

BYLAWS

HOLLY HILLS COMMUNITY ASSOCIATION

WILLIAMSBURG, VIRGINIA

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BYLAWS OF HOLLY HILLS COMMUNITY ASSOCIATION

ARTICLE 1.0 PLAN OF OWNERSHIP

Section 1.1 Applicability

These Bylaws provide for the governance of the Holly Hills Community Association, a Virginia nonstock corporation (the "Association"). Capitalized terms used herein without definition shall have the meanings specified for such terms in the Articles of Incorporation of the Association (the "Articles") or in the Declaration of Covenants, Easements and Restrictions dated as of November 17, 1993 made by McCale Development Corporation, a Virginia corporation, (the "Declarant"), and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City, in Deed Book 106 at page 662 as the same may hereafter be amended or supplemented (the "Declaration") and more recently by Amendments to the aforementioned Declaration of Covenants, Easements and Restrictions, dated October 9, 2000, and August 15, 2008.

Section 1.2 Compliance

Every Owner and all those entitled to occupy a Lot shall comply with these Bylaws.

Section 1.3 Office

The principal office of the Association shall be located at the office of the management company (Agent) contracted by the Board of Directors to manage the affairs of the Association or at such other place as may be designated from time to time by the Board of Directors.

ARTICLE 2.0 MEMBERSHIP

Section 2.1 Membership

Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to, and shall not be separated from, ownership of any Lot. Upon closing of the sale of any Lot, the Membership of the selling Owner shall cease and the purchasing Owner shall become a Member of the Association.

Section 2.2 Classes of Members

There shall be two classes of Members of the Association

(a) Class A

All Owners of Lots other than the Declarant during the Declarant Control Period shall be Class A Members.

(b) Class B

The Declarant shall be the Class B Member. The Class B membership shall terminate upon the termination of the Declarant Control Period and Declarant shall thereupon be treated as a Class A Member as to each Lot then owned by Declarant.

Section 2.3 Voting Rights

Members shall have the voting rights set forth in the Declaration, as well as all additions, amendments, and revisions thereto.

ARTICLE 3.0 MEETINGS OF MEMBERS

Section 3.1 Annual Meetings

The annual meeting of the Members of the Association shall be held during the month of October each year, on a date set by the Board of Directors, for the purpose of: electing Directors; electing Nominating Committee member(s); approval of the annual budget; and, the transaction of such other business as may properly come before the meeting.

Section 3.2 Special Meetings

The President shall call a special meeting of the Association if so directed by resolution of the Board of Directors or, upon a petition signed and presented to the Secretary by Owners holding not less than ten percent of the membership votes. The notice of any special meeting shall state the time, place, and purpose thereof. Only business within the purpose or purposes described on the notice of a special meeting shall be transacted at the meeting.

Section 3.3 Place of Meetings

Meetings of the Members shall be held at a suitable place as may be designated by the Board of Directors.

Section 3.4 Notice of Meetings

(a) The Secretary of the Association shall provide each Owner with a written notice of the date, time, place and purpose of each annual and/or special Members' meeting. Such notice shall be mailed by US Mail, postage prepaid, to the address of the respective Lot(s), and to such other addresses as may have been provided in writing by the Owner to the Secretary.

(b) The Secretary shall provide notice of the annual meeting at least fourteen (14) days but not more than sixty (60) days before such meeting. The Secretary shall provide notice of a special Members' meeting at least ten (10) days but not more than sixty (60) days before such meeting.

(c) Notwithstanding the foregoing, the Secretary shall provide notice of any meeting of the Association at which, the Members will be asked to vote on any amendment to the Articles, a plan of merger, a proposed sale of assets pursuant to Section 13.1-900 of the Virginia Code, or the dissolution of the Association (Corporation), not less than twenty-five (25) days, nor more than sixty (60) days, before the meeting. The mailing of a notice of meeting in the manner provided in these Bylaws shall be considered service of notice.

