner subject thereto following the meeting.
4. **Date of Commencement of Annual Assessment.** The Declarant shall not be levied any type of Assessment for any Lot while under development or construction or while unoccupied. Owner Contractors shall not be levied any type of Assessment for any Lot while under development or construction or while unoccupied. The Annual Assessment shall be first levied on each Lot after the

Declarant or the Owner Contractor, as the case may be, conveys such Lot to a third party (not including an affiliate of Declarant) who is an Owner Occupant. For the avoidance of confusion, an undeveloped Lot owned by an Owner who is not an Owner Contractor or the Declarant shall be subject to assessment as provided in this Article VI, even if such Owner is not currently occupying the Lot. The Annual Assessment shall be prorated to the date of the conveyance to an Owner Occupant. The payment for the month of the conveyance shall be due within five (5) days of the conveyance, prorated for the actual number of days of the month remaining after date of conveyance and full monthly payments shall be due on the first day of the month thereafter.

- C. **Payment of Annual Assessment.** The Annual Assessment shall be payable in twelve (12) equal monthly installments, each of which are due and payable on the first of each month during the Annual Assessment Period.
- D. **No Limitation.** Annual Assessments shall not be limited by the provisions of this Article III, Section 3, but shall be established based upon budgeted costs for services provided herein.

**Section 4. Special Assessments.** In addition to the Annual Assessments authorized above, the Association may levy one or more Special Assessments, in any year, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Property and to defray the cost of the services normally covered by the Annual Assessment that exceed the amount of Annual Assessments collected for the Annual Assessment Period. Additionally, the Association has the authority to levy Special Assessments in connection with an Owner's failure to abide by the terms of the Covenants, as provided throughout this Agreement. Except as otherwise provided herein, the need for and amount of any Special Assessment shall be determined by the Board of Directors at a special meeting of the Board of Directors called for that purpose. The Special Assessments shall be due immediately upon levy by the Board of Directors. Notwithstanding anything herein to the contrary, the Declarant shall not be levied any Special Assessment.

**Section 5: Uniform Rate of Assessment.** All Assessments must be fixed at a uniform rate for all Lots of similar type, unless otherwise specifically provided herein (i.e. in relation to a Special Assessment for an Owner's failure to abide by the terms of the Covenants).

**Section 6: Effect of Nonpayment of Assessments; Remedies of the Association.** Any Assessment not paid within thirty (30) days after the due date shall be charged interest at the annual percentage rate specified by law upon unpaid judgments, under the laws of the State of South Dakota. The Association may bring an action at law against the Owner personally obligated to pay the same or place a lien against the Lot. No Owner may waive or otherwise escape liability for the Assessments provided for above by the abandonment of his or her Lot.

## **ARTICLE VII FISCAL YEAR**



The fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of each year except the first fiscal year shall begin on the date of incorporation.

**ARTICLE VIII  
INDEMNIFICATION**

The Association shall indemnify and hold harmless each officer and director, to the full extent permitted under South Dakota law.

**ARTICLE IX  
AMENDMENTS**

These Bylaws may be altered, amended, or replaced and new Bylaws may be adopted by either the Board of Directors or by vote of the Members holding seventy-five (75) percent of the votes of the Association.

The undersigned officers do hereby certify that the foregoing Bylaws were duly adopted as the Bylaws of AR Ranch Estates Homeowners Association, Inc., on the \_\_\_\_ day of \_\_\_\_\_, 2021, and the same do now constitute the Bylaws of the Corporation.

\_\_\_\_\_  
JD Hewitt– President

ATTEST:

\_\_\_\_\_  
Julie Hewitt – Secretary/Treasurer