

**BY-LAWS OF
THE EASTMOOR SWIM & TENNIS CLUB AND
ASSOCIATION**

(Revised, September 2003)

**ARTICLE I
Membership**

Section 1: Definitions

- A. Membership: A membership shall consist of a single-family unit whose individual members shall include:
 - 1. The husband and wife or single parent head of household and their children, 25 years and under who are not, nor have ever been married,
 - 2. Other dependents or other persons residing in the household who, with the approval of the Board of Directors, shall be deemed to be a member of such family unit.

- B. Member: Whenever reference is made hereinafter to a "member", such term shall collectively include all persons within the single-family unit described above. Wherever in these by-laws affirmative obligations are imposed upon a member, such responsibilities and duties shall be collectively that of the husband and wife or unmarried head of household, as the case may be.

Section 2: Membership Categories

- A. Charter Members: Those family units enrolling in the Club on or before August 31, 1972.

- B. Special Members: Those family units enrolling in the Club between September 1, 1972 and October 31, 1973.

- C. Regular Members: Those family units who are active members of the Club for the current season.

- D. Inactive Members: Those family units electing inactive status as defined in Section 7 of this Article.

Section 3: Issuance of Active Memberships

Subject to the provisions of Sections 4, 5, and 7 of this Article, the following priorities shall apply with regard to the processing of and issuance of an active membership:

- 1. To persons who were former members of the Club in good standing but terminated membership due to a job transfer, change in residency, medical or health reasons, or some other reason that is reviewed and approved by the Board of Directors;
- 2. To sons or daughters of a current member in good standing now desiring to belong to the Club due to ineligibility to be a part of their parent's membership as provided in Article 1 Section 1 of the Bylaws.
- 3. Those referred to in Article 1, Section 5 regarding the dissolution of marriage of a husband and wife who are members of the Club
- 4. Those members who have formally declared themselves as Inactive under Article 1 Section 7.
- 5. Those members who were dropped from membership under Article 6 Section 3.

All those members to whom this section applies shall be placed on the priority waiting list (should the Club not have active memberships available) in a date-received sequence.

The number of available memberships shall be determined from time to time by the Board of Directors, the members of which shall be governed by the policy that restricts the availability of memberships to a minimum number consistent with sound financial management and proper utilization of the Club's physical facilities. Except as otherwise herein provided, the number of active memberships at any time shall not exceed 325 without a vote of the general membership.

Section 4: Disposition of Membership upon Sale of Home

In the event a member sells his home and chooses to relinquish his membership, the purchaser of said member's home may purchase such membership from the Club upon payment of the then prevailing Initiation Fee and appropriate dues; provided, however, the purchaser of said member's home must purchase said membership within thirty (30) days from the date title to the home is conveyed.

Section 5: Disposition of Membership upon Dissolution of Marriage

Upon the dissolution of marriage of a husband and wife who are members of the Club, the rights and privileges of such membership shall be totally suspended upon the divorce of the parties until such time as the membership shall have been transferred by agreement of those two parties or some other arrangement, and the Club has been notified in writing. When a membership is transferred to a former spouse under the foregoing circumstances, the other party shall have the right to purchase an available membership as outlined in Article 1 Section 3, exercisable within 60 days of such transfer, to purchase a membership upon payment of the then prevailing Initiation Fee and appropriate dues.

Section 6: Reprimand, Suspension or Expulsion

A member may, for cause and after being given an opportunity for a hearing before the Board of Directors, be suspended for a period not exceeding three (3) months by a two-thirds (2/3) vote of the members of the Board of Directors. A member may be expelled for cause by a vote of three-fourths (3/4) of all the Directors, but only after such member shall have had an opportunity to present a defense. One week's written notice of the time when the Board will consider the charges, accompanied by a written specification thereof, shall be considered as affording such member sufficient opportunity to present his defense. Cause for expulsion may consist of the violation of any bylaw or rule of the Club, or of any conduct that, in the opinion of the Board of Directors, is grossly prejudicial to the welfare, good order and character of the Club.

Section 7: Inactive Member

A membership may be designated as inactive any time before April 1st, by the submission of written notice to the Board of Directors accompanied by member keys, that they wish to be designated as inactive for the coming season.

