

## BYLAWS OF

### PINON HILLS WATER USERS ASSOCIATION, INC. Amended May 13,2023

#### ARTICLE I

##### Membership

Section 1. The membership/member of the Pinon Hills Water Users Association, hereinafter called the "Association", shall consist of the following: Any bone fide owner of property within the Pinon Hills Water Users Association Service Area as defined by findings of fact contained in the District Court, Water Div. 2, Colorado Case Number: 97CW108(a) "AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW JUDGE-MENT AND DECREE".

Section 2. Each member shall be entitled to purchase from the Association, pursuant to such agreements as may from time to time be provided and required by the Association, such potable water for in house domestic use, gardening and hobby farming. No potable water delivered through the Associations water supply may be used for the commercial cultivation or growing of agricultural products, and you cannot sell or give water away.

Section 3. All membership records shall be kept in the Association books by the Secretary Treasurer. The information shall include, but not be limited to: name, office, and conditions of membership.

- a. All memberships and their rights, duties, and obligations are subject to the conditions and restrictions contained in the Articles of Incorporation and By-laws and Amendments to the same of the Pinon Hills Water Users Association.
- b. Each membership shall have one and only one vote per tap on matters properly brought before the general membership for vote.
- c. Every member, upon becoming a member of this Association agrees to sign such agreement for the purchase of water from the Association as may from time to time be provided and required by the Association. All user memberships shall run with the land and shall not be transferred or assigned to any other individual or corporation, except, in the event of a sale of the member's land, to the purchaser of such land and when in compliance with section 2 of these By-laws.
- d. Members of the Association will not restrict access to the water meter and shut off valves by the Associations' designated representative.
- e. No membership fee shall be assessed.

Section 5.

a. The annual meeting of the membership of the Pinon Hills Water Users Association shall be held in May of each year, at a time and location to be published to members at least 3 days prior to the meeting. Special meetings of the membership of the Association may be called any time by the action of the Board of Directors and such meetings must be called whenever a petition requesting such meeting is signed by at least ten percent of the members and presented to the Secretary of the Board of Directors. The purpose of every special meeting shall be stated in the notice and no business shall be transacted except as specified in the notice.

b. Unless as otherwise stated in these By-laws, the Annual Meetings, Special Membership Meetings and Board of Directors Meetings shall be conducted by Roberts Rules of Order Revised.

Section 6. Notice of the meeting of the membership of the Association shall be given by preferred notice at least **3** days prior to the meeting. Such notice shall state the nature, time, place and purpose of the meeting.

Section 7. Seven members present at any meeting of the membership shall constitute a quorum at any meeting of the Association for the transaction of business. All voting shall be allowed for proposed By-law amendments, as stated in Article VII of these By-Laws and ballot voting for Directors, as provided in Section 8 of this Article. The voting powers of the members of this Association shall be equal.

Section 8. The Board of Directors for the Pinon Hills Water Users Association shall be elected as follows.

a. The Association shall notify all members of any open positions on the Board of Directors, such notice for each position which shall be used for all voting.

b. Those persons wishing to be on the ballot for Board of Directors shall indicate such interest by the first of March to the Association office and declare for which numbered position they are a candidate.

c. Ballots may be cast in person at the annual meeting, or in writing or email, received by the board 3 days prior to the meeting, or by proxy specified to the board in writing or email 3 days prior to the meeting.

d. The nominee who receives the largest number of votes for each numbered position shall be declared winner. In the event of a tie the winner shall be determined by a toss of the coin. Those elected to the Board of Directors shall take office at the next meeting of the Board of Directors.

Section 9. The order of business at annual meetings and so far as possible at all other meetings shall be:

1. Call to order and proof of the quorum
2. Proof of notice of meeting
3. Approval and corrections of the minutes of the last meeting.
4. Reading and approval of the agenda
5. Election of Directors
6. Old/Unfinished Business
7. New Business
8. Adjournment

Section 10: General Corporation Information:

- a. Official correspondence with the Association may be addressed to P.O. Box 1165, Walsenburg, CO 81089. Physical address for the association is 75 Indian Creek Rd, Walsenburg, CO 81089.
- b. Fiscal Year for the Association is based on the calendar year, January 1 through December 31.

## ARTICLE II

### Board of Directors

Section 1. The business and property of Pinon Hills Water Users Association shall be managed by a Board of five Directors, all of which shall be members of the Association. At the first annual meeting of the new membership, one director shall be elected for a term of one year, two directors for two years and two directors for three years. Thereafter each director shall be elected for a three year term as provided in Article I of these By-Laws. Directors may serve a maximum of two consecutive terms. If no other volunteer can be found to serve in the director capacity, a director that has served two consecutive terms may be elected for an additional term if duly elected.

