

BY-LAWS
OF
BROADWAY SAN MARCOS
HOME OWNERS ASSOCIATION
AN ARIZONA NONPROFIT CORPORATION

ARTICLE I

NAME AND LOCATION

1. Name. The name of the corporation is Broadway San Marcos Home Owners Association, an Arizona Nonprofit Corporation, hereinafter referred to as the "Association".

2. Principal Office. The principal office of the Association shall be located in Pinal County, Arizona, and meetings of the Members and Directors may be held at such places within Pinal County, Arizona, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

When used in these By-Laws, the following terms shall have the meaning indicated:

1. Articles shall mean and refer to the Articles of Incorporation of Broadway San Marcos Home Owners Association, a nonprofit corporation formed under the laws of the State of Arizona.

2. Association shall mean and refer to Broadway San Marcos Home Owners Association, an Arizona nonprofit corporation, which is organized by the filing of the Articles.

3. Member shall mean and refer to every person who is entitled to membership in the Association in the Declaration and in the Articles.

4. Declaration shall mean and refer to the instrument entitled "Declaration of Covenants, Conditions and Restrictions for Broadway San Marcos, a Planned Area Development", executed and acknowledged by Declarant on the ___ day of _____, 200__, and filed for record in the office of the County Recorder of Pinal County, Arizona, concurrently with the filing of the plat of said development.

5. Property shall mean and refer to the tract of real property situated in Pinal County, State of Arizona, and particularly described in the Declaration, together with such portion of the real property described in any Notice of Addition of Property which is subsequently recorded with respect thereto.

6. Lot shall mean and refer to any residential lot or parcel of land shown upon any recorded subdivision plat of the Property.

7. Common Areas shall mean and refer to all the real property and improvements, including without limitation, any recreation facilities, landscaped areas, private roadways and walkways, recreational vehicle parking, visitor parking, and drainage systems which are owned by the Association for the common use and enjoyment of all the Owners, as the same is designated on the Plat Map and any additions thereto.

8. Dwelling Unit shall mean and refer to a building

located on any of the Lots which is designed and intended for use and occupancy as a single-family residence, together with all improvements which are used in conjunction with such residence.

9. Owner shall mean and refer to the person or persons or other legal entity or entities holding fee simple interest of record to any Lot which is a part of the Property. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a mortgage or a beneficiary or Director under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

ARTICLE III

MEETING OF MEMBERS

1. Annual Meeting. The first annual meeting of the Members shall be held on the first Tuesday of March, 2006. Thereafter an annual meeting of Members shall be held on the first Tuesday of March of each succeeding year. The time of the meeting shall be 7:00 p.m. If the day fixed for the annual meeting falls on a legal holiday in the State of Arizona, such meeting shall be held on the next succeeding business day. The purpose of the annual meeting shall be the election of the Directors, review of the budget, presentation of proposed assessments and the transaction of such other business as may come before the Members. If the election of Directors does not take place on the day designated herein for the annual meeting, the Board of Directors shall cause such election to be held at a special meeting of the

Members as soon thereafter as is convenient.

2. Special Meeting. A special meeting of the Members for any purposes may be called by the President, by the Board of Director, by the Class B Member, or upon written request of the Members who hold one-fourth ($\frac{1}{4}$) of all the votes of Class A membership.

3. Place of Meeting. The Board of Directors may designate any place within Pinal County, Arizona, as the place for any annual meeting or for any special meeting called by the Board. If no designation is made, the place of meeting shall be the registered office of the Association in Pinal County, Utah.

4. Notice Meetings. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to all Members at least ten (10) days but not more than thirty (30) days prior to the meeting date. Such notice shall be deemed to have been properly furnished if mailed, postage prepaid, within the required time period to the person who appears as a Member at the time of mailing, at the latest address for such person appearing in the records of the Association.

5. Quorum. Except as otherwise provided in the Articles, in the Declaration, or by law, those Members present in person or by proxy shall constitute a quorum at any meeting of the Members.

6. Proxies. At any meeting of Members, a Member may vote by proxy executed in writing by the Member or by his duly

authorized attorney-in-fact. All proxies shall be filed with the Secretary of the Association before or at the time of the meeting. Unless otherwise provided therein, no proxy shall be valid after eleven (11) months from the date of its execution.

7. Necessary Vote. Except with respect to those matters which, pursuant to the Articles, the Declaration, or applicable law, require a vote greater than a majority, a simple majority of all those members present in person or represented by proxy who are entitled to cast votes at a meeting shall be sufficient for the adoption of any matter voted on by the Members.

