

# BYLAWS

## KALAPANA SEAVIEW ESTATES COMMUNITY ASSOCIATION

### ARTICLE I Association

**SECTION 1: The Organization** – The primary specific purpose of the corporation is to maintain and improve the common areas in the subdivision. The general purpose is to transact any and all lawful business for which nonprofit corporations may be incorporated under the laws of the State of Hawaii. The Kalapana Seaview Estates Community Association (KSECA) is a community-directed nonprofit association incorporated in the State of Hawaii. It was established as a community association of lot owners of Kalapana Seaview Estates (KSE), and is the community association referred to in the “Declaration of Covenants” of Kalapana Seaview Estates. It was created for the purposes charged with the duties and invested with the powers prescribed by law or set forth in its Articles of Incorporation and Bylaws. Neither the Articles of Incorporation nor the Bylaws shall for any reason be amended or otherwise changed or interpreted except in accordance as set forth herein.

**SECTION 2: Mailing Address** – Mailing address of the Association shall be RR 2, Box 4537, Pahoa, Hawaii 96778

### **SECTION 3: Definitions**

**Association:** Means all members of Kalapana Seaview Estates Community Association (KSECA).

**Board:** Means the Board of Directors of KSECA designated in association documents to act on behalf of the Association.

**Committee:** Means any committees of the Association designated and charged with specific duties and powers.

**Contractor:** Means each person or entity that has been selected by the Board to provide materials or services of any kind.

**Green Space:** Means an undeveloped Seaview parcel left in its natural state for preservation of green areas.

**Member:** Means any owner of record of one or more parcels of land in Kalapana Seaview Estates (KSE) or any person so designated by a revocable, written and notarized authorization presented to the KSECA Clerk from the owner of record of that particular KSE parcel to represent the interests of said owner.

**Member-in-Good-Standing (MGS):** Means any member whose dues are current on at least one parcel of land in KSE.

**Owner:** Means any person or legal entity that is the owner of record of a parcel in KSE. Owner(s) of record shall be determined by the Hawaii Bureau of Conveyances or from the computer records of the real property tax office in Hilo.

**Parcel:** Means any separate plot of land shown as a numbered parcel upon a legal subdivision plat of KSE.

**Park Maintenance Fees and Membership Dues:** Means the mandatory annual assessment levied by KSECA as determined by the Board for the maintenance and improvement of the private commonly owned parks, and which shall also constitute the annual membership dues.

**Park Properties:** Means all those properties in KSE designated for parks and transferred to the KSECA Board of Directors and recorded in the Bureau of Records and Conveyances, State of Hawaii. These properties are collectively owned by the membership.

**Significant Material Change:** Means any erection of permanent buildings, grading or changes in elevation, and cutting down trees except for removal of hazards; and, **Does Not Mean** minor additions or general repair and maintenance, to existing structures, or apply to the addition of picnic tables, or planting trees, foliage and gardens.

**SECTION 4: Duties and Powers of the Board of Directors**

The Board shall have and perform each of the following duties for the benefit of the Association:

**A.** To accept, operate and maintain in good repair and condition all property, equipment, supplies and improvements of the Association, including maintenance of the three KSE commonly owned park properties and any donated properties, and to contract such work and services as provided for in **Article VI, Section 2**.

**B.** To solicit and collect mandatory fees to provide for the maintenance and all legal obligations for the three commonly owned parks and to enable the Board to carry out the corporate duties on behalf of the Association as described herein.

**C.** To pay all real property taxes and other taxes and assessments levied upon, or with respect to, Association property. The Board shall have the right granted by law to contest the legality and amount of such taxes and assessments on behalf of the Association.

**D.** To obtain and maintain in effect policies of insurance covering the parks and their use therein that is adequate in kind and amount as the Board deems necessary to protect the interest of the membership if there are sufficient funds available to do so.

**E.** To provide a financial review and/or audit every two years of the accounts of the Association, and to make a copy of such audit or inspection available to members upon request and that such audit and inspection be made by a Certified Public Accountant or qualified accountant.

**F.** To provide an annual newsletter to the membership, along with the annual maintenance/membership solicitation and voting information at least 30 days before the scheduled date of the annual general meeting.

**G.** To make, establish, promulgate and, at its discretion, to amend or appeal and reenact such rules and regulations, not in contradiction to the Bylaws, as it deems proper, covering maintenance, improvements and community activities of the commonly owned parks. Members shall be entitled to examine such rules and regulations upon request.