Inactive Members shall be subject to the following rules:

- A. Inactive Members shall not be entitled to use any of the Club's facilities and shall return all keys issued;
- B. Inactive Members shall not be entitled to vote upon any matters coming before the membership;
- C. Inactive Members shall continue to pay a yearly fee in an amount to be determined each year, prior to February 1st, by the Board of Directors.
- D. Inactive Members shall not be considered as members in good standing;
- E. Inactive Members shall be entitled to reinstate their membership upon written application to the Board of Directors, subject to Article I Section 3 and the availability of an active membership and upon the payment of the total current annual dues for active members as established by the Board of Directors;

- F. Applications for reinstatement to active membership shall have priority over applications for admissions of new members as per Article I Section 3 and shall be handled in a date received sequence;
- G. Upon reinstatement, these Inactive Memberships shall regain their former membership category status as defined in this Article;
- H. For purposes of the Section, availability of an active membership means that (1) the appropriate provisions of this Article have been first satisfied and (2) the active memberships in the Club do not exceed the number of authorized memberships as determined by the Board of Directors, or do not exceed 325 as provided for in this Article, whichever is the lesser number.

ARTICLE II Meetings of the Club

Section 1: Annual Meeting

The annual meeting of the members of the Club shall be held each year no later than Labor Day, or as designated by the Board of Directors. The Board of Directors shall designate the time and place of the meeting. At each annual meeting of the members of the Club, the members shall elect members in good standing to the Board of Directors as provided in Article III Section 1, of these by-laws and transact such other business as may be brought before the meeting, subject to the limitations in Article 7 Section 2.

At the annual meeting of the members, the names of the persons desiring to be elected to the Board of Directors and who have made the Board of Directors aware of this desire in advance of the required Notification of Members of the Annual Meeting under Article II Section 3, shall be deemed to be nominated automatically. Other nominations shall be accepted from the floor at the Annual Meeting.

Section 2: Special Meetings

Special meetings of the members of the Club may be called by the Board of Directors and shall be called upon the written request of thirty (30) voting members of the Club. Any such request shall specify the purpose or purposes of the proposed special meeting. No business other than that specified in the notice shall be transacted at such meeting.

Section 3: Notice of Meetings

Notice of all meetings of the members of the Club, annual or special, shall be mailed in writing to the members not more than fifty (50) days nor less than (10) days prior to the date set for such meeting, shall be posted in a conspicuous location at the Club at least five (5) days prior to such meeting, shall state the date, place and hour of such meeting, and in the case of a special meeting, the purpose or purposes for which such meeting is called.

This requirement shall be considered to be satisfied among members who have notified the Club of their email address if those members are sent the above referenced notices electronically via email, unless they have notified the Board of Directors in writing of their desire to have these correspondence mailed to them via the US Mail.

Section 4: Quorum

Except as herein expressly provided, the presence in person, of ten percent (10%) or more voting members of the Club shall constitute a quorum at any meeting of the members, and the act of the majority of those members present in person, shall be the act of the members of the Club. In the absence of a quorum, the members of the Club present in person, at a meeting may adjourn such meeting until a quorum is present, but no notice need be given of any adjournment of such meeting.

Section 5: Organization

At each meeting of the members of the Club, the President, or in his/her absence the Vice President, shall act as Chairman thereof, and the Secretary, or in his/her absence any person appointed by the Chairman, shall act as Secretary of the meeting. At meetings of the members, voting may be by voice, but any member shall have the right to demand voting by roll call or ballot.

Section 6: Adequacy of Notice

Whenever in these by-laws notice to members is required, the mailing to the last known address, or delivery of such notice as outlined in Section 3 above shall constitute due notice.

Section 7: Voting

Each membership in good standing shall be entitled to two (2) votes, which may be voted separately. In the absence of either the Husband or the Wife, it will be presumed that the other party automatically carries the proxy of the missing member. In the event an unmarried adult owns a membership, he or she shall be entitled to two (2) votes nevertheless. Each of such persons thus entitled to vote shall, for the purposes of these by-laws, be designated "voting members".

Section 8: Absentee Voting

Absentee Voting shall be allowed for the election of Directors and can be delivered in the manner specified in Section 3 above.

Section 9: Proxy Voting

Proxy voting shall be authorized only as to such matters provided for in Article VII, Section 2, providing that such Proxy Holder shall be a member in good standing.

ARTICLE III Board of Directors

Section 1: Board Members

The Board of Directors shall consist of a minimum of nine (9) and a maximum of 13 voting members of the Club. At the annual meeting of members of the Club, the members shall elect Directors to serve a three (3) year term, to commence at the beginning of the following organizational meeting. The remaining Directors shall fill any vacancy occurring in the Board of Directors by the election of a member in good standing to serve for the balance of the unexpired term.

