

**BY-LAWS**

**OF THE**

**COVINGTON WOODS HOMEOWNERS'**  
**ASSOCIATION, INC.**

**Johnston Road  
Town of Guilderland  
Albany County, New York**

**Revision Date: November 10, 1999**

**(Approved by Association Members at the  
Annual Meeting)**

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**(Approved by Association Members at the  
Annual Meeting)**

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**BY-LAWS  
OF  
COVINGTON WOODS HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I  
PLAN OF PROPERTY OWNERSHIP**

**SECTION 1. DEFINITIONS**

The following terms used herein shall have the meaning indicated below, unless another meaning is plainly indicated from the context.

“ASSOCIATION” means the Covington Woods Homeowners’ Association, Inc., its successors and assigns.

“ASSOCIATION CHARGERS” means charges allocated and assessed by the BOARD OF DIRECTORS to the OWNERS and upon the LOTS in accordance with their ASSOCIATION INTERESTS, necessary to operate and maintain the COMMON AREAS and meet ASSOCIATION EXPENSES.

“ASSOCIATION EXPENSES” means all costs and expenses to be incurred by the ASSOCIATION pursuant to the DECLARATION in connection with the operation and maintenance of ASSOCIATION property and enforcing OWNER’S obligations under the DECLARATION.

“ASSOCIATION INTEREST” means the interest of each LOT.

“BOARD OF DIRECTORS” means the board of directors of the ASSOCIATION.

“BY-LAWS” means these by-laws of the ASSOCIATION as the same may be amended by the MEMBERS OF THE ASSOCIATION.

“CERTIFICATE OF INCORPORATION” means the certificate incorporating the ASSOCIATION or any amendments thereto.

“CLOSING” means the date of closing title and delivery of a deed to a LOT.

“COMMON AREAS” means the areas of undeveloped land owned by the ASSOCIATION and reserved for the common use and enjoyment of the members of the ASSOCIATION.

“DECLARATION” means the declaration of covenants, easements and restrictions pertaining to the real property located in the town of Guilderland, County of Albany, State of New York, more particularly shown on the MAPS. Said restrictions were modified by a document entitled and amended and restated declarations of covenants, easements and restrictions filed in the office of the Albany County clerk’s Office on

June 26, 1997, as the same may be modified, amended, supplemented or superseded from time to time.

“DECLARATION PROPERTY” means collectively the COMMON AREAS and any other easements.

“LOT” means any plot of land owned by an individual OWNER as opposed to the ASSOCIATION, and shown upon the MAPS as said MAPS may be amended, modified, supplemented, or superseded from time to time provided that the said land referred to in said MAPS shall be subject to the terms and provisions of the DECLARATION.

“MAJORITY OF THE OWNERS” has the meaning ascribed to it in Article III, Section 10 hereof.

“MAPS” means the maps entitled “Subdivision Plan, Covington Woods Subdivision”, prepared by the Standard Engineering Corporation and filed in the Albany County Clerk’s Office in drawer 172 as maps 5262-A, 5262-B, 5262-C, and as map 6309 in drawer 172, which declaration was filed in the office of the Albany County Clerk on August 29, 1985 in book 2290 of deeds at page 400 and referred to in the DECLARATION.

“NET PROCEEDS” means so much of the gross proceeds with respect to which that term is used as remain after payment of all expenses, costs and taxes (including attorney’s fees) incurred in obtaining such gross proceeds.

“OWNER” OR “OWNERS”, “MEMBERS OF THE ASSOCIATION” OR “MEMBERS” means the record OWNER(S), whether one or more persons or entitles, of the fee simple title to any LOT, including contract sellers.

“RULES AND REGULATIONS” means the rules and regulations established in conjunction with these BY-LAWS for the operation of DECLARATION PROPERTY and maintenance of the LOTS as the same may be modified, amended, supplemented or superseded from time to time.

“SPECIAL ASSESSMENTS” means extraordinary charges imposed on OWNERS by the ASSOCIATION to pay for extraordinary expenses.

## **SECTION 2. APPLICABILITY OF BY-LAWS**

The provisions of these BY-LAWS are applicable to the DECLARATION PROPERTY and the LOTS and to the use and occupancy thereof.

## **SECTION 3. APPLICATION**

All present and future OWNERS, lessees and occupants of LOTS and their families, and any other persons, partnerships, corporations or other entities who may use said LOTS in

any manner are subject to these BY-LAWS, the DECLARATION and the RULES AND REGULATIONS.

The acceptance of a deed or conveyance or the entering into of a lease or the act of occupying a LOT shall constitute an agreement that these BY-LAWS, the RULES AND REGULATIONS and the provisions of the DECLARATION, are accepted, ratified, and will be obeyed.

## **ARTICLE II** **BOARD OF DIRECTORS**

### **SECTION 1. NUMBER AND QUALIFICATION**

The affairs of the ASSOCIATION shall be governed by a BOARD OF DIRECTORS. The BOARD OF DIRECTORS will control the administration, maintenance and repair of COMMON AREAS and levy ASSOCIATION CHARGES upon OWNERS. The BOARD OF DIRECTORS shall consist of at least six persons designated by the OWNERS.

