

# **BYLAWS**

## **KALAPANA SEAVIEW ESTATES COMMUNITY ASSOCIATION**

### **ARTICLE I**

#### **Association**

**SECTION 1: The Organization** – The primary specific purpose of the organization is to maintain and improve the three (3) common areas in the Kalapana Seaview Estates (KSE) subdivision. The general purpose is to transact any and all lawful business for which nonprofit planned community associations are incorporated under the laws of the State of Hawaii. Kalapana Seaview Estates Community Association (KSECA) was established as a nonprofit community-directed association by parcel owners of KSE, and it is the community association referred to in the subdivision's "Declaration of Covenants". 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 KSECA shall be 12-7017 Kalihikai St, Box 4537, Pahoa, HI 96778-7842

#### **SECTION 3: Definitions**

**Annual General Meeting (AGM):** Means the once a year Membership meeting as described in Article III.

**Association:** Means all members of KSECA.

**Board:** Means the Board of Directors (BOD) of KSECA designated in KSECA documents to act on behalf of KSECA.

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

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

**Director:** Means a member of the KSECA BOD whose eligibility is defined by being a Member (any owner of record of one or more parcels of land in KSE).

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

**Member:** Means any owner of record of one or more parcels of land in KSE.

**Membership:** Means ALL members of KSECA.

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

**Officer:** Means the Job Description assigned a Director to hold and carry out as described in Article IV.

**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 BOD for 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 KSECA by Richard M. Kennedy, Trustee in bankruptcy of Kalapana Seaview Estates, Inc. 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 BOD shall have and perform each of the following duties for the benefit of KSECA:

**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 VIII, 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 BOD to carry out the corporate duties on behalf of KSECA as described herein.

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

**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 BOD deems necessary to protect the interest of KSECA if there are sufficient funds available.

**E.** To provide a financial statement for the previous years of KSECA's income, expenses and assets for publication in the next KSECA Annual Newsletter.

**F.** To provide an audit of KSECA income expenses and assets every two years and 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.

**G.** To provide an annual newsletter to KSECA along with the annual maintenance statement and voting information at least 35 days before the scheduled date of the AGM.

**H.** 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.

**I.** 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** – There shall be two classes of eligible voters:  
MGS Owners(s) of Record and MGS authorized agent(s).

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

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

**C.** A MGS may authorize one other person to vote that MGS's ballot(s) in person at the AGM by submitting to the KSECA Clerk a notarized document prior to the meeting provided that the notarized document contains ALL of the following:

1. Owner of Record's printed name and signature.
2. Tax Map Key (TMK) number of KSE parcel verified by the County of Hawaii Real Property Tax Office records.
3. Name of designated agent.
4. Length of time and purpose for which the authorization is given.

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

### **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.** KSECA will provide official proxy forms to the membership in accordance with HRS 421J-4.

**C.** 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**

**A.** The AGM shall be held on the last Sunday in April to vote motions and elections by KSECA MGS. If, for any reason, elections are not conducted or the AGM is not held as scheduled, a rescheduled AGM shall be held within 45 days following the originally scheduled date of the AGM for the express purpose of electing Directors. If any unforeseen circumstance prevents the rescheduled AGM from being held a Special Meeting shall be called.

**B. Notice** — At least 35 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 the KSECA Annual Newsletter, AGM

Agenda, Annual Statement for Maintenance Dues and any Candidate Introduction(s) for election to the BOD.

**C. AGM Newsletter Editor** — The Editor shall be a MGS selected by the Membership at any association meeting prior to the regular November BOD meeting and presented to the BOD at the regular November BOD meeting. If, for any reason, the Editor is not selected by the Association prior to the subject meeting then the Editor shall be selected by popular vote of the members and BOD members present at the regular November BOD Meeting; or, if required the following regular monthly BOD meeting. If the Editor has not been selected by the regular December BOD meeting a Special Meeting shall be held for this purpose.

**1.** The Editor shall be responsible for having the newsletter published at least five (5) business days prior to the mailing date of the newsletter.