Section 2: Organization Meeting

The Directors shall meet for organization and for the election of Officers during the month of September following the annual meeting of the members of the Club.

Section 3: Regular Meetings

Regular meetings of the Board of Directors shall be held monthly at a time and place routinely scheduled for such purpose by the Board of Directors. In the event such meeting shall be canceled or its meeting time or place changed, all Directors shall be entitled to receive at least seventy-two (72) hours advance notice, orally or in writing.

Section 4: Special Meetings

Special meetings of the Board of Directors may be called by the President or by any two members of the Board of Directors upon seventy-two (72) hours advance notice.

Section 5: Emergency Meetings

In the case of an urgent situation, a vote of the members of the Board may be conducted by a telephone poll if there is a majority decision of the Executive Committee of the Board of Directors to conduct such a vote.

Section 6: Organization

At each meeting of the Board of Directors, the President, or in his absence the Vice President, or in the absence of both President and Vice President, a Director chosen by a majority of the Directors present shall act as Chairman, and the Secretary, or in his or her absence, any Director appointed by the Chairman, shall act as Secretary of the meeting.

Section 7: Quorum

A majority of the members of the Board of Directors shall constitute a quorum and, except as otherwise expressly provided herein, the act of a majority of the members of the Board present at any meeting at which a quorum is present shall be the act of the Board of Directors. In the absence of a quorum, the members of the Board present may adjourn such meeting until a quorum shall be present, but no notice need be given of any adjourned meeting. Each Director shall be entitled to one (1) vote in any meeting of the Board of Directors.

Section 8: Powers and Responsibilities

The Board of Directors shall have an exercise control and supervision over the government and management of the Club and its affairs, properties and facilities, subject only to the limitations contained in these by-laws and shall be responsible for advising the members of the Club of its financial condition at least once a year. In the exercise of its duties, the Board shall have power to promulgate and enforce such rules directly or through such person(s) as it may designate, as it may deem proper.

Section 9: Removal

Any member of the Board of Directors may be removed by affirmative vote of two-thirds (2/3) of the voting members of the Club in person or by written proxy at either an annual meeting of the members or a special meeting of the members called for that purpose. A member of the Board can be removed from the Board for cause with a 2/3 affirmative vote of the entire Board of Directors. The Board shall forthwith elect another member in good standing to fill the vacancy.

ARTICLE IV Officers

Section 1: Principal Officers

The principal Officers of the Club shall be a President, a Vice President, a Secretary, and a Treasurer. Other officers may be appointed or elected by the Board of Directors from time to time as the Board may determine. All officers shall be members of the Board of Directors.

Section 2: Election

The Board of Directors at its organization meeting shall elect the principal officers of the Club annually. Each officer, except such officers as may be appointed by the Board, shall be elected to serve until the next organization meeting of the Board of Directors and thereafter until his or her successor shall be elected and qualified.

Section 3: Death, Resignation or Inability to Act

In the event of the death, resignation or inability of an officer to act, the Board of Directors shall elect from its membership a successor to serve out the unexpired term of such officer.

Section 4: Removal

The Board of Directors may remove any officer, with or without cause with an affirmative vote of 2/3 of the members of the entire Board of Directors.

Section 5: Duties of Officers

- A. **President**
The President shall preside at all meetings of the Club and of the Board of Directors. Subject to confirmation by the Board of Directors, he shall appoint all committees, and shall be ex-officio member of all such committees. He shall perform such other duties as may from time to time be assigned to him by the Board of Directors. He shall also appoint a person to serve as a Parliamentarian.
- B. **Vice President**
In case of the absence, resignation, death or disability of the President, the Vice President shall perform all duties of the President.
- C. **Secretary**
The Secretary shall be the official custodian of the Club seal and all records, papers, records of proceedings and other documents and correspondence of the Club. He shall give notice of all meetings of the members of the Club and of the Board of Directors, prepare the records of proceedings of the Club and conduct its correspondence.
- D. **Treasurer**
The Treasurer shall act as the custodian of all funds and securities of the Club. He shall cause regular accounts thereof to be kept and submit the same whenever requested so to do by the Board of Directors. He shall, upon request and at all reasonable times, exhibit the books of account and records to any member of the Club and, prior to November 30 of each year, shall prepare unaudited financial statements of the Club for presentation to the Board of Directors. He shall be bonded within limits prescribed by the Board of Directors.
- E. **Other Duties and Responsibilities**
By the second meeting of the Board of Directors following the new election of Directors, the board shall document and approve the duties and responsibilities of each Director and Committee. These responsibilities shall include but not be limited to the responsibility for the mailings of communications to members of the Club, maintaining membership rolls, records management, and the supervision of Club personnel. These duties and responsibilities shall be made available at the Club and a copy held by the President.