### **SECTIO 2. POWER AND DUTIES**

The BOARD OF DIRECTORS shall have the powers and duties necessary for the administration of the DECLARATION PROPERTY and may do all such acts and things permitted by law and by the CERTIFICATE OF INCORPORATION, and the DECLARATION and by these BY-LAWS. Such powers and duties of the BOARD OF DIRECTORS shall include, but shall not be limited to, the following:

- (A) the power and duty to operate, care for, and maintain DECLARTION PROPERTY;
- (B) the duty to fix, levy, collect and enforce payment of by any lawful means all charges or assessments pursuant to the terms of the DECLARTION, to pay all expenses in connection with the duties described in this Section 2 of Article II, and all office and other expenses incident to the conduct of the business of the ASSOCIATION, including all license fees, taxes or governmental charges levied or imposed against the property of the ASSOCIATION;
- (C) the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the ASSOCIATION, subject to the zoning regulations of the Town of Guilderland and all other applicable laws, statutes, rules, orders and decrees;

- (D) the power to borrow money, mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (E) the power to dedicate, sell or transfer all or any part of its property to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members;
- (F) the power to participate in mergers and consolidations with other not-for-profit corporations organized for the same purposes or to annex additional residential property and COMMON AREAS;
- (G) the power to employ and dismiss the personnel necessary for the maintenance and operation of the COMMON AREAS, and the power to employ and dismiss attorneys, accountants and other professionals necessary for the conduct of the affairs of the ASSOCIATION, the selection process for employment and dismissal of such employees to be established at the sole discretion of the BOARD OF DIRECTORS;
- (H) the power to adopt and amend the RULES AND REGULATIONS;
- (I) the power to open and maintain bank accounts on behalf of the ASSOCIATION and to designate the signatories required therefor;
- (J) the power to obtain insurance for the COMMON AREAS pursuant to Article V, Section 5 hereof;
- (K) the power to make additions to and restore the COMMON AREAS in accordance with the other provisions of these BY-LAWS after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;
- (L) the power to adjust and settle claims under insurance policies obtained pursuant to Article V, Section 5 and execute and deliver releases upon settlement of such claims on behalf of all OWNERS;
- (M) the power to have and to exercise any and all powers, rights and privileges which a corporation organized under the Not-for-Profit Corporation Law of the State of New York may now or hereafter have or exercise;
- (N) the power to prosecute, maintain and defend representative actions by or against the ASSOCIATION as a whole;
- (O) the power to modify or amend (but not terminate) the DECLARATION as provided therein;
- (P) the power to enforce the DECLARATION and any easements and deed restrictions placed on the LOTS, and



(Q) the power to offer, on an optional basis, additional services to OWNERS, including but not limited to organization of neighborhood activities, lawn maintenance, snow removal and house watching services; the cost of such optional activities to be paid only by OWNERS who elect to avail themselves of such services and which shall not be included as ASSOCIATION EXPENSES of the ASSOCIATION payable as an ASSOCIATION CHARGE or SPECIAL ASSESSMENT.

### **SECTION 3. LIMITATIONS ON EXERCISE OF POWER AND DUTIES**

(A) The ability of the BOARD OF DIRECTORS to exercise the following powers is subject to the following requirements:

(1) 2/3rds of the votes cast by the MEMBERS at which meeting at which a quorum is present shall be required for the BOARD OF DIRECTORS to:

- (a) mortgage, pledge, deed in trust, or hypothecate any or all of the real or personal property or give security for money borrowed or debts incurred;
- (b) exercise the powers set forth in Paragraphs 2(C), 2(D), 2(E), 2(F), 2(H), 2(K), 2(L), 2(N) and 2(O).
- (c) undertake an activity or activities such as to require the filing of an offering plan or the submission of a request for a no-action letter with the New York State Department of Law.

(2) 2/3rds of the votes cast by the MEMBERS voting at a meeting at which a quorum is present shall be required to alter, modify or eliminate any of the provisions of the DECLARATION.

(3) A majority of the votes cast by the MEMBERS at a meeting which a quorum is present shall be required for the adoption of modifications or amendments to the DECLARATION or RULES AND REGULATIONS.

#### **SECTION 4. MANAGING AGENT AND MANAGER**

The BOARD OF DIRECTORS may select a managing agency and/or manager and enter into a management agreement or employ a managing agent and/or manager for the ASSOCIATION at a compensation established by the BOARD OF DIRECTORS, to perform such duties and services as the BOARD OF DIRECTORS shall authorize. The BOARD OF DIRECTORS may terminate any management agreement in accordance with its terms or terminate the employment of any managing agent or manager. The BOARD OF DIRECTORS may delegate to any manager or managing agent all of the powers granted to the BOARD OF DIRECTORS by these BY-LAWS other than the powers set forth in subdivisions (B) through (I), and (L) through (Q) of Section 2 of this Article II.