**H.** No significant material changes shall be made to the commonly owned KSECA parks without prior approval by a majority vote of MGS in residence at KSE at the time the proposal is put to a vote.

## **ARTICLE II**

### **Membership and Voting Rights**

**SECTION 1: Membership** – KSECA has two membership classes:

**A.** Each lot owner is automatically a member of KSECA by virtue of ownership.

**B.** Members-in-Good-Standing are those members whose dues are currently paid on at least one owned parcel and are the only members allowed to vote or to hold office.

**SECTION 2: Voting Rights**

**A.** Each Member shall be entitled to one vote in person or by proxy for each parcel owned provided that the membership dues are currently paid on each parcel so designated before the start of the meeting in question.

**B.** A member may authorize another person to exercise the member’s voting right by submitting to the KSECA Clerk a notarized document stating ALL of the following:

1. Owner of Record’s printed name, and signature and contact information.
2. Tax Map Key (TMK) number of KSE parcel and date instrument was drawn.
3. Name of designated agent and contact information.
4. Length of time and purpose for which the authorization is given.

**C.** The owner of record shall retain all rights to cancel the aforementioned authorization at any time by written notification to the KSECA Clerk by Certified Mail.

**D.** If the parcel is held jointly or in common, the vote for each such parcel shall be cast as a unity, and neither fractional vote nor split vote shall be allowed. If the owners have common interest, they

must arbitrate a decision between themselves as to who will cast the vote. If more than one vote is cast, no designated vote shall be recognized.

## **ARTICLE III**

### **Meetings**

#### **SECTION 1: The Annual General Meeting (AGM)**

**A.** The Annual General Meeting of the Association membership shall be held no later than the last weekend in April.

**B.** At least 30 days before the date fixed for the AGM written notice of the time and place thereof shall be mailed to each member. Such notice shall include a statement of major purposes for such a meeting.

**C.** A quorum at any AGM meeting shall consist of twelve MGS including at least four (4) members of the Board of Directors.

#### **SECTION 2: Special Meetings**

**A.** Special Meetings may be called by either a majority of the Board or by not less than 30 MGS whose request for such a meeting is set forth in writing and directed to the President.

**B.** The meeting shall be called by the Scribe or agent directed to do so by the Board. Notice for a Special Meeting shall include written notice of the time and place thereof and shall be mailed to all Members at least 30 in advance of the meeting date. The meeting must be held within 45 days of being legally called.

**C.** Such notice shall include a statement of major purposes for the meeting and other major purposes not mentioned therein shall not be transacted at such a meeting.

**SECTION 3: Regular Board Meetings** – The Board of Directors Meeting shall be held monthly on a day and time that is most convenient for the members of the Board, and notice of such meetings shall be posted at least five (5) days before the date of the meeting. KESCA residents are encouraged to attend and participate in regular

monthly board meetings to provide input on the matters being discussed. Members who are not on the board of directors may participate in any deliberation or discussion and make motions, other than during executive sessions, unless a majority of a quorum of the board of directors votes otherwise.

**SECTION 4: Action Authorized Without Meetings** – Any action that the Board may lawfully take at any meeting properly called and held may also be taken by action of all of the individual Directors by their written consent thereto in the event of an emergency that cannot wait until the regular monthly meeting. Any action so taken shall be valid and effective from and after filing with the Scribe written minutes or other instrument signed by all of the Directors evidencing their action and entered into the minutes of the next scheduled board meeting.

**ARTICLE IV**  
**Directors, Officers and Job Descriptions**

**SECTION 1: Board of Directors**

A. The Board of Directors shall consist of seven (7) members, each director elected for a term of two years.

B. The Board of Directors shall consist of five (5) Officers who shall be members of the Board of Directors and two (2) Directors-at-Large. A quorum at any Board of Directors meeting shall consist of four (4) board members.

C. The members will elect directors at the annual membership meeting. If, for any reason, elections are not conducted or the annual membership meeting is not held as scheduled, a special meeting shall be held within 30 days following the scheduled date of the AGM for the express purpose of electing a Board of Directors.

**SECTION 2: Officers** – At the first scheduled regular board meeting, the new Board shall elect officers who shall serve a term of one year or until a new Board of Directors is elected at the next AGM and serve consecutive terms if elected. Officers shall consist of President, Vice President, Treasurer, Scribe and Clerk.