ARTICLE V Committees

Section 1: Appointment

There shall be the following Standing Committees of the Club: (a) Operating, (b) Swim, (c) Tennis, and (d) Long Range Planning and Capital Improvements. The President shall, with the approval of the Board of Directors, appoint such additional committees as may from time to time be deemed necessary and proper. The President may also, subject to the confirmation of the Board of Directors, appoint the Chairman and all other committee members. The Chairman of each Standing Committee of the Club shall be a member of the Board of Directors.

Section 2: Operating Committee

The Operating Committee shall supervise the operation of all the Club's facilities, be responsible for the care, maintenance and repair of all such facilities.

Section 3: Swim Committee

The Swim Committee shall recommend rules for the use of the pools and supervise the swimming activities of the Club, including the scheduling of inter-club and other swimming meets.

Section 4: Tennis Committee

The Tennis Committee shall recommend rules for the use of the tennis courts and supervise the tennis activities of the Club, including the scheduling of tennis matches and other tennis events.

Section 5: Long Range Planning and Capital Improvements Committee

The Long Range Planning and Capital Improvements Committee shall be responsible for making recommendations to the Board of Directors concerning all proposed improvements to the Club. In addition, the Board of Directors may charge this committee with implementing approved improvements.

**ARTICLE VI
Initiation Fees and Dues**

Section 1: Initiation Fees

The Board of Directors shall establish the Initiation Fees from time to time.

Section 2: Annual Dues

Within the limitations prescribed in Section 2, Article VII, of these by-laws, the Board of Directors shall from time to time establish the annual dues for the Club but shall be guided in their deliberations by the policy of maintaining such dues at the lowest level consistent with providing sufficient funds for the necessary expenses of operations, proper maintenance and improvements of its facilities.

Section 3: Payment of Dues

Statements of annual dues shall be rendered on or about March 1 of each year and, except as otherwise expressly provided in these by-laws, such dues shall be payable by May 1 of each year.

If member dues are paid in full by April 1, a discount determined by the Board of Directors will be deducted from the Annual Dues. The discounted amount will be clearly outlined on the member's statement.

If such member's dues are not paid in full by May 1, the member's name will be deleted from the Club Directory. and the member shall, without further notice, cease to enjoy the privileges of the Club and their tennis court cards inactivated

If such member's dues are not paid in full by May 15, such member will be dropped from membership in the Club. In no such event, shall the refund privileges proscribed in Sections 5 and 6, Article VI, of these by-laws, apply to any person removed from membership in this manner. At no time will services performed be traded for the payment of dues. Should any member dropped by application of this provision shall be reinstated subject to the availability of an active membership. Should no active memberships be available at that time, they the member shall join the Priority Waiting List as defined in Article1 Section 3.

Section 4: Pro-ration of Dues

Dues of new and resigning members may be prorated in such manner and on such terms as the Board of Directors may from time to time determine.

Section 5: Refund of Initiation Fees

All memberships in the Club are non-negotiable and non-transferable. No termination or relinquishment of any membership shall entitle the owner of such a membership to any refund.

Section 6: Refunds upon Dissolution of Club

In the event of the dissolution of the Club, in any manner, or for any cause and after all indebtedness of the Club has been discharged, payment of all funds owned by the Club then remaining shall be made first to then remaining Charter Members, to the extent allowed under Sub-Section 5(A) of this Article, and the remaining funds distributed pro rata among all active members of the Club, including Charter Members.

Section 7: Indebtedness of Members

Each member shall be responsible for the prompt payment of all charges incurred by him and other members in his family or household to whom the privileges of the Club shall have been extended, and for all charges imposed upon or incurred by their guests at the Club.

Section 8: Reinstatement Fee

A membership that has been relinquished or terminated may apply to the Board of Directors before April 1st of any year for reinstatement. The Board of Directors will determine by February 1st of each year the amount of the reinstatement fee. If accepted by the Board of Directors for reinstatement, the membership requesting the reinstatement must pay the reinstatement fee by April 1st.