#### **SECTION 5. TERM OF OFFICE**

At each Annual Meeting the OWNERS shall have the option of nominating any number of candidates for election to the BOARD OF DIRECTORS for two (2) years, and such nomination shall be effective if seconded. The members of the BOARD OF DIRECTORS shall hold office until their respective successors shall have been elected by the OWNERS.

#### **SECTION 6. REMOVAL OF MEMBERS OF THE BOARD OF DIRECTORS**

At any regular or special meeting of OWNER, any one or more of the members of the BOARD OF DIRECTORS, may be removed with or without cause by a majority of all the OWNERS and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member of the BOARD OF DIRECTORS whose removal has been proposed by the OWNERS shall be given an opportunity to be heard at the meeting.

If a member of the BOARD OF DIRECTORS ceases to be an OWNER or a relative of an OWNER, the member shall be deemed to have resigned effective as of the date such ownership ceased.

#### **SECTION 7. VACANCIES**

Vacancies in the BOARD OF DIRECTORS caused by any reason other than the removal of a member thereof by a vote of the OWNERS as specified in Section 6 shall be filled by a vote of a majority of the remaining members of the BOARD OF DIRECTORS at a special meeting of the BOARD OF DIRECTORS held for that purpose promptly after the occurrence of any such vacancy, even though the voters present at such meeting may constitute less than a quorum. Each person so elected or appointed shall be a member of the BOARD OF DIRECTORS until the next annual meeting, at which meeting a successor shall be elected for such member.

#### **SECTION 8. REGULAR MEETINGS**

Regular meetings of the BOARD OF DIRECTORS may be held at such time and place as shall be determined from time to time by a majority of the members of the BOARD OF DIRECTORS, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the BOARD OF DIRECTORS shall be given to each

member of the BOARD OF DIRECTORS, by mail, at least three (3) business days prior to the day named for such meeting.

#### **SECTION 9. SPECIAL MEETINGS**

Special meetings of the BOARD OF DIRECTORS may be called by the president or secretary of the ASSOCIATION on three (3) business days' notice to each member of the BOARD OF DIRECTORS, given by mail, which notice shall state the time, place and purpose of the meeting. Special meetings of the OWNERS shall be called by the president or secretary of the ASSOCIATION in like manner and on like notice on the written request of at least three (3) members of the BOARD OF DIRECTORS.

#### **SECTION 10. WAIVER OF NOTICE**

Any member of the BOARD OF DIRECTORS may at any time waive notice of any meeting of the BOARD OF DIRECTORS in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the BOARD OF DIRECTORS at any meeting of the BOARD OF DIRECTORS shall constitute a waiver of notice by the member of the time and place thereof. Any one or more members of the BOARD OF DIRECTORS or any committee thereof may participate in a meeting of the BOARD OF DIRECTORS or such committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. If all the members of the BOARD OF DIRECTORS are present at any meeting of the BOARD OF DIRECTORS no notice shall be required and any business may be transacted at such meeting.

#### **SECTION 11. QUORUM OF THE BOARD OF DIRECTORS**

At all meetings of the BOARD OF DIRECTORS, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the BOARD OF 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, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

#### **SECTION 12. ACTION WITHOUT A MEETING**

Any action required or permitted to be taken by the BOARD OF DIRECTORS or any committee thereof may be taken without a meeting if all members of the BOARD OF DIRECTORS or the committee consent in writing to the adoption of a resolution authorizing such action, and the writing or writings are filed with the minutes of the proceedings of the BOARD OF DIRECTORS or the committee.

### **SECTION 13. COMPENSATION**

No member of the BOARD OF DIRECTORS shall receive any compensation from the ASSOCIATION for acting as such.

### **SECTION 14. LIABILITY OF THE BOARD OF DIRECTORS**

The members of the BOARD OF DIRECTORS shall not be liable to the OWNERS for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The OWNERS shall indemnify and hold harmless each of the members of the BOARD OF DIRECTORS against all liability to others arising from their acts as, or by reason of the fact that such person was, a member of the BOARD OF DIRECTORS. It is intended that the members of the BOARD OF DIRECTORS shall have no personal liability with respect to any contract made by them within the scope of their authority on behalf of the ASSOCIATION. It is also intended that the liability of any OWNER arising out of any contract made by the BOARD OF DIRECTORS or out of the aforesaid indemnity in favor of the members of the BOARD OF DIRECTORS shall be limited to proportion of the total liability thereunder as the MEMBER'S ASSOCIATION INTEREST bears to the ASSOCIATION INTERESTS of all the OWNERS. Every agreement made by the BOARD OF DIRECTORS or by the managing agent or by the manager on behalf of the ASSOCIATION shall provide that the members of the BOARD OF DIRECTORS, or the managing agent, or the manager, as the case may be, are acting only as agents of the OWNERS and shall have no personal liability thereunder (except as OWNERS) and that any liability shall be limited to such proportion of the total liability thereunder as the MEMBER'S ASSOCIATION INTEREST bears to the ASSOCIATION INTEREST of all OWNERS.