(d) In lieu of delivering notice as specified in subsection (a) of this section, the Association may give Members notice of the date, time, place and purpose of each annual and/or special Members' meeting by electronic transmission when consented to by the Member to whom notice is given. A notice given by an electronic transmission shall be given as far in advance

of the meeting as would be required if the notice were delivered as specified in subsection (a) of this section. Any such consent of a Member shall be revocable by the Member by written notice to the Association. Any such consent shall be deemed revoked if: (i) the Association is unable to deliver by electronic transmission two consecutive notices given by the Association in accordance with such consent; and, (ii) such inability becomes known to the Secretary or other person responsible for giving the notice; provided however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

(e) Notice given pursuant to subsection (d) of this section shall be deemed given by electronic transmission when directed to the record address of the Member or to such other electronic mail address at which the Member has consented to receive such notice. An affidavit of the Secretary or other Agent of the Association that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 3.5 Adjournment of Meetings

If at any meeting of the Members a quorum is not present, Members holding a majority of the votes that are present at such meeting, in person or by proxy, may adjourn the meeting to a time not less than forty-eight hours after the time the original meeting was called. The Secretary of the Association shall give notice of an adjournment of any meeting of the Association by placing a leaflet in each Member's newspaper box and/or by posting it on the Association website. Such notice shall state the time and place for the meeting to be reconvened.

Section 3.6 Voting Entitlement of Members

(a) Voting at all meetings of the Association shall be on the basis of one vote per Lot as set forth in these Bylaws. When there is more than one Member for a Lot, the Members present at any meeting or other forum where votes are to be recorded must be in unanimous agreement to cast the vote. There will be no splitting of votes. If not all Members for a Lot are present, those that are present may cast the vote. Such vote shall be deemed to have the unanimous consent of all the Members for the Lot.

(b) The election of Directors and Nominating Committee members shall be by oral ballot of the Members unless at least three Members request a written ballot, in which event the elections shall be by written ballot.

(c) Every eligible voter is entitled to one vote for as many persons as there are Directors to be elected at that time. Likewise, every eligible voter is entitled to one vote for as many persons as there are Nominating Committee members to be elected.

Section 3.7 Proxies

A vote may be cast in person or by proxy. Any Member entitled to vote may execute a proxy by written authorization or to the extent allowed by law by electronic means. An appointment of a proxy becomes effective when received by the Secretary and is valid for eleven months unless a longer period is expressly provided in the appointment form. All proxies are deemed revocable unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. A proxy shall be deemed revoked upon actual receipt of notice of revocation by the Secretary. The death or incapacity of a Member appointing a proxy will render the said authorization null and void when notification of the Member's death or incapacity is received by the Secretary.

Section 3.8 Quorum

The presence in person or by proxy of the Members holding thirty-three (33%) percent of the aggregate membership votes shall constitute a quorum at all meetings of the Members of the Association.

Section 3.9 Conduct of Meetings of the Membership

The President shall preside over all meetings of the Association and the Secretary shall keep minutes of the meeting and record all resolutions adopted, the results of all elections, and all other transactions occurring at the meeting. The Secretary's draft of these minutes shall be available to the membership upon request within thirty days of the meeting. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association except when in conflict with the Articles of Incorporation, the Declaration, these Bylaws, or the applicable statutes (Virginia Nonstock Corporation Act & Virginia Property Owners' Association Act). The Association may elect to establish its own "Rules of Order" in lieu of those cited above, provided said "Rules of Order" are described prior to their proposed use and approved (voted affirmatively) by a simple majority in attendance at a meeting of the membership having a quorum.

Section 3.10 Order of Business

The order of business at all meetings shall follow as nearly as practicable the following outline:

- (a) Calling meeting to order and determination of a quorum
- (b) Adoption of minutes of previous meeting(s), if any
- (c) Reports of officers, if any
- (d) Reports of special meetings, if any
- (e) Elections of Directors and Nominating Committee members
- (f) Unfinished business, if any
- (g) New business
- (h) Adjournment

ARTICLE 4.0 BOARD OF DIRECTORS

Section 4.1 Number and Election

The affairs of the Association shall be managed under the direction of its Board of Directors, who shall also be Members of the Association or individuals designated in writing as the representative of an entity Member of the Association. The Board shall consist of no less than five (5) and no more than nine (9) Directors elected for two-year terms by the Members of the Association. The Association will elect approximately one-half of the Board each year to maintain a two year rotation system of Board members. Should a vacancy occur mid-term for any cause, the remaining members of the Board shall have the authority to appoint a replacement who will serve the unexpired portion of the term of the Director being replaced.