All memberships in the Club are non-negotiable and, except as provided in Section 5, Article I, of these by-laws, non-transferable. No termination or relinquishment of any membership shall entitle the owner of such a membership to any refund of the Initiation Fee except as follows:

A. Charter Members

Upon resignation from the Club by a Charter Member, as defined in Section 2 of Article I of these by-laws, the initial Initiation Fee shall be refunded to the extent of, but not less than, fifty percent (50%) of the established Initiation Fee at the time of resignation, or two hundred twenty-five dollars (\$225.00), whichever is greater; provided, however, that such sum shall be refunded to the Charter Member at the time his resigned membership has been resold. In the event a transfer fee is imposed upon a resigning member, the Charter Member shall not be charged more than ten percent (10%) of the amount of Initiation Fee refunded to a Charter Member. At no time shall any Board of Directors amend, alter, or repeal any provision of this Sub-paragraph B of Section 5, Article VI, of these by-laws, without the prior approval of the majority of the remaining existing Charter Members.

B. Special Members

Upon resignation from the Club by a Special Member, the Initiation Fee shall be refunded to the extent of two hundred fifty dollars (\$250.00); provided, however, that such sum shall not be payable to such Special Member until his resigned membership has been resold.

ARTICLE VII Miscellaneous

Section 1: Limitation of Director Liability and Indemnification

No Director of the Club shall have liability to the Club or to its members or other security holders for monetary damages for breach of fiduciary duty as a Director; provided, however, that such provisions shall not eliminate or limit the liability of a Director to the Club or to its members or other security holders for monetary damages for: (i) any breach of the Director's duty of loyalty to the Club or to its members or other security holders; (ii) acts or omissions of the Director not in good faith or which involve intentional misconduct or a knowing violation of the law by such Director; (iii) acts by such Director as specified in Section 7-24-111 of the Colorado Corporation Code; or (iv) any transaction from which such Director derived an improper personal benefit, but only to the extent of the reasonable fair value of any such improper benefit.

The word "Director" shall include at least the following, unless limited by Colorado law: an individual who is or was a Director of the Club. To the extent allowed by Colorado law, the word "Director" shall also include officers, employees and agents of the Club.

The Club shall indemnify and hold harmless its Directors (as defined above) to the fullest extent allowed by the laws of the State of Colorado from and against any and all judgments, claims, liabilities, costs and expenses of any nature whatsoever, directly or indirectly incurred by such Director in any proceeding to which he is a party because he is or was a Director. The Club shall pay all reasonable expenses when, as and if incurred by a Director of the Club, who is a party to a proceeding, in advance of the final disposition of the proceeding. The Club shall also pay all costs and expenses incurred by a Director at a time when the Director has not been made a named defendant or respondent in the proceeding, whether the cost or expense is incurred by the Director as a witness or otherwise. Any undertaking by such Director to repay such advances shall not be secured and shall be accepted by the Club without reference to the financial ability of such Director to make repayment. Included within reimbursed costs and expenses shall be legal fees incurred by such Director if he, in the exercise of his reasonable discretion, deems it necessary or desirable that he have separate legal counsel. Also included as a cost or expense incurred by a Director which the Club shall be obligated to pay shall, as to all directors who are not full time salaried employees of the Club, be reasonable compensation for lost opportunity costs incurred by such Director as a result of his having expended time in connection with any proceeding.

Section 2: Actions Requiring Special Vote

Notwithstanding any other provision in these by-laws, the affirmative vote of at least two-thirds (2/3) of all voting members of the Club shall be required to approve action on the following matters of business:

- A. Any amendment to, alteration of, or repeal of these by-laws;
- B. Dissolution of the Club;
- C. Any expenditure for capital improvements above what has been approved by the Membership under this section aggregating \$30,000.00 or more during any one fiscal year;
- D. Any assessment levied against all members of the Club;
- E. Any increase during any one fiscal year, of annual dues in excess of fifteen percent (15%) over the dues established for the previous fiscal year.

Notice of all meetings where action on the foregoing matters is proposed shall be given by the designated committee in accordance with Section 3 of Article II and shall be accompanied by a written proxy where the recommendation of the Board of Directors shall be reflected. Such proxies shall be returned to the

designated committee, which shall tabulate the result of such proxy solicitation and report the results to the presiding officer of such meeting. All proxies that are not voted or returned shall be voted in accordance with the recommendations of the Board of Directors as reflected in the proxy solicitation.

Section 3: Rules and Regulations

All members and their guests are subject to such rules and regulations as may from time to time be promulgated by the Board of Directors.

Section 4: Fiscal Year

The Fiscal Year of the Club shall end on September 30th of each year.