### **SECTION 15. EXECUTIVE COMMITTEE**

The BOARD OF DIRECTORS may, by resolution duly adopted, appoint an executive committee to consist of members of the BOARD OF DIRECTORS. Such Executive Committee shall have and may exercise all the powers of the BOARD OF DIRECTORS in the management of the business and affairs of the ASSOCIATION during the intervals between the meetings of the BOARD OF DIRECTORS insofar as may be permitted by law, except that the executive committee shall not have the power to exercise any of the powers set forth in subdivisions (B), (C), (D), (E), (F), (H), (N), (O), and (P) of Section 2 of Article II.

### **SECTION 16. OTHER COMMITTEES**

The BOARD OF DIRECTORS may by resolution create such other committees as it shall deem appropriate and such committees shall have such powers and authority as the BOARD OF DIRECTORS shall vest therein. Such other committee or committees shall not have the power to do any act which the Executive Committee may not do under Section 15.

**ARTICLE III**  
**OWNERS**

**SECTION 1. VOTES**

All OWNERS shall have one vote for each LOT owned.

**SECTION 2. ANNUAL MEETINGS**

Meetings of the OWNERS shall be held annually. The OWNERS may transact such other business at such meetings as may properly come before them.

**SECTION 3. PLACE OF MEETINGS**

Meetings of the OWNERS shall be held at a suitable place convenient to the OWNERS as may be designated by the BOARD OF DIRECTORS.

**SECTION 4. SPECIAL MEETINGS**

It shall be the duty of the president of the ASSOCIATION to call a special meeting of the OWNERS if so directed by resolution of the BOARD OF DIRECTORS or upon a petition signed and presented to the secretary by not less than 25 percent of the OWNERS. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**SECTION 5. NOTICE OF MEETINGS**

It shall be the duty of the secretary of the ASSOCIATION to mail a notice of each annual meeting of the OWNERS, at least ten (10) but not more than forty (40) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each OWNER of record, at the OWNER'S LOT address or at such other address as such OWNER shall have designated by notice in writing to the secretary of the ASSOCIATION. If the purpose of any meeting shall be to act upon a proposed amendment to the DECLARATION or these BY-LAWS, the notice of meeting shall be mailed at least thirty (30) days prior to such meeting. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

**SECTION 6. ADJOURNMENT OF MEETINGS**

If any meeting of the OWNERS cannot be held because a quorum is not present, a majority of the OWNERS who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

**SECTION 7. ORDER OF BUSINESS**

The order of business at all meetings of the OWNERS shall be as follows:

- (A) Roll call.
- (B) Proof of notice of meeting.
- (C) Reading of minutes of preceding meeting.

- (D) Report of officers.
- (E) Report of BOARD OF DIRECTORS.
- (F) Reports of committees.
- (G) Election of inspectors of election (when so required).
- (H) Election of members of the BOARD OF DIRECTORS (when so required).
- (I) Unfinished business.
- (J) New business.

#### **SECTION 8. TITLE TO LOTS**

Title to LOTS may be taken in the name of an individual or in the names of two or more persons, as tenants in common or as joint tenants or as tenants by the entirety, or in the name of a trust, corporation or partnership, or in the name of a fiduciary.

#### **SECTION 9. VOTING**

Inspectors of election, who shall tally all votes taken and announce the results thereof, shall be elected by open ballot prior to the commencement of voting on any other issue. Voting on all other issues may be done by open or closed ballot, as those present may select by a show of hands. The OWNER or OWNERS of each LOT or some person designated by such OWNER or OWNERS to act as proxy on the OWNER or OWNERS behalf and who need not be an OWNER, shall be entitled to cast the vote appurtenant to such LOT at all meetings of the OWNERS. The designation of any proxy shall be made in writing to the secretary of the ASSOCIATION, and shall be revocable at any time by written notice to the secretary of the ASSOCIATION by the OWNERS or OWNERS so designating. Any or all of such OWNERS may be present at any meeting of the OWNERS and may vote or take any other action as an OWNER or OWNERS either in person or in proxy. The total number of votes of all OWNERS shall equal the number of LOTS within the subdivision and each OWNER or OWNERS shall be entitled to cast one vote at all meetings of the OWNERS for each LOT owned by such OWNER or OWNERS. In the case of a LOT owned by more than one party, no more than one vote shall be ascribed to that LOT. Such vote may be cast only by an unanimous decision of such OWNERS and may not be split into fractions. A fiduciary shall be the voting member with respect to any LOT owned in a fiduciary capacity.

#### **SECTION 10. MAJORITY OF THE OWNERS**

As used in these BY-LAWS the term "Majority of the OWNERS" shall mean those OWNERS having more than 50 percent of the total authorized votes present in person or by proxy at any meeting of the ASSOCIATION at which a quorum is present, as determined in accordance with the provisions of Section 11 of this Article III.

#### **SECTION 11. QUORUM**

Except as otherwise provided in these BY-LAWS or the DECLARATION, the presence in person or by proxy of the OWNERS having 50 percent or more of the total authorized votes shall constitute a quorum at all meetings of the ASSOCIATION.