ARTICLE IV

BOARD OF DIRECTORS.

1. Number, Tenure and Qualifications. The affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals. The Directors shall be classified with respect to the time for which they shall severally hold office, by dividing them into two (2) classes, to be known as Classes "1" and "2". Class 1 shall consist of one Director to hold office for one (1) year. Class 2 shall consist of two Directors to each hold office for two (2) years. At each annual election, the successor(s) to the class of Directors whose terms shall expire in that year shall be elected to hold office. Each Director shall hold office until his term expires or until his successor has been duly elected and qualifies. At any annual meeting, the Board of Directors, by simple majority vote, may increase the number of Directors to five (5), in which case there shall be two Class 1

Directors and three Class 2 Directors.

2. Initial Board. The persons who are to serve as the initial Directors are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Class 1:	
David C. Clark	9075 South 1300 East Sandy, Utah 84070
Class 2:	
Dahn J. Walker	1725 E. Fountain Mesa, Arizona 85203
Richard Welch	9075 South 1300 East Sandy, Utah 84070

3. Compensation. Directors shall not be paid any salary or other compensation for their services as Directors and shall not receive directly or indirectly any other profit or pecuniary advantage by virtue of their status as Directors.

4. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of the death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS.

1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations

may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among the Members or non-Members.

2. **Election.** Election to the Board of Directors shall be made by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Articles or the Declaration. The person receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETING OF THE DIRECTORS.

1. **Regular Meeting.** A regular meeting of the Board of Directors shall be held without notice other than this section immediately after, and at the same place as, the annual meeting of the Members. The Board of Directors may provide by resolution the time and any place within the State of Arizona for the holding of

additional regular meetings without notice other than such resolution.

2. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two (2) Directors. The person or persons calling a special meeting of the Board may fix any place within the State of Arizona as the place for holding such meeting.

3. Notice. Written or printed notice stating the place, day, and hour of any special meeting of the Board shall be given to all Directors at least three (3) days prior to the meeting date. Such notice shall be deemed to have been properly furnished if mailed postage prepaid at least three (3) business days before the meeting date to each Director at his address. Attendance of a Director at any meeting shall constitute a waiver of notice of such meeting unless the Director attends for the express purpose of objecting to the transaction of any business because the meeting is not properly called or convened. Neither the business to be transacted at, nor the purpose of any meeting, need be specified in the notice thereof.

4. Quorum. A majority of the Director then in office shall constitute a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Directors at a meeting at which a quorum is present shall constitute the act of the Board of Directors unless the act of a greater number is required by law.

5. Action Taken Without a Meeting. The Directors

shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so taken shall have the same effect as though taken at a meeting of the Directors.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Areas, and personal conduct of the Members and their guests thereon, and establish penalties for the infractions thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a Member during a period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days for infractions of published rules and regulations;

(c) exercise for the Association the powers, duties, and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-Laws, the Articles, or the Declaration;

(d) declare the office of the Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of

Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at special meetings when such statement is requested in writing by one-fourth of the Class A Members who are entitled to vote;

(b) supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed;

(c) as is more fully provided in the Declaration, to:

1. fix the amount of the monthly assessment against each Dwelling Unit and to send written notice of such assessment to every Owner subject thereto as provided in the Declaration.

2. foreclose the lien against any Lot for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, 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 states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Areas, and those portions of the Lots which the Association has responsibility for, to be maintained; and

(h) to carry out all other duties of the Association set forth in the Articles and the Declaration.

ARTICLE VIII

OFFICERS

1. Number and Qualifications. The officers of the Association shall be a President, a Vice-President, a Secretary, a Treasurer and a Lifestyle Activities Coordinator. No person may hold more than one office. Officers may be Directors of the Association.

2. Tenure. The Officers of the Association shall be elected by the Board of Directors at the first meeting of the Board held after the annual meeting of the Members. If election of Officers does not occur at such meeting, it shall be held as soon thereafter as is convenient. Each Officer shall hold office until his successor has been duly elected and qualifies or until he is removed. Any Officer may be removed by the Board whenever

in its judgment the best interest of the Association would be served thereby.

3. Vacancies. A vacancy resulting from death, resignation, removal or any cause shall be filled by the Board of Directors for the unexpired portion of the term of the person previously in office.