Section 2. The Board of Directors, at the next meeting following the election of directors(s), shall elect by ballot, a president, vice-president and secretary/treasurer, each of whom shall hold office until the election and qualification of his/her successor unless sooner

removed by death, resignation, or for cause. The secretary/treasurer position may be filled by one person, or by two people, one secretary and one treasurer. A vacancy in any office shall be filled by the Directors from among their number until the next election can fill the opening.

Section 3. The Board of Directors of the Association shall hold quarterly meetings and such special meetings as they shall deem necessary for the competent management of the affairs of Association. Special meetings will be held at a time and location to be published to members at least 3 days prior to the meeting.

Section 4. If the position of director becomes vacant by reason of death, resignation, retirement, disqualification, or otherwise, except removal from office, a majority of the remaining directors, although less than a quorum, shall by majority vote, choose a successor who shall hold that position until replaced at the next regular election, at which time the general membership shall nominate and elect a director to serve for the unexpired term as stated in Article I Section 8.

Section 5. Directors may be removed from office from their position in the following manner: Any member or director may present charges against a director by filing them in writing with either the Secretary or President of the Association. If presented by a member, the charges must be accompanied by a petition signed by 10% of the membership of the Association. The Director against whom such charges have been presented shall be informed of such charges within 10 days of receipt by the Association, Action on such charges shall take place at the next annual meeting or special meeting provided notice of such action is included in the meeting notice delivered to each member as stated in Article I Section 6. The Director shall have the opportunity at such meeting to be heard in person or by counsel and to present witnesses; and the person or persons presenting the charges against him/her shall have the same opportunity. A director may only be removed by a majority of members present and voting at such a meeting. A vacancy in the Board of Directors thus created shall immediately be filled by election of a temporary director, by a vote of the majority of the members present and voting at such meeting, who shall hold the position until replaced at the next regular election, at which time the general membership shall nominate and elect a director to serve for the unexpired term as stated in Article I Section 8.

Section 6. Unexcused absence from two consecutive meetings of the Board of Directors shall be due cause for disqualification as a director.

Section 7. Each member of the Board of Directors shall possess one vote in matters coming before the Board. All voting at meetings of the Board of Directors shall be by each member in person and voting by proxy shall not be allowed. Three members of the Board of Directors shall constitute a quorum.

Section 8. The members of the board of Directors will receive no compensation for their services as directors. However, training and related expenses that will enable a board member to perform more effectively on behalf of the Association will be eligible for reimbursement. With proper documentation/receipts, directors may be reimbursed for per diem/mileage expenses at the IRS's current rate as well as other actual expenses. Directors completing duties related to bookkeeping and billing such as the duties of the treasurer may be paid a fee for their services.

Section 9. As a part of but not limited to the exercise of the management of the business of the Association, the directors shall pass upon the qualifications of members, see to the recordation and removal of memberships on the Association's books, select and appoint all officers, agents or employees of the Association or remove such agents or employees of the Association for just cause, prescribe such duties and designate such powers as may not be inconsistent with these By-Laws, fix their compensation and pay for faithful services, borrow money, procure goods or services from any source, and make and issue notes and other negotiable and transferrable instruments, mortgages, deeds of trust and trust agreements and do every act and thing necessary to effectuate the same, prescribed, adopt, from time to time, such equitable uniform rules and regulations as, in their discretion may be deemed essential or convenient for the conduct of the business affairs of the Association and the guidance and control of its officers, and employees, and to prescribe adequate penalties for the breach thereof. To establish and impose a schedule of rates and charges for water service and installation fees and charges, to levy and collect the same and to review, revise, alter and amend the same from time to time as may be necessary; to establish policies and guidelines for the development and expansion of the water system and to implement the same by such means as they deem appropriate. To order, at least once a year, an audit of the books and accounts of the Association by a competent public auditor or accountant. The report prepared by such auditor or accountant shall be available to all Association members. A copy of the summary of the annual audit shall be distributed to all members present at the annual meeting. To require all officers, agents, and employees charged with the responsibility for the custody of any of the funds of the Association to give adequate bonds, the cost thereof to be paid by the Association, and it shall be mandatory upon the directors to so require. To select one or more financial institutions to act as depositories of the funds of the Association and to determine the manner of receiving, depositing, and disbursing the funds of the Association in the form of checks and the person or persons by whom the same shall be signed. To levy assessments against the membership of the association and to enforce the collection of such assessments as described in Article IV Section 5 . The Board of Directors shall have the option to declare any suspended membership on which assessment has not been paid, at any time after ninety days from the date the assessment was due, provided that the association gives the member at least thirty days' written notice at the address of the member on the books, of its intention to suspend the membership if the assessment is not paid in full.