Section 4.2 Powers and Duties

The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association, and use and control of the Common Areas, and may do all such acts and things as are by applicable law, the Declaration, the Articles or by these Bylaws, required to be exercised and done by the Association so long as these regulations shall not be in conflict with the Declaration, the Articles, or these Bylaws. The Board of Directors may from time to time elect to have the Association treated as a “homeowner’s association” within the meaning of Section 528 of the Internal Revenue Code of 1986, as amended. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors on behalf of the Association shall have the power and duty to:

- (i) Prepare an annual budget in which there shall be established the General Assessments of each Owner;
- (ii) Make General Assessments, and, to the extent permitted by the Declaration, Special Assessments against Owners to pay the Common Expenses, establish the means and methods of collecting such assessments from the Owners and establish the period of the installment payments of the assessments. Unless otherwise determined by the Board of Directors and except as set forth in the Declaration, the regular assessment against each Lot shall be payable in annual installments, each such installment to be due and payable in advance no later than January 31 of each year;
- (iii) Provide for the operation, care, upkeep, maintenance, and servicing of the Common Areas;
- (iv) Designate, hire and dismiss the personnel necessary for the operation, care, upkeep, maintenance, and servicing of the Common Areas and, where appropriate, provide for the compensation of such personnel, and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

- (v) Collect the assessments against the Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors or prudently invest the same (for which purpose the Board of Directors may retain an investment adviser) to the extent such proceeds are not immediately required, and use the proceeds to carry out the administration of the Association;
- (vi) Enact and amend rules and regulations from time to time for the use of the Common Areas, provided however, that no such rules and regulations so adopted shall be in conflict with the Declaration, the Articles, or these Bylaws;
- (vii) Open bank accounts on behalf of the Association and designate the signatories thereon;
- (viii) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Common Areas in accordance with the Declaration;
- (ix) Enforce by legal means the provisions of the Declaration, the Articles, these Bylaws and the rules and regulations promulgated pursuant thereto;
- (x) Obtain and carry insurance as provided in the Declaration and in Article 9.0 of these Bylaws;
- (xi) Pay the cost of all authorized services rendered to the Association and not billed to Owners or otherwise provided for;
- (xii) Keep books (journals) with detailed accounts of all receipts and expenditures affecting the Association and the administration of the Common Areas. All books and records shall be kept in accordance with Generally Accepted Accounting Principles (GAAP). Such books are open to the membership for review;
- (xiii) Do such other things and acts not inconsistent with the Declaration, the Articles or these Bylaws which the Board of Directors may be authorized to do under applicable law or by a resolution of the Association;
- (xiv) Subject to the Declaration, grant permits, licenses and easements under, through and over the Common Areas for drainage, utilities, roads, access, and other purposes which are reasonably necessary to the ongoing development and operation of the Submitted Land;
- (xv) When it is authorized to do so as set forth in the Declaration, appoint members of the Design Review Board; and
- (xvi) Acquire, hold, and dispose of Lots and Common Areas.

Section 4.3 Managing Agent

(a) Employment of Management Agent

The Board of Directors may employ for the Association a “Managing Agent” at a compensation to be established by the Board of Directors. Any agreement with a Managing Agent must permit termination by either party without cause and without termination fee upon not more than 90 days written notice.

(b) Duties

The Managing Agent shall perform such duties and services as the Board of Directors shall authorize, which may include but are not limited to the duties listed in Section 4.2 (i), (iii),

(iv), (v), (viii), (ix), (x), (xi), (xii), and (xvi) of these Bylaws. The Board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in Section 4.2(ii), (vi), (vii), and (xiii) of these Bylaws.

(c) Standards

The Board of Directors may impose appropriate standards of performance upon the Managing Agent.

(d) Liaison

The Board of Directors shall designate one of its members as the liaison officer who shall be authorized to instruct and deal with the Managing Agent on any matter.

Section 4.4 Annual Organizational Meetings

The annual organizational meeting of the Board of Directors serving the next calendar year shall be held within one month following the annual meeting of the Association. The current year President shall arrange this meeting, notify participants, and act as moderator until officers for the next year are named. The meeting date should be chosen to maximize Board member attendance. A quorum of the next-year Board of Directors must be present to legally constitute a meeting.

Section 4.5 Regular Meetings

The Board of Directors shall hold regular meetings during the months of January, April, July, and October, at such dates, times and places as determined by a majority of the directors. All meetings of the Board of Directors, including any subcommittee or other committee thereof, shall be open to all Members of record. The President shall assure that notice of the date, time and place of each meeting of the Board of Directors is published where it is reasonably calculated to be available to a majority of the Members.