**2.** Prior to final preparation of copy for publication, the Editor shall present a copy of the proposed newsletter to the BOD for approval.

**D. AGM Agenda** — Members may submit agenda items to the Editor of the KSECA Annual Newsletter for the AGM Agenda.

**E. AGM Facilitator** — The membership may nominate at any prior regular monthly BOD meeting a neutral/third-party facilitator to conduct that year's AGM. At the AGM the membership present shall vote to accept or reject any facilitator.

**F. Quorum** – Quorum for any AGM shall consist of twelve (12) MGS.

## **SECTION 2: Regular Monthly Board Meetings**

**A.** The BOD Meeting shall be held monthly on a day and time that is most convenient for the members of the BOD, and notice of such meetings shall be posted at least five (5) days before the date of the meeting. KSECA residents are encouraged to attend and participate in regular monthly BOD meetings to provide input on the matters being discussed. Members who are not on the BOD may participate in any deliberation or discussion, except during executive sessions, unless a majority of a quorum of the BOD votes otherwise.

**B.** Quorum for regular monthly Board meetings shall be four (4) or more Directors in attendance of the subject meeting.

## **SECTION 3: Association Membership Meetings**

**A.** The KSECA membership may hold meetings open to MGS and their community guests on a day and time established by the Membership.

**B.** The purpose of the Association Membership meetings is to establish a social period of time to exchange ideas and concerns on a timely basis and to discuss actions of the BOD concerning maintenance of the parks. Resolutions and motions may be made by members and votes taken at those meetings. These motions shall be presented to the BOD at the next regular monthly BOD meeting for consideration.

**C.** Quorum for Association Membership Meetings shall be fifteen (15) members.

## **SECTION 4: Special Meetings**

**A.** Special Meetings may be called by either quorum of the BOD or by not less than 20 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 BOD. 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 5: Action Authorized Without Meetings** – Any action that the BOD 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 BOD meeting.

## **ARTICLE IV**

### **Directors, Officers and Job Descriptions**

#### **SECTION 1: Board of Directors**

**A.** The members shall elect Directors at the AGM. The BOD shall consist of seven (7) members, each Director elected for a term of two (2) years or until a successor elected.

**B.** The BOD shall consist of five (5) Officers and two (2) Directors-at-Large.

**C.** Director(s) shall hold no more than one office at a time.

#### **D. Fees and Donations**

**1.** Fees – On behalf of KSECA, the BOD shall assess each Parcel an annual park maintenance fee as determined by the BOD 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.

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

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

On behalf of KSECA, the BOD 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 KSECA, and said statement will be mailed to each member at least 35 days before the date of the AGM. If any parcel is held jointly or in common, the owners of such parcel shall, at the time of purchase, designate to KSECA one address to which all notices shall be sent.

**SECTION 2: Officers** – At the first scheduled regular BOD meeting, the new BOD shall elect officers who shall serve a term of one year or until a new BOD 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: Compensation**

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

#### **SECTION 4: Job Descriptions**

**A. President:** The President presides over regular monthly BOD meetings with the consensus of the BOD. The President shall be the official spokesperson on issues and matters determined by the BOD through their vote.

**B. 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 BOD or the Bylaws.

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

**D. 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.

**E. Clerk:** The Clerk shall keep a current list of all members of KSECA, post notices of meetings, collect and appropriately disburse all mail, handle KSECA phone calls, keep and maintain all KSECA files and records, including taxes and insurance, and perform any other duties as determined by the BOD. Any portion of the Scribe, Clerk or Treasurer's duties may be delegated to a contracted agent, subject to the approval of the BOD; however, all responsibility remains with the BOD.

**F. Directors-At-Large:** Directors-At-Large may be assigned duties, tasks or committee related appointments by the BOD through their vote.