Section 10: The board may create ad-hoc committees as needed to carry out the business of the Association.

Section 11: The Association's procurement document shall be followed when soliciting bids, entering into contracts, and buying goods or services for the Association.

### Article III

#### Duties of Officers

Section 1. President. The president shall supervise all activities of the Association; execute all instruments on its behalf; preside at all meetings of the Board of Directors and of the membership of the Association; call such meeting of the membership as shall be deemed necessary, other than the annual meeting of the membership; and perform such other duties usually inherent in such office.

Section 2. Vice President. The vice president shall act for the president in his absence and perform such other acts as the president may direct.

Section 3. Secretary/Treasurer. As stated in Article II, section 2, secretary/treasurer position may be filled by one person, or by two people, one secretary and one treasurer. The Secretary/Treasurer shall be responsible for all records of the Board of Directors and of the Association, and perform such other acts as the president may direct. He or she shall have general charge of the books and records of the Association. He or she shall prepare and sign all checks that must be countersigned by one other board member. He or she shall execute such papers pertaining to the Association as he or she may be authorized or directed to do by the Board of Directors. He or She shall serve all notices required by law and by these By-laws and shall make a full report of all matters, such audited financial statements as prepared by independent auditors and business pertaining to his or her office to the members at the annual meeting. He or she shall be responsible for the corporate seal and membership records of the Association, affix seal to all papers requiring seal. He or she shall review the proper keeping of the membership records by the office staff. He or she shall make all reports required by law and shall perform such other duties as may be required of him or her by the Association or the Board of Directors. Upon the election of his or her successor, the Secretary/Treasurer shall turn over to him or her all property belonging to the Association that he or she may have in his or her possession. He or she shall also perform such duties with respect to finances of the Association as may be prescribed by the Board of Directors.

### ARTICLE IV

## Miscellaneous.

Section 1. The Association will itself, or by provision through any other means, including but not limited to developer extension agreements, install, maintain and operate a main distribution pipe line or lines from the source of the water supply and service lines to the property line of each member of the Association, at which, designated as delivery points, meters to be purchased, installed, owned and maintained by the Association shall be placed. The cost of the service line or lines from the main distribution pipe line or lines from the Association to the property line of each member shall be paid or provided for by the Association by such means as it deems feasible. The Association may also purchase and install a cut-off valve in each service line from its main distribution line or lines, such cut-off valve to be owned and maintained by the Association and to be installed in some portion of the service line owned by the Association. The Association shall have the sole and exclusive right to use such cut-off valve to turn it on and off.

Section 2. Each member shall be entitled to purchase from the Association, pursuant to such agreements as may from time to time be provided and required by the Association, such water for in house domestic, hobby farming, livestock, garden purposes as a member may desire, subject to these By-Laws, such rules and regulations as may be prescribed by the Board of Directors and the following:

a. Each residential membership shall be entitled to one service line and delivery through such line of such water as may be necessary to service not more than one dwelling unit, the livestock owned by the residents of such dwelling unit and irrigation of a garden, including landscaping, subject, however to the provisions of these By-Laws and regulations as may be prescribed by the Board of Directors. A dwelling unit is defined in the International Building Code/Huerfano County Building Code.

### Section 3

a. Each supply line shall be 3/4 inch in size and connected to the meter.

b. The provisions of Article 1, Section 1 notwithstanding, no member shall be entitled to additional service lines, nor shall any change be made in any existing service line that will substantially interfere with an existing line or the delivery of water therein, or if it will unreasonably interfere with the capacity of the system. Each service line shall connect with the Association's water system at the nearest available place to the place of desired use by the member of the Association's water system and shall be of sufficient capacity to permit the delivery of water through a service line at that place without substantially interfering with the delivery of water through a prior service line. If the Association's Water system shall be inadequate to permit the delivery of water through a service line, then such service line shall be installed at such place as may be designated by the Association. Each member shall be required to dig a ditch or have dug a ditch for the connection of the line from the property line of the member to his or her dwelling and install a line from his or her property

line to the place of use on his or her premises and to maintain such line which shall be owned by the member, at his or her own expense.

Section 4. In the event the total water supply is insufficient, there is a shortage of water, or lack of delivery capability, whether due to lack of adequate capacity or equipment failure, to meet all the needs of other members, the Association may prorate the water available among the various members on such basis as is deemed equitable by the Board of Directors, and may also prescribe a schedule of hours covering the use of water and require adherence thereto.