Section 4.6 Quorum of Board of Directors

At all meetings of the Board of Directors a majority of the directors shall constitute a quorum for the transaction of business, and the vote of a majority of the directors present at a meeting at which a quorum is present, shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, those present may adjourn the meeting from time to time.

Section 4.7 Compensation

No director shall receive any compensation from the Association for acting as such; however, the Board of Directors may in its discretion reimburse any director for actual expenses incurred.

Section 4.8 Conduct of Meetings

The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep minutes of the Board of Directors' meetings, recording therein all resolutions adopted by the Board of Directors and recording all transactions and proceedings occurring at such meetings.

Section 4.9 Action Without Meeting

Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting, if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 4.10 Telephone Meetings

The Board of Directors may permit any or all directors to participate in any meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Section 4.11 General Standards of Conduct

Each member of the Board of Directors shall discharge his or her duties as a Director of the Association, including all duties as an officer or committee member, in accordance with his or her good faith judgment of the best interests of the Association. Unless a director has knowledge or information concerning the matter in question that makes reliance unwarranted, a director is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by (i) one or more officers or employees of the Association whom the director or officer believes, in good faith, to be reliable and competent in the matters presented, (ii) legal counsel, public accountants, or other persons as to matters the director believes, in good faith, are within the person's professional or expert competence, or (iii) a committee of the Board of Directors of which he or she is not a member if the director believes, in good faith, that the committee merits confidence. A director or officer is not liable for any action taken as a director or officer, or any failure to take any action, if he or she performed the duties of their office in compliance with this section. A person alleging a violation of this section shall have the burden of proving the violation.

ARTICLE 5.0 COMMITTEES

Section 5.1 Committees

The Board of Directors may create one or more committees and may appoint members of the Board or other Association Members, to such committees. Committees shall perform such tasks and serve for such periods as may be designated by the Board. Any member of any committee appointed by the Board of Directors may be removed by the Board of Directors whenever in their judgment the best interests of the Association shall be served thereby. Each committee shall operate in accordance with any guidelines established by the Board.

Section 5.2 Nominating Committee

The Members of the Association shall elect the Nominating Committee in accordance with the Bylaws, Section 3.6. The Nominating Committee shall be independent of the Board of Directors but shall have the obligation to provide the Board of Directors monthly progress reports of their deliberations beginning no later than June of each year until all the slates are named. The Nominating Committee shall consist of no less than three Members in good standing and shall nominate candidates for the Board of Directors. Nominating Committee members shall serve for a two-year term, and shall serve through the second annual meeting following their election. At the annual meeting coinciding with the end of their term, the Nominating Committee shall also nominate candidates for the next Nominating Committee. Should a vacancy occur mid-term, the remaining members of the committee shall have the authority to appoint a replacement who shall serve until the next meeting of the Association having a quorum. Each year, the Nominating Committee shall elect one of their members to serve as Chairperson. The Nominating Committee shall provide notice to the Board of the slate for the director position(s) and the slate for position(s) on the Nominating Committee not later than fourteen days prior to the Annual Meeting of the Association.

ARTICLE 6.0

ARCHITECTURAL REVIEW

Section 6.1 Architectural Review

There shall be a Design Review Board of the Association as provided in the Declaration. The number of members, the method of their appointment or election, and their duties and powers shall be as set forth in the Declaration.

ARTICLE 7.0 OFFICERS

Section 7.1 Designation

The principal officers of the Association shall be the President, Vice President, Secretary, Treasurer, and Design Review Board Chairperson, all of whom shall be members of the Board of Directors. The Board of Directors may appoint other officers as in its judgment may be desirable. Officers other than the principal officers shall be Members, (or residents as provided in the expanded definition of Members in the amended Declaration), of the Association, but need not be members of the Board of Directors.

Section 7.2 Election of Officers

At the annual organizational meeting of the Board of Directors, the Directors shall elect the principal officers of the Association from among themselves. Officers shall serve a 1-year term beginning January 1 of the year following their election, and shall be eligible for re-election.

Section 7.3 Removal of Officers

Any officer may be removed with or without cause, and a successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

Section 7.4 President

The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Board of Directors, and have all of the general powers and duties which are incident to the office of president of a corporation organized under the Virginia Nonstock Corporation Act.

Section 7.5 Vice President

The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors or by the President.

