

BYLAWS OF DEER CREEK WATER ASSOCIATION

Amended as of October 18, 2016

ARTICLE I General Purposes

The purposes for which this corporation is formed, and the powers which it may exercise are set forth in the Articles of Incorporation.

ARTICLE II Name and Location

Section 1. The name of this corporation is DEER CREEK WATER ASSOCIATION (hereinafter "corporation" or "Association").

Section 2. The principal office of this Association shall be located within Whatcom County, Washington.

ARTICLE III Seal

Section 1. The seal of the Association shall have inscribed thereon the following information: DEER CREEK WATER ASSOCIATION, WASHINGTON, CORPORATE SEAL, 1992.

Section 2. The Secretary/Treasurer of the Association shall have custody of the seal.

Section 3. The seal may be used for causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise applied to or appear on documents and instruments executed by the Association.

ARTICLE IV Fiscal Year

The fiscal year of the Association shall begin the 1st day of January in each year.

ARTICLE V Membership

Section 1. Except as provided below, every person (including any legal entity) who is a record owner of a fee or undivided interest, or having a substantial possessory interest in a property lying within the service area of the Association, may become a member of the Association upon application therefore, signing such Water Service Agreement for the purchase of water as may be provided and required by the Association and upon the payment of such Membership Fee as may be imposed by the Board.

A single membership shall be issued to all persons owning or having a substantial possessory interest in the property. Except as provided in Part B, below, only one parcel of real property, or two or more contiguous parcels in the same ownership may be served with each membership. Only one single family residence may be served with each membership, provided, that the Board of Directors (hereinafter "Board") may upon application, approve an Accessory Dwelling Unit (ADU); an ADU may not require an Additional Membership except as provided in the Water Service Agreement related to the parcel or as directed by the Board.

A. A substantial possessory interest is one in which a person or persons have a legal right to the control and occupancy of a property without a corresponding legal or equitable ownership interest in the property such as under a lease or similar right to possession.

(1) Before membership is allowed to one or more persons claiming such an interest, the Association will obtain the application for membership from the owner of such property on such form as the Association may require.

(2) Where membership is granted to one or more persons having a substantial possessory interest, the Association as a condition to the membership may require such applicant to post such collateral or bond as the directors determine necessary to fully protect the Association from any additional risk to the Association by reason of the lack of legal ownership in the applicant.

B. Multiple memberships may be acquired in anticipation of subdividing a property. Where multiple memberships are granted for a single property, said property must be divided and all memberships applied to the individual properties resulting from such division within three (3) years from the date of memberships, or such other agreement as may be entered into between the Association and the applicant for membership. If the property is not divided within the agreed time, the Association may repurchase the memberships specified in the manner provided in Section 9 below. The Association will not be obligated to return any other fees or charges paid by the member during the time of membership for any such repurchased membership.

Membership may be denied if capacity of the Association's water system is exhausted by the need of its existing members, or, if the proposed use of the applicant is such that it would interfere with existing uses previously authorized by the Board, provided that membership shall not be denied because of the applicant's race, color, creed, or national origin. In the event of an inadequate water supply, the Board may establish and maintain a waiting list in order to prioritize applications for memberships on a "first come, first served" principle.

The Board shall cause to be issued appropriate certificates of membership.

Section 2. Except as otherwise provided herein, each member shall have only one membership for each property served and each membership certificate shall represent one vote. When more than one person holds the interest in a property served, the vote shall be exercised by the person in whose name the certificate is registered, the first-named person of the persons in whose name the certificate is registered or by such person as the several persons may designate in writing and placed on file with the Association, but in no event shall more than one vote be cast with respect to any property.

Section 3. Membership shall be transferable but the transfer will be effective only when noted on the books of the Association and only to a person who obtains a qualifying interest in the property to which the membership is attached. Absent prior written notice to the Association to the contrary, a member will be deemed to transfer his membership in the Association to his successor in interest as part of any transaction in which he alienates his equitable interest to said property. The Secretary/Treasurer, upon request, will make note of such transfer upon the records of the Association and will issue a certificate to the successor in interest of the previous existing member.

Section 4. When a membership in the Association is not transferred, it shall terminate upon the disposition or other termination of the member's equitable interest in the property, regardless of whether or not the certificate is surrendered to the Association.

Section 5. The termination of the membership of any member shall not disqualify for membership any other person who has or obtains an interest in the property of the terminated member and who otherwise meets the requirements of these bylaws.

