

Jay Peak Village Association 2012 Bylaws Overview and Summary

Prepared by the Jay Peak Village Association Board of Directors

March, 2012



Content

- Background of the new Bylaws
- Highlights of the main sections
- Main changes from 1993 Bylaws

Three legal documents establish and govern the Association

Declarations

Establish the overall development, its scope and how properties are transferred to the Association

Bylaws

Govern how the Association is run and managed, and how Unit Owners and the Board interact and communicate

Rules and Regulations

Additional rules and processes outside the overall Bylaws

Background of the new Bylaws

- Original Bylaws were written in January 1993 as part of original declarations and the establishment of the development
- The fundamental reason for rewriting the by-laws is to conform to the new legislation in Vermont, which became effective Jan 1,2012
- The over arching purpose of the legislation was to make the governance of condo associations more open and transparent
- For help bringing our Bylaws into compliance the Board hired Jon S. Readnour, Esq. of Readnour Associates, P.C. in Rutland
- Rather than try and modify our existing Bylaws, the Board decided it was more cost effective and expedient to start from scratch using Attorney Readnour's template and customize it for our needs

Highlights of main sections

Overview of the new Bylaws

- I. Defined terms (pages 2-3)
- II. Incorporation of Association (pages 3-4)
- III. Governance (pages 4-7)
- IV. Association members (pages 7-9)
- V. Association meetings (pages 9-15)
- VI. Directors (pages 15-17)
- VII. Directors meetings (pages 17-22)
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- XI. Records (pages 28-30)
- XII. General provisions (pages 30-31)
- XIII. Amendments (page 31)
- XIV. Certification of adoption of the Bylaws (pages 31-32)

I. Defined terms (pages 2-3)

Defines the terms used in the Bylaws based those ones set forth in the original declarations as well as adding new ones

- Some of the key additions include:
 - Board
 - Capital Assessments
 - Capital Expenditures
 - Capital Reserve Fund
 - Common Areas and Facilities
 - Meeting
 - Operating Expenses
 - Record Owner
 - Rule
 - Sanctions

II. Incorporation of Association (pages 3-4)

Establishes the Association as a legal entity

- The original Bylaws were adopted on January 22, 1993
- The address of the Association:
 - General Manager
 - Jay Peak Village Association, Inc.
 - 4850 Vermont Route 242
 - Jay, Vermont 05859

III. Governance (pages 4-7)

Defines how the Association is administrated and managed in accordance with the Vermont Common Interest Ownership Act, the Vermont Nonprofit Corporation Act, the Declaration, and these Bylaws

- The key elements laid out in this section include:
 - Create a budget
 - Collect Assessments from Unit Owners
 - Management and improvement of common areas
 - Provide indemnification for its officers and executive Board
 - May suspend any right or privilege of a Unit Owner that fails to pay an Assessment
 - Administer the Association
 - Take decisions that require approval by the Unit Owners, such as the ratification of the annual budget or amendments to the Bylaws to the Unit Owners for a vote

IV. Association members (pages 7-9)

Outlines who is an Owner and how they will be communicated with by the Association's Board

- The main points include:
 - How changes in ownership are handled
 - How Unit Owners will be communicated with both through traditional mail and electronically
 - The process by which Unit Owners will be notified of Association meetings

V. Association meetings (pages 9-15)

Defines the different classes of meetings and how they are conducted

- The main points outlined in the section include:
 - There are two types of meetings: the annual meeting and then special meetings that can be called throughout the year as issues arise
 - The meetings may be conducted in person or via telephone or other conferencing means provided every Unit Owner has access
 - Notice of the meeting shall be given not less than 10 nor more than sixty days prior to the date of the Meeting
 - A quorum is 20% of the Unit Owners that are entitled to vote
 - How voting is handled in person or electronically
 - Every Unit Owner entitled to vote shall have the right to do so either in person or by a proxy executed in writing by the Unit Owner
 - The protocol by which the meetings will be conducted based on Roberts Rules Of Order

VI. Directors (pages 15-17)

Lays out the composition of the Board of Directors, their terms and responsibilities

- Key elements to include:
 - The Directors are elected for a term of two year and must own a Unit
 - Board Members can be removed by majority vote a Unit Owner meeting that meets quorum
 - The Board of Directors shall have all powers and duties available to an Executive Board under the Vermont Common Interest Ownership Act and the Vermont Nonprofit Corporation Act, the Declaration and these Bylaws as necessary for the administration of the affairs of the Association and the Units, Common Areas and Facilities, Limited Common Areas
 - Development and adoption of an Annual Association Budget for Operating Expenses and Capital Expenditures for the Association
 - The Board will assess and collect from Unit Owners Capital Assessments and Operation and Maintenance Assessments
 - The Board of Directors may determine whether to take enforcement action by exercising the Association's powers

VII. Directors meetings (pages 17-22)

Lays out the role and the protocol for conducting meetings by the Board of Directors

- Key tenants in this part of the Bylaws:
 - The meetings are open to Unit Owners who will be notified and provided any supporting materials
 - The Board of Directors may hold a private executive session only during a regular or Special Meeting of the Board of Directors, but no final vote or action may be taken during an executive session
 - Any electronic conferencing facilities used by the Board must also be available to Unit Owners
 - A majority vote of a quorum of the Directors present at the Meeting, as provided in these Bylaws, shall decide any question properly before the Directors
 - 50% of the Directors must be present to constitute a quorum
 - The Directors of the Association may establish committees and subcommittees and appoint members of the Board to serve on them
 - The Directors are NOT compensated for their service currently, but it is an option in the future. Any compensation will have to be approved by a quorum of Unit Owners at the annual meeting