Section 7.6 Secretary

The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors; have charge of such books and papers as the Board of Directors may direct; maintain a register setting forth the place to which all notices to Owners and Mortgagees requesting notices shall be delivered; upon request by a conveying Owner, deliver statements of all unpaid assessments applicable to the Lot to be conveyed; execute notices of delinquent assessment in accordance with the Declaration; execute notices of and releases of the lien for delinquent assessments as described in the Declaration; and, in general, perform all the duties incident to the office of secretary of a corporation organized under the Virginia Nonstock Corporation Act.

Section 7.7 Treasurer

The Treasurer shall have the responsibility for Association funds and securities, and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements; and for the preparation of all required financial data; and be responsible for the deposit of all monies and other valuables in the name of the Board of Directors, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Board of Directors; and, in general, perform all the duties incident to the office of treasurer of a corporation organized under the Virginia Nonstock Corporation Act.

Section 7.8 Design Review Board Chairman

The Design Review Board, (DRB), Chairperson shall have the responsibility of representing the activities of the DRB on the Board of Directors.

Section 7.9 Compensation of Officers

No officer shall receive any compensation from the Association for acting as such; however, any officer may be reimbursed for actual expenses incurred as such officer.

ARTICLE 8.0 OPERATION OF THE PROPERTY

Section 8.1 Fiscal Year

The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board of Directors.

Section 8.2 Adoption of Budget and Establishment of Assessments

The Board of Directors shall adopt a budget, (which shall include any proposed capital expenditures), for any fiscal year as set forth in the Declaration and shall establish the amount of the General Assessment for every Member subject thereto. The Board of Directors shall send written notice of each annual budget and assessment amount to every Member at least 14 days in advance of voting the same at the annual meeting. In formulating a budget, the Board of Directors shall provide for a reserve fund including a reserve for the deductible on physical damage insurance policies. Once the annual budget is approved by the Membership, the Owner must then tender payment of all assessments as required by this Article. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay his assessment as herein provided, whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Owner liable therefore, shall continue to pay each periodic installment at the rate established for the previous fiscal year until notice of the periodic payment which is due more than ten days after such new annual or adjusted budget shall have been delivered.

Section 8.3 Payment of Assessments

Each Owner liable therefore shall pay the assessments established by the Declaration and these Bylaws. No Owner shall be liable for the payment of any part of the assessment against his Lot and due subsequent to the date of recordation of a conveyance by him in fee of such Lot to a successor Owner (except a conveyance as security for the performance of an obligation). Each Owner waives the benefit of the homestead exemption as to any assessments levied against either the Lot or the Owner. Each such assessment, together with the interest, late charges, and costs of collection (including attorneys' fees), shall also be the personal obligation of the Owner at the time the assessment fell due.

Section 8.4 Collection of Assessments

The Board of Directors, or the Managing Agent at the request of the Board of Directors, may take action to collect any assessments due from any Owner. Each defaulting Owner shall also pay all costs of collection, including without limitation attorneys' fees, incurred in the collection of any unpaid assessment and shall also pay any expense incurred as a result of a check being returned to the Association without payment.

Section 8.5 Statement of Assessments and Access to Association Records

In addition to complying with the requirements of Section 8.6 of these Bylaws, the Board of Directors shall promptly provide any Owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of the amount of the general and any special assessment levied against a Lot and all unpaid assessments due from such Owner. The Association shall keep detailed records of its operation and administration and make the same available for inspection as provided in Section 55-510 of the Virginia Code. The Association may impose and collect a charge, reflecting the actual cost of materials and labor, before providing copies of any books and records to a Member.

Section 8.6 Maintenance, Repair, Replacement and Other Expenses

The Association shall be responsible for such maintenance, repair and replacement of the Common Areas as is set forth in the Declaration. Unless otherwise determined by the Board of Directors, all repairs and replacements shall be substantially similar to the original construction and installation and shall be of good quality. The method of approving payment vouchers for repairs and replacements performed by the Association shall be determined by the Board of Directors.

ARTICLE 9.0 INSURANCE

Section 9.1 General Requirements

(a) Purchase of Insurance

All insurance policies relating to Common Areas shall be purchased by the Association. Neither the Board of Directors nor the Managing Agent shall be liable for failure to obtain any coverage required by the Declaration or by this Article 9.0 or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at unreasonable cost.