Section 6. In the event a member's property interest is divested other than by voluntary means, such member's membership will pass to the trustee, receiver, executor, or the like who will be entitled either in person or through a designated representative to exercise all of the rights incident to such membership, but subject to such duties and liabilities also applicable to the membership. Upon the final disposition of such property rights, the owner thereof shall be entitled to a membership if then extant, in like manner as if the membership had been transferred to him by the original member as set forth in Section 4 above.

Section 7. No transfer shall be approved until all accounts related to that membership or property are paid in full. Upon any such membership transfer, the Association shall have the rights specified in ARTICLE XI, Section 5, below.

Section 8. Membership also may be terminated by action of the Board:

- A. When the use of the property is changed so as to materially increase the amount of water consumed to the prejudice of other existing members or to the prejudice of the orderly operation of the system;
- B. In the event of repeated violations of these bylaws or the Water Service Agreement related to the parcel, after the failure to cure the noted violations within thirty (30) days of written notice; and/or
- C. Under the provisions of ARTICLE XI, Section 5, below.

Section 9. Memberships that are not serving habitable or occupied structures are subject to repurchase at the Association's sole discretion, as follows:

- A. The membership owner shall make a written request for repurchase;
- B. The share(s) must not be or have been required in order to effect or maintain a subdivision of the property;
- C. The Board shall confirm that it has adequate financial resources to repurchase the share(s);
- E. The repurchase price shall not include any reimbursement of periodic water or standby charges, or other charges, paid from initial issuance of the membership through the date the repurchase request was submitted; and/or
- F. A repurchase, or transfer of equity to satisfy any agreement made by the Association with a public entity shall be in adherence with such agreement.

ARTICLE VI

Membership Certificates

Section 1. This Association shall not have capital stock. Membership in the Association shall be documented by membership certificates. Such certificates shall represent the right to use and enjoy the benefits of the Association's water supply system upon the execution of a Water Service Agreement, the payment of necessary Membership Fees and the currency of reasonable charges relating to such use, provided such use and enjoyment are consistent with

the rules, regulations, and contracts affecting the same as may from time to time be prescribed by the Board or by any State agency having jurisdiction over the Association.

Section 2. A membership certificate shall be issued to each holder of membership and bear on its face the following statements:

This Membership Certificate No. ____ is issued and accepted in accordance with and subject to the conditions and restrictions stipulated in the Articles of Incorporation and Bylaws and amendments to the same of the DEER CREEK WATER ASSOCIATION.

ARTICLE VII

Meetings of Members

Section 1. The annual meeting of the members of the Association shall be held in Whatcom County, Washington, at the time, date and location designated by the Board in the notice of the meeting.

Section 2. Special meetings of the members may be called at any time by the action of the Board and such meetings must be called whenever a petition requesting such meeting is signed by at least ten (10%) percent of the members and presented to the Secretary/Treasurer or to the Board. The purpose of every special meeting shall be stated in the notice hereof, and no business shall be transacted thereat except such as is specified in the notice.

Section 3. Notice of meetings of members of the Association, both regular and special, shall be given by notice mailed by first-class mail to each member of record, directed to the address shown upon the books of the Association, not less than ten (10) nor more than forty (40) days prior to such meeting. Such a notice shall state the nature, time, place and purpose of the meeting, but no failure or irregularity of notice of any annual meeting, regularly held, shall affect any proceedings taken thereat.

Section 4. The presence at a meeting of members entitled to cast in their own right or by proxy twenty (20) percent of the total number of eligible votes shall constitute a quorum. All proxies shall be in writing and filed with the secretary. Such proxies may be general or restrictive. Proxies shall be revocable and shall not be valid beyond eleven (11) months, nor after termination of the membership by cessation of the member's interest in the property.

Section 5. Directors of this Association shall be elected at the annual meeting of the members as provided in Article VIII, Section 1. Cumulative voting shall not be available.

Section 6. The order of business at the regular meetings and so far as possible at all other meetings shall be:

1. Calling to order and proof of quorum.
2. Proof of notice of meeting.
3. Reading and action on any unapproved minutes.
4. Report of officers and committees.
5. Election of directors.
6. Unfinished business.
7. New business.
8. Adjournment.

ARTICLE VIII

Directors and Officers

Section 1. The Board of this Association shall consist of five members, all of whom shall be members of the Association. At each annual meeting, the members shall elect for a term of three (3) years the number of directors whose terms of office are about to expire. Each director shall hold office for the term for which he is elected and until a successor shall have been qualified and elected.