### **SECTION 3: Job Descriptions**

**President:** The President shall be the chief Executive Officer of the Association and shall preside over all meetings of the Board and members. The President shall have the general powers and duties of supervision and management usually invested in the office of the President of a Corporation. With the consensus of the Board, the President shall be the official spokesperson for the Association.

**Vice President:** In the absence or disability of the President, the Vice President shall perform all of the duties of the President, and when so acting, shall have all of the powers of, and be subject to all the restrictions upon, the President. The Vice President shall have such other powers and perform such other duties as may be prescribed by the Board or the Bylaws.

**Treasurer:** The Treasurer shall have general supervision of the monies of the Association, and responsibility for their deposit in a bank, or banks, as approved by the Board. The Treasurer shall keep adequate and correct accounts of the properties and business transactions of the Association and the books of account shall at all times be open for inspection by the Board. The Treasurer shall make disbursements by check as authorized by the Board. Any two signatures of Directors authorized by the Board shall be required for the withdrawal of funds on deposit or for the distribution of checks.

**Scribe:** The Scribe shall keep and read the minutes of all meetings, prepare the agenda for the President, be responsible for all correspondence, and keep and maintain related documents, including, but not limited to, rules, policies and procedures.

**Clerk:** The Clerk shall keep a current list of all members of the Association, post notices of meetings, collect and appropriately disburse all mail, handle Association phone calls, keep and maintain all Association files and records, including taxes and insurance, and perform any other duties as determined by the Board.

Any portion of the Scribe, Clerk or Treasurer's duties may be delegated to a contracted agent, subject to the approval of the Board; however, all responsibility remains with the Board.

### **SECTION 3: Resignation, Removal and Vacancy**

**A.** Any Director or Officer may resign at any time by giving written notice to the Board or to the President or the Scribe. Any such resignation shall take effect at the date of receipt of such notice, or at a later time specified therein.

**B.** At any special or board meeting held for such purpose, any Director or Officer may be removed by a two-thirds (2/3) vote of the full Board of Directors in office at the time.

**C.** Any vacancy in any office during a term shall be filled by a majority vote of the remaining Directors. If no person receives a majority of the votes, the President shall select a person to fill the vacancy. The President exercises authority to select a person to fill a vacancy of the Board only when necessary to bring the number of board members back up to the quorum of four (4). The term of any new board member so appointed shall be for the remaining portion of the term of the board member that was replaced.

### **SECTION 4: Liability of Officers and Directors**

**A.** Exculpation – No Director or Officer of the Association shall be liable for acts, defaults or neglect of any other Director or Officer, or for any loss sustained by the Association, unless the same has resulted from willful misconduct or gross negligence of the Director or Officer sought to be charged with liability.

**B.** Indemnification – Every Director and Officer shall be indemnified by the Association against all reasonable costs, expenses and liabilities (including counsel fees) actually and necessarily incurred by or imposed upon that Director or Officer in connection with or resulting from any claim, action, suit, proceeding, investigation or inquiry of whatever nature in which said Director or Officer may be involved as a party; or otherwise by reason of that person being or having been a Director or Officer of the Association at the time of the incurring or imposition of such costs, expenses or liabilities, except in relation to matters as to which he or she shall be finally adjudged in such action, suit, proceeding, investigation, or inquiry to be liable for willful misconduct or gross negligence in the performance of his/her duties as such Director or Officer. As to whether or not a Director or Officer was liable by reason of willful

misconduct or gross negligence in the performance of duties as such Director or Officers, in the absence of such final adjudication of the existence of such liability, the Board of Directors and each Director and Officer may conclusively rely upon an opinion of legal counsel selected by or in the manner designated by, the Board of Directors. The foregoing right to indemnification shall be in addition to, and not in limitation of, all other rights to which such person may be entitled as a matter of law, and shall inure to the benefit of the legal representatives or such person.

C. Insurance – The Association may purchase and maintain insurance on behalf of Directors, Officers or other agents against any liability or expense asserted against or incurred by the Director, Officer or agent in any such capacity or arising out of the Director, Officer or agent’s status as such.

## **ARTICLE V**

### **Nominations and Elections**

#### **SECTION 1: Nominations**

A. At least 30 days before the annual newsletter and maintenance fee statement is mailed to KSE lot owners, the Clerk shall post notices on the commonly held properties asking members who wish to be nominated to the Board of Directors at the AGM to notify the Clerk within 30 days with a statement of 100 words or less. If such statement is received by the official cut-off date, the nominee’s statement will be sent with the newsletter announcing the election at the AGM.