(b) Required Provisions in Policies

Each insurance policy for the Common Areas shall provide that:

- (i) The insurer waives any right to claim (A) by way of subrogation against the Association, the Board of Directors, the Managing Agent or the Owners, and their respective lessees, and (B) invalidity arising from acts of the insured.
- (ii) Such policy may not be cancelled, not renewed or substantially modified without at least fifteen (15) days prior written notice of the Association and the Managing Agent, and in the case of physical damage and fidelity insurance, to all Owners and Mortgagees' and mortgage loan servicers.

(c) Insurance Companies

All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia and, in the case of the physical damage insurance, holding a rating of B/III or better by Best's Insurance Reports.

Section 9.2 Physical Damage Insurance

(a) All Risk Coverage

If any insurable improvements are constructed on the Common Areas, the Association shall obtain and maintain a policy of insurance against fire and such other hazards within the meaning of "all risk", insuring the improvements to the Common Areas (including fixtures and building service equipment and personal property), naming the Association as insured for the use and benefit of all Owners in an amount equal to not less than 100% of the then current replacement cost of the improvements to the Common Areas (exclusive of land, excavations, foundation and other items usually excluded from such coverage), such amount to be re-determined annually by the Board of Directors with the assistance of the insurance company affording such coverage. Any deductible shall not exceed the lesser of \$10,000 or

1% of the amount of coverage and such deductible shall be considered in establishing the level of reserves.

(b) Required Provisions

Such policy shall also provide (unless otherwise provided):

- (i) A waiver of any right of the insurer to repair, or replace any damage or destruction, if a decision is made not to do so;
- (ii) The following endorsements (or equivalent) if applicable and available: (A) “contingent liability from operation of building laws”, “demolition cost” and “increased cost of construction”; (B) “agreed amount” or its equivalent and “inflation guard,” and; (C) “steam boiler and machinery coverage” within minimum liability per accident of not less than the lesser of the insurable value of the building housing the boiler or machinery or \$2,000,000;
- (iii) That any “no other insurance” clause expressly excludes individual Owners’ policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Owners’ policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Owners or their Mortgagees, unless otherwise required by law.

(c) Delivery of Policies to Mortgagees

A copy of the policy of physical damage insurance, all renewals thereof, and any sub-policies or certificates and endorsements issued thereunder, together with proof of payment of premiums shall be delivered by the insurer at least ten days prior to the expiration of the then current policy to any Mortgagee requesting the same. In providing copies of the aforesaid insurance instruments, the Association may impose and collect a charge from the Member, reflecting the costs of materials and labor, before delivering copies of the aforesaid insurance instruments to the Member’s Mortgagee. The charge so imposed shall be treated as an assessment under Article 8.0 above.

(d) Prohibited Provisions

The Association shall not obtain a policy where: (i) under the terms of the carrier’s charter, bylaws or policy, contributions or assessments may be made against any Owner or Mortgagee or mortgage loan servicer or become a lien on the Properties; or (ii) by the terms of the carrier’s charter, bylaws or policy, loss payments are contingent upon action by the carrier’s board of directors, policyholders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the Association from collecting insurance proceeds.

Section 9.3 Liability Insurance

The Association shall obtain and maintain comprehensive general public liability and property damage insurance in such limits as the Board of Directors may from time to time determine (but not less than \$1,000,000 for bodily injury or property damage), insuring the Association, each member of the Board of Directors, the Managing Agent, each Owner against any liability to the public or to the Owners (and their invitees, agents and employees) arising out of, or incident to the ownership and/or use of the Common Areas and other areas (if any) under the supervision of the Association including, to the extent applicable and available: host liquor liability; comprehensive automobile liability; contractual liability; garage keeper's liability; and bailee's liability. Such insurance shall be issued on a comprehensive liability basis and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying liability to an Owner because of negligent acts of the Association or of another Owner. The Board of Directors shall review such limits once each year. "Umbrella" liability insurance in excess of the primary limits may also be obtained.

Section 9.4 Other Insurance

The Association shall obtain and maintain:

- (i) Fidelity coverage to protect against dishonest acts on the part of officers, Directors, employees and agents (including the Managing Agent) of the Association, and all others who handle, or are responsible for handling, funds of the Association. Such fidelity bonds shall: (A) name the Association as an obligee; (B) be written in an amount to cover the maximum funds that will be in the custody of the Association or the Managing Agent at any time and in any event not less than (3) months' aggregate assessments on all Lots plus reserves; and (C) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;
- (ii) Such other insurance as the Board of Directors may determine or as may be requested from time to time by Owners of a majority of the Lots.