## **SECTION 12. MAJORITY VOTE**

The vote that constitutes the majority of the votes cast at a meeting at which a quorum shall be present shall be binding upon all OWNERS for all purposes except where in the DECLARATION, these BY-LAWS or by law, a higher percentage vote is required.

## **SECTION 13. ACTION WITHOUT MEETING**

Any action required or permitted to be taken by the OWNERS may be taken without a meeting if the number of the OWNERS required by the DECLARATION, these BY-LAWS or applicable law consent in writing to the adoption of a resolution authorizing such action and the writing or writings are filed with the records of the ASSOCIATION.

## **ARTICLE IV** **OFFICERS**

### **SECTION 1. DESIGNATION**

The principal officers of the ASSOCIATION shall be the president, the secretary and the treasurer, all of whom shall be elected by the BOARD OF DIRECTORS. The BOARD OF DIRECTORS may appoint a vice president, an assistant treasurer, an assistant secretary, and such other officers as in its judgment may be necessary.

### **SECTION 2. ELECTION OF OFFICERS**

The officers of the ASSOCIATION shall be elected upon an affirmative vote of a majority of the members of the BOARD OF DIRECTORS at the annual organization meeting of each new BOARD OF DIRECTORS.

### **SECTION 3. REMOVAL OF OFFICERS**

Upon the affirmative vote of a majority of the BOARD OF DIRECTORS, any officer may be removed, either with or without cause, and the officer's 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 4. PRESIDENT**

The president shall be the chief executive officer of the ASSOCIATION. The president shall preside at all meetings of the OWNERS and of the BOARD OF DIRECTORS. The president shall have all of the general powers and duties which are incident to the office of president of a not-for-profit corporation organized under the Not-for-Profit Corporation Law of the State of New York, including but not limited to the power to appoint members of committees created by the BOARD OF DIRECTORS from among the OWNERS from time to time as the president may, in the president's direction, decide is appropriate to assist in the conduct of the affairs of the ASSOCIATION.

#### **SECTION 5. SECRETARY**

The secretary shall keep the minutes of all meetings of the OWNERS and of the BOARD OF DIRECTORS. The secretary shall have charge of such books and papers as the BOARD OF DIRECTORS may direct; and the secretary shall, in general, perform all duties incident to the office of secretary of a not-for-profit corporation organized under the Not-for-Profit Corporation Law of the State of New York.

#### **SECTION 6. 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. The treasurer shall be responsible for the deposit of all monies and other valuable effects in the name of the BOARD OF DIRECTORS, or the managing agent, in such depositories as may from time to time be designated by the BOARD OF DIRECTORS, and the treasurer shall, in general, perform all the duties incident to the office of treasurer of a not-for-profit corporation organized under the Not-for-Profit Corporation Law of the State of New York.

#### **SECTION 7. AGREEMENTS, CONTRACTS, DEEDS, CHECKS, ETC.**

All agreements, contracts, deeds, leases, checks and other instruments of the ASSOCIATION shall be executed by such person or persons as may be designated by the BOARD OF DIRECTORS.

#### **SECTION 8. COMPENSATION OF OFFICERS**

No officer shall receive any compensation from the ASSOCIATION for acting as such.

### **ARTICLE V** **OPERATION OF THE PROPERTY**

#### **SECTION 1. DETERMINATION OF ASSOCIATION EXPENSES AND FIXING OF ASSOCIATION CHARGES**

(A) From time to time, but not less frequently than once a year, the BOARD OF DIRECTORS shall: (1) prepare and adopt a budget for the ASSOCIATION, subject, in all respects, to the strictures set forth in Section 2 of Article II hereof; (2) determine the aggregate amount of ASSOCIATION CHARGES necessary to be charged to the OWNERS in order to meet the ASSOCIATION EXPENSES; and (3) allocate and assess such ASSOCIATION CHARGES among the OWNERS based on each OWNER'S ASSOCIATION INTEREST. The BOARD OF DIRECTORS shall advise all OWNERS promptly thereafter in writing of the amount of ASSOCIATION CHARGES payable by each of them and, not later than ten (10) days next preceding the date upon which the newly-determined ASSOCIATION CHARGES is due, shall furnish copies of the budget (in a reasonably itemized form) upon which such ASSOCIATION CHARGES are based to all OWNERS. The BOARD OF DIRECTORS may, at its sole discretion and subject to the strictures set forth in Section 2 of Article II hereof, from time to time increase or



decrease the amount of ASSOCIATION CHARGES allocated to the LOTS and payable by the OWNERS and may modify its prior determination of the ASSOCIATION EXPENSES for any fiscal year so as to increase or decrease the amount of ASSOCIATION CHARGES payable for such fiscal year or portion thereof; however, no such revised determination of ASSOCIATION EXPENSES shall have a retroactive effect on the amount of ASSOCIATION CHARGES payable by the OWNERS for any period prior to the date of such new determination.