4. President. The President shall be the principal executive Officer of Association. The President shall, when present, preside at all meetings of the Members and of the Board of Directors. Except in cases where the signing and execution thereof is expressly delegated by the Board of Directors or by these By-Laws to some other Officer or agent of the Association or where required by the Declaration or by law to be otherwise signed, or executed, the President, together with the Secretary or any other Officer of the Association authorized by the Board of Directors, may sign any deeds, mortgages, contracts, or other instruments which the Board of Directors has properly authorized to be executed. The President shall, in general, perform all duties incident to the office of President and such other duties as may from time to time be prescribed by the Board of Directors.

5. Vice-President. In the absence of the President or in the event of his death, inability, or refusal to act, the Vice President shall perform all of the duties of the President. When so acting he shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice-President shall perform such duties as may from time to time be assigned to him by

the President or by the Board of Directors.

6. **Secretary.** The Secretary shall keep minutes of meetings of the Members and of the Board of Directors in one or more books provided for that purpose, shall see that all notices are given in accordance with the provisions of these By-Laws, the Declaration and law, shall maintain a membership list, and in general, shall perform all duties incident to the office of the Secretary and such other duties as may from time to time be assigned to him by the President or by the Board of Directors.

7. **Treasurer.** If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sums and with such surety or sureties as the Board shall determine. The Treasurer shall have the custody of and shall be responsible for all funds of the Association, shall receive and give receipts for money due and payable to the Association, shall deposit all such money in the name of the Association in such banks, trust companies, or other depositories as are selected by the Board, shall perform all accounting, financial record-keeping, and similar services which may be necessary or desirable in connection with the Association's affairs, and, in general, perform all duties incident to the office of the Treasurer and such other duties as may from time to time be assigned to him by the President or by the Board of Directors.

8. **Compensation.** Officers shall not be paid any salary or other compensation for their services as such and shall

not receive directly or indirectly any other profit or pecuniary advantage by virtue of their services as Officers. Provided, however, the Board of Directors may vote to reimburse the Officers their reasonable expenses associated with serving as Officers.

ARTICLE IX

ARCHITECTURAL COMMITTEE.

1. Number, Composition and Function. The Board of Directors shall appoint a three-member committee, the function of which is to enforce and administer the provisions of Article VIII of the Declaration (relating to control of improvements and landscaping within the Property). The committee need not be composed of Members. Members of the committee shall hold office at the pleasure of the Board. If such committee is not appointed, the Board itself shall perform the duties required of the committee.

2. Manner of Acting. The act, concurrence, or determination of any two or more committee members, whether such act, concurrence, or determination occurs at a meeting, without a meeting, at the same time, or at different times, shall constitute the act or determination of the committee.

3. Compensation. The Board of Directors may provide by resolution that members of the committee shall receive reasonable compensation, including but not limited to, reimbursement of their reasonable expenses incurred in connection with their service as committee members.

4. No Liability for Damages. The committee shall not

be held liable for damages by reason of any action, inaction, by approval or disapproval by it with respect to any request made pursuant to Article VIII of the Declaration.

ARTICLE X

ASSESSMENT

As is more fully provided in the Declaration, each Member is obligated to pay to the Association assessments which are secured by a continuing lien upon the Lot against which the assessment is made. Any assessment which is not paid when due shall be 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 an interest rate determined from time to time by the Board, and the Association may bring an action of law against the Owner personally obligated to pay the same or foreclose the lien against the Lot and interest, cost, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

ARTICLE XI

FUNDS

All cash of the Association shall be deposited in one of two or more accounts (the Maintenance Funds), one of which shall be designated as the Operating Fund and one of which shall be designated as the Reserve Fund, in such bank or banks or other insured depository institution, as the Board of Directors shall

determine. Funds may be withdrawn from such accounts upon the signature of any two Officers.

ARTICLE XII

AMENDMENTS

1. These By-Laws may be amended at a regular or a special meeting of the Board of Directors, by a vote of the majority of a quorum of Directors present.

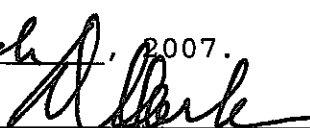
2. In Case of any conflict between the Articles and these By-Laws, the Articles shall control; and the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIII

MISCELLANEOUS

The fiscal year of the Development shall begin on the first day of January and end on the 31st day of December of every year, except the first fiscal year shall begin on the date of incorporation.


IN WITNESS WHEREOF, we, being all of the Directors of Broadway San Marcos Home Owners Association, have hereto set our hands this 21 day of March, 2007.



David C. Clark



Richard Welch



Dahn J. Walker