B. Nominations may also be made from the floor at the AGM. The nominee must be a MGS and state his or her willingness to serve in the office at the meeting or to have given the Board a written statement of willingness to serve before the meeting.

**SECTION 2: Elections** – Those positions on the Board of Directors whose terms will expire at the annual membership meeting will be subject to election at the annual meeting. Four (4) Directors shall be elected one year and three (3) Directors shall be elected in the following year at the annual membership meeting to maintain a total

of seven (7) Directors. Each Director will serve a term of two (2) years or until the next election is held.

**SECTION 3: Voting** – Voting for board members shall be in person or by proxy at the annual membership meeting. Only MGS or those persons authorized to act on behalf of the KSECA MGS owners of record will be allowed to vote.

**SECTION 4: Proxies** – The Association will provide official proxy forms to the membership in accordance with **HRS Ch.421J-4**.

**ARTICLE VI**  
**Committees and Contracting Services**

**SECTION 1: Committees**

**A.** The Board shall have the right to create standing committees and to confer upon such committees such powers as may be necessary to carry on or exercise any of the powers of the Association not contrary to its Articles of Incorporation or its Bylaws.

**B.** The Association shall have the right to create membership committees, and to confer upon such committees such powers as may be necessary to carry on or exercise any of the powers of the Association not contrary to its Articles of Incorporation or its Bylaws and shall be independent from the Board.

**SECTION 2: Contracting** – The Board shall have the power to contract with contractors and/or persons as it determines qualified to provide materials, services, etc. to the Association, but any such contract shall be an independent contractor agreement and not a contract of employment. Contracts shall not extend beyond the term of the Board that was in office when such contract was awarded. Members of the Board may not bid for contracts.

**ARTICLE VII**  
**Fees and Donations**

**SECTION 1: Maintenance Fees** – On behalf of the Association, the Board shall assess each parcel an annual park maintenance fee as

determined by the Board which shall be used to pay for taxes, liability insurance and maintenance of the park properties, related administrative expenses, and other purposes consistent with the Articles of Incorporation and Bylaws. Said fee will also constitute the annual membership dues.

**SECTION 2: Donations** – On behalf of the Association, the Board may accept donations of land, money, materials, services or equipment. Any parcels accepted by KSECA will become the property of the Association and legally designated in perpetuity as “green space.” The Association shall provide for taxes, insurance and maintenance on such properties from the annual assessments.

**ARTICLE VIII**  
**Fiscal Year**

The fiscal year for this organization will be from January 1 to December 31.

**ARTICLE IX**  
**No Compensation for Officers and Directors**

The Officers and Directors of the Association shall serve without compensation. Reimbursement for reasonable, substantiated expenses incurred in the performance of official duties may be made when approved by the Board.

**ARTICLE X**  
**Examination of Record**

Any Member may examine the books and other records of the Association on reasonable advance notice. Any member is entitled to receive a copy of the membership roll or other records for a reasonable fee.

## **ARTICLE XI**

### **Notice of Annual Fees and Membership Dues**

On behalf of the Association, the Board shall send a statement with the annual newsletter to each owner of record. Mailing will be made to owners at their last address as shown on the records of the Association, and said statement will be mailed to each member at least thirty 30 days before the date of the annual membership meeting. If any parcel is held jointly or in common, the owners of such parcel shall, at the time of purchase, designate to the Association one address to which all notices shall be sent.

## **ARTICLE XII**

### **Rules**

All Association and Board of Directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order, Newly Revised, the Bylaws of the Association and the laws of the State of Hawaii.

### **Amendments**

**A.** These Bylaws may be amended, or new bylaws adopted, by an affirmative vote of a majority of the eligible members voting on the issue at any general membership or special meeting called for that purpose, except where these Bylaws specifically require a greater majority.

**B.** The change must be read at one meeting and voted on at the next, be it a regular or special meeting, unless it is proposed in advance and notice given to all members at least 30 days in advance of the membership meeting.

Bylaws Enacted March 4, 1992: Amended August 1993, March 1994, March 1996 and March 1999; Revised May 2001; and, Amended April 2002, April 2004, April 2005; Revised April 2008 and Amended April 2011.