(B) The failure or delay of the BOARD OF DIRECTORS to prepare or adopt a budget or to determine the ASSOCIATION EXPENSES for any fiscal year or portion thereof shall not be deemed a waiver or modification in any respect of the covenants and provisions hereof or a release of any OWNER from the obligation to pay ASSOCIATION CHARGES. In such event, the ASSOCIATION CHARGES that were computed on the basis of the ASSOCIATION EXPENSES last determined for any fiscal year or portion thereof shall continue thereafter to be the ASSOCIATION CHARGES payable by the OWNERS until a new determination of the ASSOCIATION EXPENSES shall be made.

(C) In addition to the foregoing duty to determine the amount of and assess ASSOCIATION CHARGES, the BOARD OF DIRECTORS shall have the right, subject, in all respects, to the strictures contained hereunder, to levy SPECIAL ASSESSMENTS to meet the ASSOCIATION EXPENSES. All SPECIAL ASSESSMENTS shall be levied against all OWNERS in the same proportion as are ASSOCIATION CHARGES and may be payable either in one lump sum or in installments, as the BOARD OF DIRECTORS shall determine, provided, however that the BOARD OF DIRECTORS shall give each OWNER not less than fifteen (15) days written notice prior to the date upon which such SPECIAL ASSESSMENT, or the first installment thereof, shall be due and payable, which notice shall set forth, in reasonable detail, the nature and purpose thereof. The BOARD OF DIRECTORS shall have all rights and remedies for the collection of SPECIAL ASSESSMENTS as are provided herein for the collection of ASSOCIATION CHARGES.

(D) The excess of all rents, profits and revenues derived from the use of any space forming a part of, or included in, any COMMON AREA remaining after deduction of all expenses incurred in connection with generating the same which is received by the ASSOCIATION shall constitute income of the OWNERS, and shall be collected on behalf of the OWNERS by the BOARD OF DIRECTORS and applied against the ASSOCIATION EXPENSES for the year in which collected. In the event that such net rents, profits and revenues, together with the ASSOCIATION CHARGES and any SPECIAL ASSESSMENTS collected from the OWNERS, for any year of operation shall exceed the ASSOCIATION EXPENSES for such year, then such excess shall be applied by the BOARD OF DIRECTORS against the ASSOCIATION EXPENSES for the next succeeding year(s) of operation, and no OWNER shall be entitled to a distribution of any portion of such excess.

## **SECTION 2. PAYMENT OF ASSOCIATION CHARGES**

(A) All OWNERS shall be obligated to pay ASSOCIATION CHARGES and SPECIAL ASSESSMENTS assessed by the BOARD OF DIRECTORS pursuant to the terms of Section 1 of this Article V at such time or times as the BOARD OF DIRECTORS shall determine. Unless otherwise determined by the BOARD OF DIRECTORS, ASSOCIATION CHARGES shall be due and payable annually in one lump sum by January 31<sup>st</sup> after the BOARD OF DIRECTORS presents an INVOICE for such charges for the calendar year January 1<sup>st</sup> through December 31<sup>st</sup>. In purchasing a lot, each owner agrees to give the BOARD OF DIRECTORS a lien on such LOT, on behalf of all OWNERS, for unpaid ASSOCIATION CHARGES and SPECIAL ASSESSMENTS assessed against such LOT. Such lien, however, shall be subordinate to any liens for real estate taxes assessed against such LOT and a lien for all sums unpaid on a first mortgage of record placed on the LOT at the time of purchase by that OWNER.

(B) A purchaser or other successor-in-title to the OWNER of a LOT shall be liable for the payment of all ASSOCIATION CHARGES and SPECIAL ASSESSMENTS accrued and unpaid against such LOT prior to the OWNER'S acquisition thereof, except that, to the extent permitted by law, a first mortgagee acquiring title to a mortgaged LOT, or a purchaser at a mortgage foreclosure sale held with respect to a first mortgage on the LOT at the time of purchase by that OWNER shall not be liable, and such mortgaged LOT shall not be subject to lien, for the payment of any ASSOCIATION CHARGES and SPECIAL ASSESSMENTS assessed subsequent to the recording of such first mortgage and prior to the acquisition of title to such LOT by the first mortgagee or by such purchaser. However, in the event of a foreclosure of a first mortgage (whether by sale, deed in lieu of foreclosure or otherwise), the defaulting OWNER shall remain fully liable for the payment of all unpaid ASSOCIATION CHARGES and SPECIAL ASSESSMENTS that accrued prior to such foreclosure. Any unpaid ASSOCIATION CHARGES and SPECIAL ASSESSMENTS that are deemed uncollectible by the BOARD OF DIRECTORS from such defaulting OWNER shall be deemed an ASSOCIATION EXPENSE, collectible from all those who are OWNERS at the time that the same is levied.