VIII. Officers (pages 22-24)

Describes the different officers and their roles

- The key officers roles are:
 - President: shall, in general, supervise and control the business and affairs of the Association, execute and deliver, in the name of the Association, any contracts, checks, deeds, mortgages or other instruments that the Directors have authorized to be executed
 - Vice President: shall serve in the absence of the President and have such other duties as shall be lawfully delegated to the office of Vice-President
 - Secretary shall keep the minutes of all regular and Special Meetings of the Directors and of the Members of the Association; ascertain, record and publicize the outcome of all votes taken at such Meetings; maintain a register of names and addresses provided by Members of all Association Members, and attend to giving of all notices required by law and by these Bylaws
 - Treasurer shall keep the financial records of account of the Association and shall make an annual report to the Members at the end of the fiscal year

IX. Fiscal management (pages 24-27)

Outlines the financial responsibilities and processes of the Association

- The key fiscal elements include:
 - The fiscal year of the Association shall begin on July 1st of each year and end on June 30th of the succeeding year
 - Annual Association Budget shall include the funds determined by the Board of Directors to be required for Operating Expenses and Capital Expenditures for the Association
 - Annual Association Budget shall be voted on at the Annual Meeting or at a Special Meeting. The Board shall send the proposed budget to all Unit Owners, not less than 14 or more than 30 days before the Association Meeting
 - The Association Directors may, from time to time, establish and include in the Annual Association Budget capital funding to provide a replacement reserve for the Common Areas and Facilities and Limited Common Areas, to undertake major replacement or repair
 - Operation and Maintenance Assessments and Capital Assessments shall be made by the Board of Directors of the Association based upon the Association Budget
 - The Association shall send to each Unit Owner of Record a notice of the assessment
 - Any assessment not paid by the due date established by the Association shall constitute a delinquent assessment and a lien upon the Unit of the delinquent Owner

X. Rules (pages 27-28)

This section gives the Board the power to create and enforce rules/regulations

- Highlights include:
 - The Board of Directors may adopt, amend, repeal and enforce Rules as provided in 27A V.S.A. §3-120
 - The Board shall give all Unit Owners notice of its intention to adopt, amend, or repeal a rule and provide the text of the rule or the proposed change
 - The Association may adopt Rules to establish and enforce construction and design criteria and aesthetic standards
 - The Association may adopt Rules that affect the use of or behavior in Units only to regulate any behavior in or occupancy of a Unit which violates the Declaration or adversely affects the use and enjoyment of other Units or the Common Areas
 - Every Rule must be reasonable

XI. Records (pages 28-30)

Outlines the record keeping requirements and procedures of the Association

- Some key provisions include:
 - The Board will maintain the following records: detailed records of receipts and expenditures, the minutes and decisions from Board Meetings, the names and contact details Unit Owners, the original or restated Articles of Incorporation, all Rules currently in effect, copies of current contracts to which the Association is a party, and ballots, proxies and other records related to voting by Members for one year after the election, action or vote
 - The records can be reviewed by a Unit Owner during reasonable business hours or at a mutually convenient time and location
 - Some sensitive records can be withheld from inspection and copying

XII. General provisions (pages 30-31)

Covers seven overarching provisions

- Severance
- Applicable Laws
- Saving Provision
- No Waiver
- Captions
- Gender
- Binding effect

XIII. Amendments (page 31)

Defines how the Bylaws can be modified or changed

- The Board of Directors of the Association may, by a majority vote of a quorum of Board Members, propose amendments to these Bylaws for consideration and adoption at any Annual or Special Meeting of the Association
- The Members may ratify, approve and adopt amendments to the Bylaws proposed by the Directors by a vote of two-thirds of the votes cast or a majority of the voting power of the Members at a duly called Special or Annual Meeting, whichever is less.

XIV. Certification of adoption of the Bylaws (pages 31-32)

The Secretary of the Board certifies that Bylaws were approved by the Association

Main changes from 1993 Bylaws

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- Unit Owners will be informed and allowed to attend the Board Of Directors meetings in person or via teleconference, but only if the Board of Directors are using teleconferencing services – no notification or option to participate was required in the past
- A meeting agenda for an Annual or Special meeting is now required as part of the notice
- The board or 5% of the Unit Owners may request a special meeting down from 25% of the Unit Owners
- The Board can now allow people to vote electronically and be notified of meetings via email – Telegram is NO longer an option
- The quorum for the Annual and Any Special meeting has been reduced from 50% (95) of Unit Owners to 20% (40 Unit Owners)
- Votes are counted based on % of overall space same as before
- The Bylaws can be changed provided 2/3rd of the votes **cast** agree with the changes rather than 2/3rds (120 Unit Owners) of the Unit Owners had to agree in the past
- Notice of a Unit Owner meeting formerly required three weeks notice, now its no less than ten days but no more than 60 days

Main changes from 1993 Bylaws (Cont'd)

- Annual meeting was 2nd Saturday of October and is now 1st Saturday of June (June 2, 2012 – SAVE the date)
- A formal role of Vice President has been added to the Board
- Capital expenditures of over \$US50,000 require approval by Unit Owners in the past it was \$US5,000 and 50% of the Unit owners had to vote against it.
- A Board of Director May be removed if 50% of the meeting quorum vote for his/her removal – it was 2/3rds of all homeowners