Section 2. The Board shall meet within ten (10) days after the annual meeting of members and shall elect a president and vice-president from among themselves; each of whom shall hold office until the next annual meeting and until the qualification and election of his successor unless sooner removed by death, resignation or for cause. The Secretary/Treasurer of the Association shall be appointed by the Board, however, the Secretary/Treasurer need not be a member of the Association.

Section 3. If the position of any director becomes vacant by reason of death, resignation, retirement, disqualification or otherwise, a majority of the remaining directors, though less than a quorum shall, by a majority vote, choose a successor who shall hold office until the next regular meeting of the members of the Association, at which time the members shall elect a director for the unexpired term or terms, provided that in the call of such regular meeting a notice of such election shall be given.

Section 4. A majority of the Board shall constitute a quorum at any meeting of the Board. The affirmative vote of the majority of the directors at a meeting at which a quorum is present shall be the act of the board.

Section 5. Compensation, if any, of members of the Board may be fixed only at any regular or special meeting of the members of the Association. Compensation of the Secretary/Treasurer shall be fixed by resolution of the Board.

Section 6. Directors and officers who are directors may be removed from office in the following manner:

A. Any member, officer or director may present charges against such a director or officer by filing them in writing with the Secretary/Treasurer of the Association. If presented by a member, the charges must be accompanied by a petition signed by ten (10) percent of the members of the Association.

B. Such removal shall be voted on at the next regular or special meeting of the members and shall be effective if approved by a vote of a majority of those voting if a quorum is present.

C. The director or officer against whom such charges have been presented shall be informed, in writing, of such charges at least twenty (20) days prior to the meeting, and shall have opportunity at such meeting to be heard in person or by counsel and to present witnesses; and the person or persons presenting such charges against him shall have the same opportunity.

D. If the removal of a director is approved, such action shall also vacate any other office held by the removed director in the Association. A vacancy in the Board thus created shall be filled in accordance with Section 3, above.

A vacancy in any office thus created shall be filled by the Board from among the members so constituted after the vacancy in the board has been filled.
The Secretary/Treasurer may only be removed by the Board.

ARTICLE IX

Duties of Directors

Section 1. The Board, subject to restrictions of law, the Articles of Incorporation, and these Bylaws, shall exercise all of the powers of the Association, and, without prejudice to or limitation upon their general powers, it is hereby expressly provided that the Board shall have, and are hereby given, full power and authority in respect to the matters as hereinafter set forth to be exercised by resolution duly adopted by the Board:

- A. To set or reset the Membership Fee, to approve membership applications and to cause to be issued appropriate certificates of membership. The Board may make binding commitments to issue membership certificates and to permit the connection of properties to the system in the future in cases involving proposed construction or may issue such certificates prior to the commencement of the proposed construction.
- B. To select and appoint all agents or independent contractors of the Association, remove such agents or independent contractors of the corporation, prescribe such duties and designate such powers as may be consistent with these bylaws, fix their compensation and pay for faithful services
- C. To borrow from any source, money, goods or services and to make and issue notes and other negotiable or nonnegotiable instruments evidencing indebtedness of the corporation; to make and issue mortgages, deeds of trust, pledges of revenue, trust agreements, security agreements and financing statements and other instruments evidencing a security interest in the assets of the Association; and, to do every act and thing necessary to effectuate the same.
- D. To prescribe, adopt and amend, from time to time such equitable uniform rules and regulations as, in its discretion, may be deemed essential or convenient for the conduct of the business and affairs of the Association and the guidance and control of its officers and independent contractors, and to prescribe adequate penalties for the breach thereof.
- E. To order, at least bi-annually, an audit of the books and accounts of the Association by a competent public auditor or accountant. A review of the books by a competent public auditor or accountant shall be required for years in which an audit is not performed. The report prepared by such auditor or accountant shall be submitted to the members of the Association at their annual meeting, together with a proposed or adopted budget for the ensuing year. Copies of such audits and budgets shall be submitted to such parties as may be required by other agreements.
- F. To establish, develop and maintain Water Service Agreements with all members, to fix and/or alter the charges to be paid by each member for general and/or administrative costs of the Association, operating expenses and services rendered by the Association to the member, and to fix and alter the method of billing, time of payment, manner of connection, and penalties for late or nonpayment of the same. The Board may establish classes of use by members including a user class not then receiving water. All charges shall be uniform and nondiscriminatory within each class of users.