(C) No OWNER shall be exempted from liability for the payment of ASSOCIATION CHARGES or SPECIAL ASSESSMENTS by waiving the use or enjoyment of any or all of the COMMON AREAS or by abandoning the OWNER'S LOT. Except as expressly provided to the contrary in Section 6 of this Article V and Article VIII hereunder, no OWNER shall be entitled to a diminution or abatement in the ASSOCIATION CHARGES or SPECIAL ASSESSMENTS payable thereby for any inconvenience or discomfort arising from (1) the failure or interruption of any utility or other service; (2) the making of repairs or improvements to the COMMON AREAS or any LOT (including without limitation, such OWNER'S LOT) pursuant to the terms at Sections 8 and 10 of this Article V; or (3) any action taken by the BOARD OF DIRECTORS or the officers of the ASSOCIATION to comply with law.

### **SECTION 3. STATEMENT OF ASSOCIATION CHARGES**

The BOARD OF DIRECTORS shall promptly provide a written statement of all unpaid ASSOCIATION CHARGES due from any OWNER upon its receipt of a written request therefore from such OWNER. In addition, each OWNER shall be permitted to examine the books of account of the ASSOCIATION at reasonable times on business days.

### **SECTION 4. DEFAULT IN PAYMENT OF ASSOCIATION CHARGES**

(A) The BOARD OF DIRECTORS shall take prompt action to collect any ASSOCIATION CHARGES due to the ASSOCIATION that remain unpaid for more than 15 days after the date due for the payment thereof. In connection therewith, the BOARD OF DIRECTORS shall have the right and obligation to cause liens for all sums due and owing to the BOARD OF DIRECTORS to be filed in the Albany County Clerk's Office and/or to institute all other proceedings deemed necessary or desirable by the BOARD OF DIRECTORS to recover all such unpaid ASSOCIATION CHARGES, together with all additional sums of money collectible by the BOARD OF DIRECTORS by reason of such nonpayment pursuant to the terms of Paragraph (B) hereof. A suit to recover a money judgment for unpaid ASSOCIATION CHARGES, however, shall be maintainable without foreclosing or waiving the lien securing such charges.

(B) In the event that any OWNER shall fail to make prompt payment of ASSOCIATION CHARGES, such OWNER shall be obligated to pay interest thereon at the rate of eighteen percent (18%) per annum, to be computed from the due date thereof until paid in full, together with all costs and expenses paid or incurred by the BOARD OF DIRECTORS, the managing agent or the manager (if any) in connection with collecting such unpaid ASSOCIATION CHARGES with interest as aforesaid and/or in foreclosing the aforementioned lien including, without limitation, reasonable attorneys' fees and disbursements and court costs. In addition, if the BOARD OF DIRECTORS shall bring an action to foreclose the aforementioned lien, the defaulting OWNER will be required to pay a reasonable rental for the use of the OWNER'S LOT, from the date of the commencement of said action and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. All such interest, costs and expenses and rentals shall be added to and shall constitute ASSOCIATION CHARGES payable by such OWNER.

(C) In the event that any OWNER shall fail to make payment of ASSOCIATION CHARGES (ANNUAL DUES) by the January 31<sup>st</sup> due date, such owner shall be obligated to pay, in addition to the aforementioned interest, a processing fee of \$25 per notice, for the time, costs, and materials needed in connection with the collection of such ASSOCIATION CHARGES.

(D) In any action brought by the BOARD OF DIRECTORS to foreclosure a lien on a LOT because of unpaid ASSOCIATION CHARGES, the BOARD OF DIRECTORS shall have, on behalf of all OWNERS, the power to purchase such LOT at the foreclosure sale thereof and to acquire, hold, lease, mortgage, convey or otherwise deal with such LOT (but not to vote the votes appurtenant to the same). In the event that the NET PROCEEDS received on such foreclosure shall be insufficient to satisfy the defaulting OWNER'S obligations to the ASSOCIATION, such OWNER shall remain liable for the deficit. If the amount owed by the defaulting OWNER is deemed not collectible by the

BOARD OF DIRECTORS, the amount owed shall be charged to all OWNERS as an ASSOCIATION EXPENSE. Any surplus on such foreclosure sale shall be paid to the defaulting OWNER after first paying all liens on such OWNER'S LOT in the order of priority of such liens.

#### **SECTION 5. INSURANCE**

The BOARD OF DIRECTORS shall be required to obtain and maintain, to the extent obtainable, legal liability insurance and such other insurance as the BOARD OF DIRECTORS may determine. All such policies shall be in such amounts as the BOARD OF DIRECTORS shall deem necessary and shall provide that adjustment of loss shall be made by the BOARD OF DIRECTORS and that the NET PROCEEDS thereof shall be payable to the ASSOCIATION. The BOARD OF DIRECTORS shall review the amounts of all ASSOCIATION insurance policies annually. The BOARD OF DIRECTORS shall also be required to obtain and maintain to the extent obtainable, public liability insurance in such limits as the BOARD OF DIRECTORS may from time to time determine, covering each member of the BOARD OF DIRECTORS, the managing agent, the manager, employees of the ASSOCIATION and each OWNER and covering all claims for bodily injury or property damage arising out of any occurrence in the COMMON AREAS.