Section 9.5 Separate Insurance by Owners

Each Owner shall have the right and responsibility, at his own expense, to obtain insurance for his own Lot and improvements thereon and for his own benefit; provided, however, that no Owner shall be entitled to exercise his right to obtain such insurance coverage so as to decrease the amount which the Association, on behalf of all Owners, may realize under any insurance policy maintained by the Association or to cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage obtained by an Owner. Each Owner shall obtain liability insurance with respect to his Lot in the amount of at least \$100,000. All such policies shall contain waivers of subrogation as against the Association and its Board of Directors, the Declarant, and the Managing Agent,

and their respective agents and employees. No Owner shall obtain separate insurance policies in conflict with this Section 9.5.

Section 9.6 Board of Directors as Agent

The Board of Directors is hereby irrevocably appointed the agent and attorney-in-fact for each Owner, each Mortgagee, other named insured and their beneficiaries and any other holder of a lien or other interest in the Property to adjust and settle all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon the payment of claims; and to pursue and settle all claims arising out of the taking by way of eminent domain of any of the Common Area.

ARTICLE 10.0 MISCELLANEOUS

Section 10.1 Notices

Notices shall be as follows:

- (i) All notices, demands, requests, statements or other communications under these Bylaws shall be in writing and shall be sent by US first class mail, postage prepaid: (A) if to an Owner, at the address which the Owner shall designate in writing and file with the Secretary, or if no such address is designated, at the address of the Lot of such Owner, or; (B) if to the Association, at 907 Richmond Road, Williamsburg, Virginia 23185, or at other such address as shall be designated by notice in writing to the Owners pursuant to this section, or; (C) if to a Mortgagee, to the address provided by the Owner or to other such addresses as the Mortgagee may specify by written notice to the Association. All such notices, demands, requests, statements or other communications shall be deemed to have been given when mailed to the appropriate address specified above;
- (ii) In lieu of delivering notice as specified in subsection (i) of this section, all notices, demands, requests, statements or other communications under these Bylaws, except notices which may stipulate delivery only by US first class mail, postage prepaid or other class, the Association may provide any and all such notices by electronic transmission provided the contract purchaser, Owner, Mortgagee, Officer, Partner, Trustee or other Owner shall give its consent in writing to receive such notice by electronic transmission and shall have provided to the Association its electronic address and other such information that will allow the Association to determine that the consent is valid. All such consents are revocable upon written notice to the Association. Any such consent shall be deemed revoked if: (A) the Association is unable to deliver by electronic transmission two consecutive notices given by the Association in accordance with such consent and; (B) such inability becomes known to the Secretary or other person responsible for giving notice. Notice given pursuant to this subsection shall be deemed to have been given by electronic transmission when directed to the record address of any Owner who has given such consent. An affidavit of the Secretary or other Agent of the Association that notice has been given by electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.;
- (iii) All notices, demands, requests and other communications shall be deemed to have been given when sent to the appropriate address specified above. Rejection or other refusal to accept shall not invalidate the effectiveness of any notice, demand, request or other communication;
- (iv) Notwithstanding the foregoing, notice of meetings shall be given as provided in Section 3.4 of these Bylaws;
- (v) Notwithstanding the foregoing, any notice of the filing of a memorandum of assessment lien shall be sent in the manner required by Section 55-516C of the Virginia Code.

Section 10.2 Captions

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

Section 10.3 Gender, Etc.

The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 10.4 Construction

These Bylaws are intended to comply with the Virginia Nonstock Corporation Act, the Virginia Property Owners' Association Act, and all other applicable Federal and State laws and shall be so interpreted and applied. In cases where the aforementioned "Acts" defer authority to the Bylaws of a Corporation or an Association, these Bylaws shall take precedence. In the event of conflict between these Bylaws and the aforementioned "Acts", the "Acts" shall control. In the event of conflict between the Declaration or the Articles and these Bylaws, the Declaration or the Articles shall control.

Section 10.5 Amendments

These Bylaws may be amended thereafter by a vote of at least two-thirds (2/3) of the votes entitled to be cast by Members present at a duly convened meeting at which a quorum is present. For purposes of this Section 10.5, the presence in person or by proxy of Members entitled to cast 33% of the aggregate membership votes shall constitute a quorum; however, to the extent any such amendment would be inconsistent with the Declaration, such amendment shall be adopted in the same fashion as an amendment to the Declaration.