### **ARTICLE V**

#### **Nominations and Elections**

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

**A.** At least 60 days before the annual newsletter and maintenance fee statement is mailed to KSE parcel owners, the BOD shall post notices on the commonly held properties asking members who wish to be candidates to the BOD notify the Editor within 30 days with a statement of 100 words or less. If such statement is received by the official cut-off date, the candidate'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 BOD a written statement of willingness to serve before the meeting.

**SECTION 2: Elections** – Those positions on the BOD whose terms will expire at the AGM will be subject to election at the AGM. Four (4) Directors shall be elected one year and three (3) Directors shall be elected in the following year at the AGM 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 BOD members shall be in person or by proxy at the AGM. 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** – KSECA will provide official forms to the membership in accordance with HRS Ch.421-J.

## **ARTICLE VI**

### **Resignation, Removal and Vacancy**

**A.** Any Director or Officer may resign at any time by giving written notice to the BOD 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 BOD meeting held for such purpose, any Director or Officer may be removed without cause by a two-thirds (2/3) vote of the full BOD in office at the time excluding the one Director considered for removal.

**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 BOD only when necessary to bring the number of BOD members back up to the quorum of four (4). The term of any new BOD member so appointed shall be for the remaining portion of the term of the BOD member that was replaced.

**D.** In order to meet Quorum at a Regular Monthly BOD Meeting should the President and the Vice President office be vacated, MGS shall be nominated and elected as Director(s) Pro Tem by the KSECA MGS in attendance for such meeting only.

## **ARTICLE VII**

### **Liability of Officers and Directors**

**A.** Exculpation – No Director or Officer of KSECA shall be liable for acts, defaults or neglect of any other Director or Officer, or for any loss sustained by KSECA, 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 KSECA 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 KSECA 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 BOD and each Director and Officer may conclusively rely upon an opinion of legal counsel selected by or in the manner designated by the BOD. 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 – KSECA may purchase and maintain insurance on behalf of Directors, Officers or other agents against and 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 VIII**

### **Committees and Contracting Services**

#### **SECTION 1: Committees**

A. The BOD 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 KSECA not contrary to its Articles of Incorporation or its Bylaws.

B. KSECA 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 KSECA not contrary to its Articles of Incorporation or its Bylaws and shall be independent from the BOD.

**SECTION 2: Contracting** – The BOD shall have the power to contract with contractors and/or persons as it determines qualified to provide materials, services, etc. to KSECA, 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 BOD that was in office when such contract was awarded. Members of the BOD may not bid for contracts.

## **ARTICLE IX**

### **Fiscal Year**

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

## **ARTICLE X**

### **Examination of Record**

Any Member may examine the books and other records of KSECA 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**

### **Governing Laws**

A. KSECA is governed by Hawaii Revised Statutes 421-J, Planned Community Associations; all applicable federal, state and county laws of Hawaii; and, KSECA Articles of Incorporation and KSECA Bylaws.

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

## **ARTICLE XII**

### **Bylaw Review Committee, Amendments and Corrections**

#### **SECTION 1: Bylaw Review Committee (BRC)**

The BRC, a standing committee, shall be convened as needed, comprised of KSECA Members volunteering for the task of proposing bylaw revisions and amendments to be presented to KSECA and the BOD for approval, publication and future adoption.

#### **SECTION 2: Amendments**



**A.** 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.

**B.** All bylaw amendments recommended by the BRC shall be submitted to the BOD and to KSECA, at their respective monthly meetings, for approval to be published in the annual newsletter.

**C.** 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.

### **SECTION 3: Corrections**

**A.** Corrections may be addressed by any member at any time.

**B.** Corrections may be made at any time and brought to the attention of the BOD for publication in the next KSECA Annual Newsletter by the unanimous consent of the existing BRC authors.

**C.** Corrections are intended only for that purpose and shall not change the intended interpretation of the BRC authors set forth herein and KSECA standing rules.

### **Bylaw History of Revisions and Amendments:**

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; Revised April 2014 (extensive rewrite and reorganization);  
Amended April 2017, April 2018, April 2023 and March 2024 (corrections only)