Section 5. It shall be the responsibility of the Board of Directors to no less than once a year determine the flat minimum monthly rate during the following calendar year, and the flat minimum monthly rate to be charged each user member during the following calendar year for specified quantity of water. Such flat minimum monthly rate to be payable, irrespective of whether any water is used by a member during any month, if service facilities are installed for such member, and amount of additional charges, if any, for additional water which may be supplied the member. The Board shall also fix the dates for payment of such charges, and shall notify each member of any rate or billing change in a timely manner. A member to be entitled to the delivery of water, shall pay such charges, at the address on the bill, at or prior to the dates fixed by the Board of Directors. Failure to pay water charges duly imposed shall result in the imposition of penalties, including but not limited to, suspension of water delivery until such time as all charges, fees, assessments, and fines, if any, are paid in full.

Section 6. The Board of Directors shall be authorized to require each member to enter into water users' agreements which shall embody the principles set forth in the foregoing sections of this article.

Section 7. The Board of Directors shall have the right to file liens against the owner's property for any unpaid assessments or any accounts deemed to be in a delinquent status in the amount of \$100.00 or more. All legal fees incurred in an attempt to collect such debts or assessments shall be paid by the owners of the property.

## ARTICLE V

### Limitations of Directors' Liability

A director shall have no liability to the association or its members for monetary damages for conduct as a director, except for acts or omissions that involve (i) intentional misconduct by the director, (ii) a knowing violation of law by the director, (iii) conduct violating THE COLORADO BUSINESS CORPORATION ACT, or (iv) for any transaction from which the director will personally receive a benefit in money, property or services to which



the director is not legally entitled. If the Colorado Business Corporation Act, is amended to authorize corporation action further eliminating or limiting the personal liability of directors, then the liability of a director shall be eliminated or limited to the full extent permitted by the Colorado Business Corporation Act, as so amended. Any repeal or modification of this Article shall not adversely affect any right or protection of a director of the Association existing at the time of such repeal or modification for or with respect to an act or omission of such director occurring prior to such repeal or modification.

## Article VI

### Indemnification of Directors and Officers

Section 1. Right of indemnification. For each person who was or is made a party to or is involved (including, without limitation, as a witness) in any actual or threatened action, suit or proceeding whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director or officer of the Association or, being or having been such a director or officer, he or she is or was serving at the request of the Association as a director, officer, employee or agent of another corporation or of a partnership, joint venture trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity, shall be indemnified and held harmless by the Association to the full extent permitted by applicable law as then in effect, against all expenses, liability and loss (including, without limitation, attorneys' fees, judgments, fines ERISA excise taxes or penalties and amounts to be paid in settlement) actually or reasonably incurred or suffered by such person in connection therewith. Such indemnification shall continue as to a person who has ceased to be a director, Officer, employee or agent and shall insure to the benefit of his or her heirs, executors and administrators. No indemnification shall be provided under Article V to any such person if the corporation is prohibited by the non- exclusive provisions of the Colorado Business Corporation Act or other applicable law as then in effect from paying such indemnification. The right to indemnification conferred in this Section shall be a contract right and shall include the right to be paid by the Association the expenses incurred in defending any such proceeding in advance of the final disposition; provided, however, that the payment of such expenses in advance of the final disposition of a proceeding shall be made to or on behalf of a director or officer only upon delivery to the association of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this article or otherwise, which undertaking may be unsecured and may be accepted without reference to financial ability to make repayment.

Section 2. Non-Exclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Articles of

Incorporation, By-Laws, agreement, vote of members or disinterested directors or otherwise.

Section 3. Insurance, Contracts and Funding. The Association may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Association or other corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under the Colorado Business Corporations Act. The association may enter into contracts with any director or officer of the Association in furtherance of the provisions of this Article and may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payments of such amounts as may be necessary to effect indemnification as provided in this Article.

#### ARTICLE VII

##### Amendments to By-Laws

Section 1. These By-Laws may be repealed or amended by the majority vote of eligible voters. By-Laws may be amended at any annual meeting of the Association, or at any special meeting of the Association called for that purpose except that the members shall not have the power to change the purposes, of the Association so as to decrease its rights and powers under the laws of the state or to waive any requirement of bond or other provision for the safety and! security of the property and funds of the Association or its members, or to deprive any member of rights and privileges then existing or to so amend the By-Laws as to affect a fundamental change in the policies of the Association. Notice of any amendment to be made at a special meeting of the members must be given at least three days before such meeting and must set forth the amendments to be considered.


We the undersigned below, President and Secretary of the Pinon Hills Water Users Association, hereby certify that the above is a true and correct copy of the By-Laws which were duly adopted on the 13<sup>th</sup> day of May 2023.

  
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President

  
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Secretary

  
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Treasurer