The Board shall, prior to the beginning of each calendar year, determine the following for the following calendar year, and thereafter until the next re-determination by the Board:

- Membership Fee;
- Base rate to be charged each user class of member for general and administrative assessments, operating costs and specified quantities of water;
- The amount of additional charges, if any, for excess water which may be supplied the members;
- Other fees and charges unrelated to base charges or water usage; and
- The amount of penalty for late payments and the due date for such penalties.

G. To require all officers, agents and independent contractors charged with 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.

H. 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/or disbursing the funds of the corporation, together with the form of checks and the person or persons by whom the same shall be signed, with the power to change such financial institutions and the person or persons signing such checks and the form thereof at will.

I. To levy assessments and/or fees against the members of the Association in such manner and upon such proportionate basis as the directors deem equitable, and to enforce collection of such assessments by the restriction or suspension of water service or other legal methods.

J. To accomplish the purposes of the Association through the engagement of such independent contractors as it selects and engages, making due provision in all agreements for compliance with all applicable safety, environmental and other regulations affecting water utilities.

ARTICLE X

Duties of Officers

Section 1. Duties of President. The president shall:

- preside over all meetings of the Association and the board of directors;
- call special meetings of the board of directors,
- perform all acts and duties usually performed by an executive and presiding officer, and sign all membership certificates and such other papers of the Association as he may be authorized or directed to sign by the board of directors, provided the board of directors may authorize any person to sign any or all checks, contracts and other instruments in writing on behalf of the Association.
- The president shall perform such other duties as may be prescribed by the Board.

Section 2. Duties of the Vice-President. In the absence or disability of the president, the vice-president shall perform the duties of the president; provided, however, that in the case of death, resignation or disability of the president, the Board may declare the office vacant and elect his successor.

Section 3. Duties of the Secretary/Treasurer. The Secretary/Treasurer (or Board approved designee) shall:

- attend all regular and annual meetings and keep an accurate and complete written and electronic record of these meetings;
- maintain a membership roster that includes names, property and member address, cost and date of share acquisition, transfer, termination, and/or repurchase;
- prepare data and reports in order to comply with appropriate Federal, State, and Local financial or regulatory laws pertaining to water systems of the size operated by this Association;
- monitor, evaluate, and coordinate the activities of all entities hired by the Association to perform work; and
- shall continuously keep the Board informed of the above-mentioned matters including any responsibilities listed within any work-for-hire agreement.

ARTICLE XI

Benefits and Duties of Members

Section 1. The Association shall own, operate and maintain the water main from its source of supply throughout the existing distribution system and public service lines.

Section 2. The requirements of the Association with respect to water mains and extensions, public and private service lines, meters, easements, construction and materials standards and other provisions relating to the facilities and equipment of or connected to the distribution system of the Association shall be governed by the Association's Development Regulations and/or policies.

Section 3. Each member may be permitted to purchase from the Association, pursuant to such Water Service Agreement as may from time to time be provided and required by the Association, such water as is needed by him for domestic, commercial, agricultural, industrial or other purposes as a member may desire, subject, however, to the provisions of these bylaws, to such rules and regulations as may be prescribed by the board of directors and by any State agency with jurisdiction. Each member shall be entitled to have delivered to him through his service lines only such water as may be necessary to supply the needs of each member on a single land parcel, including his family, business, agricultural or industrial requirements.

Section 4. In the event the total water supply shall be insufficient to meet *all* of the needs of the members or in the event there is a shortage of water, 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 use of water for commercial, agricultural or industrial purposes by particular members and require adherence thereto or prohibit the use of water for commercial, agricultural or industrial purposes; provided, that if at any time the total water supply shall be insufficient to meet all of the needs of all of the members for domestics, livestock, commercial, agricultural or industrial purposes, the Association must first satisfy all of the reasonable needs of the members for domestic purposes before supplying any water for livestock purposes and must satisfy all of the needs of all of the members for domestic and livestock purposes before supplying any water for commercial, agricultural or industrial purposes; and, provided further, that the Association may cut off the flow of water to the nondomestic service lines until such time as the supply of water from the system is sufficient to meet the needs of all of the members for domestic, livestock, and agricultural purposes. During such periods of shutoff the cost, if any, of resuming the flow of water to such service lines shall be borne by the Association.

Section 5. A member shall pay all base, water or other charges or assessments at the office designated by the Association at or prior to the dates fixed by the Board. Failure of a member to

pay the duly imposed base charges, water usage charges, assessments, Membership fees, late payment penalties and/or service fees, such non-payment shall result in the following:

- Nonpayment within thirty (30) days from the due date for each billing period shall result in the imposition of a late payment penalty.
- For accounts remaining unpaid at and after sixty (60) days following the due date, a water restriction device may be installed in the water meter without notice thereof to such delinquent member. Upon payment in full by the delinquent member of all amounts then due the Association, such member shall be entitled to have the water restriction device removed from the meter.
- For accounts remaining unpaid at and after ninety (90) days following the due date, the Association shall turn off the water and/or require all outstanding balances to be paid prior to resumption of water service.
- For accounts remaining unpaid at and after one hundred twenty (120) days following the due date the Board may record a lien against the Member's real property to which the water share is appurtenant. Any such lien shall describe the Member's property and shall recite all amounts then due the Association. The Board shall have the authority to foreclose its lien in the manner provided under Washington State law for the foreclosure of mortgages. The payment necessary to reinstate a Member's account following the recording of a lien shall include a lien fee, all recording costs for the lien and its release, as well as all attorney fees associated with the preparation, recording and release of the lien.
- For accounts remaining unpaid at one hundred eighty (180) days following the due date shall result in the water share being terminated as of that date. The member shall be notified in writing at the address listed on the Association books at least thirty (30) days prior to the termination date. A member shall have the right to reinstate (redeem) the share by payment of amounts then due the Association, plus all costs and attorney fees incurred by the Association with respect to the terminated account within thirty (30) days of the termination date.
- During the time a member's property is subject to a water restriction device, a member shall have no right to vote in the affairs of the Association. After termination and during the reinstatement period, the member shall have no right to vote in the affairs of the Association.

Section 6. Prior to the receipt of water each member shall execute the form of Water Service Agreement then required by the Board and the same shall be recorded with the Whatcom County Auditor. Failure to execute an initial Water Service Agreement, or any revision of the same prepared and required by the Board may result in immediate water shut-off, service charges, and/or termination of water share

ARTICLE XII

Distribution of Surplus Funds

It is not anticipated that there will be any surplus funds or net income to the Association at the end of the fiscal year after provisions are made for the payment of the expenses of operation maintenance and the funding of the various reserves for depreciation, debt retirement, and other purposes, including those required by the terms of any borrowing transaction. In the event that there should exist such surplus funds or net income, they may be placed in an existing or new

reserve account to be used for the early retirement of any outstanding indebtedness or be used for the improvement and/or extension of the Association facilities as the Board may determine to be in the best interest of the Association and to the extent not otherwise provided for by any contractual arrangement. The occurrence in subsequent fiscal years of surplus funds or net income above the requirements of the corporation as above mentioned, including, if any, a reserve for improvements and extension of the facilities shall be taken into consideration by the board of directors in determining the water rates to be charged the members.

ARTICLE XIII **Amendments**

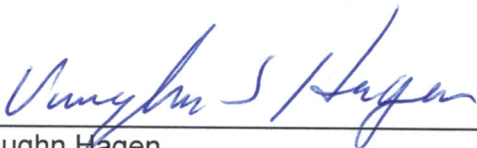
These bylaws may be repealed or amended by a vote of a majority of the members present at any regular meeting of the Association, or at any special meeting of the Association (in person or via proxy) called for that purpose. The members shall not have the power to change the purposes of the Association so as to decrease its rights and powers under the laws of the state except by amendment to the Articles of Incorporation, or to waive any requirements of bond or other provision for the safety and security of the property and funds of the Association or its members, or so to amend the bylaws as to effect a fundamental change in the policies of the Association.

ARTICLE XIV **Indemnification**

To the full extent permitted by the Washington law the Association shall indemnify any person who was or is a party or is threatened to be made a party to any civil, criminal, administrative or investigative action, suit or proceeding (whether brought by or on behalf of the Association or otherwise) by reason of the fact that s/he is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another Association, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding; and the Board may, at any time, approve indemnification of any other person which the Association has the power to indemnify under the Washington Non-Profit Corporation Act. The indemnification provided by this article shall not be deemed exclusive of any other rights to which a person may be entitled as a matter of law or by contract.

ARTICLE XV **Transition**

The enforcement alternatives specified in Article XI Section 5 shall be effective from and after the date of adoption of these Bylaws with respect to delinquencies occurring subsequent to said adoption date, which is October 18, 2016.



Vaughn Hagen
President



Douglas Wittinger
Secretary/Treasurer