The OWNERS shall not be prohibited from carrying other insurance for their own benefit provided that all such policies shall contain waivers of subrogation, and further provided that the liability of the carriers issuing insurance procured by the BOARD OF DIRECTORS shall not be affected or diminished by reason of any such additional insurance carried by any OWNER. The OWNERS shall not do or permit any act or thing to be done in or to their LOTS or the COMMONS AREAS which is contrary to law or which invalidates or is in conflict with any public liability, fire or other policies of insurance at any time carried by the BOARD OF DIRECTORS for the benefit of the ASSOCIATION or which shall or might subject the ASSOCIATION or the OWNERS to any liability or responsibility to any person or for property damage; nor shall any OWNER keep anything on or about their LOT except as now or hereafter permitted by the Board of Fire Underwriters, Fire Department, Fire Insurance Rating Organization or other authority having jurisdiction, and then only in such manner or such quantity so as not to increase the rate for fire insurance applicable to the COMMON AREAS; nor shall any OWNER use the OWNER'S LOT in a manner which will increase the insurance rate for the COMMON AREAS over that in effect for the insurance maintained by the ASSOCIATION for the benefit of the OWNERS. An OWNER who fails to comply with the provisions of this Section 5 shall pay all costs, expenses, fines, penalties or damages which may be imposed upon the ASSOCIATION or the OWNERS by reason thereof and shall also reimburse the ASSOCIATION for that portion of all fire insurance premiums thereafter paid by the BOARD OF DIRECTORS which shall have been charged because of such failure by the OWNER.

#### **SECTION 6. REPAIR OR RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY**

In the event of damage to or destruction of the COMMON AREAS as a result of fire or other casualty, upon an affirmative vote of a majority of the BOARD OF DIRECTORS,

the BOARD OF DIRECTORS shall arrange for the prompt repair and restoration of the COMMON AREAS and shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute an ASSOCIATION EXPENSE and the BOARD OF DIRECTORS on behalf of the ASSOCIATION may assess all the OWNERS for such deficit as part of the ASSOCIATION CHARGES.

In the event of a fire or other casualty loss to a LOT, the OWNER will continue to pay the ASSOCIATION CHARGES of the OWNER'S respective LOT.

#### **SECTION 7. ABATEMENT AND ENJOINMENT**

In the event that any OWNER shall violate or breach any of the provisions of the DECLARATION or these BY-LAWS on the OWNER'S part to be observed or performed, the BOARD OF DIRECTORS shall have the right to enjoin, abate or remedy the continuance or repetition of any such violation or breach by appropriate proceedings.

#### **SECTION 8. MAINTENANCE AND REPAIR**

(A) All maintenance, repairs and replacements to any LOT, whether structural or non-structural, ordinary or extraordinary, shall be made by the OWNER of such LOT pursuant to the DECLARATION.

(B) Subject to the provisions of Subsection (C) hereof all maintenance, repairs and replacements to the COMMON AREAS shall be made by the BOARD OF DIRECTORS and, to the extent not covered by insurance, shall be charged to all the OWNERS as an ASSOCIATION EXPENSE. Promptly upon obtaining knowledge thereof, each OWNER shall report to the BOARD OF DIRECTORS or to the managing agent any defect or need for repairs for which the BOARD OF DIRECTORS is responsible pursuant to the terms hereof. All maintenance, repairs and replacements performed hereunder or otherwise, whether by or at the behest of an OWNER or the BOARD OF DIRECTORS, shall be performed in such a manner as shall not unreasonably disturb or interfere with any OWNERS or the tenants and occupants of any LOT.

(C) If any maintenance, repairs or replacements to the COMMON AREAS, whether ordinary or extraordinary, is necessitated by the negligence, misuse or abuse of any OWNER, the entire cost and expense thereof shall be borne by such OWNER. Each OWNER shall be responsible for any and all damage to any LOT or to the COMMON AREAS resulting from such OWNER'S failure to maintain, repair or replace the OWNER'S LOT or any portion thereof as required herein.

(D) Those areas of the LOTS exposed to public view shall be kept clean and in good appearance at the sole cost and expense of the OWNERS thereof.

(E) The BOARD OF DIRECTORS shall keep the COMMON AREAS free from rubbish and hazardous conditions.

**SECTION 9. RESTRICTIONS ON USE OF LOTS**

In order to provide for congenial occupancy of the LAND and for the protection of the values of the LOTS, the use of the LAND shall be restricted to and shall be in accordance with the RULES AND REGULATIONS concerning the use of the LOTS and the DECLARATION which may be promulgated and amended from time to time by the BOARD OF DIRECTORS provided that copies of such DECLARATION are furnished to each OWNER not less than five (5) days prior to the time that they become effective. Any RULE OR REGULATIONS may be rescinded by vote of a majority of the OWNERS at a meeting duly called for such purpose.

**SECTION 10. ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO THE COMMON AREAS**

Except as otherwise provided in the DECLARATION or in these BY-LAWS, all necessary or desirable alterations, additions or improvements in or to any of the COMMON AREAS shall be made by the BOARD OF DIRECTORS, and the cost and expense thereof shall constitute an ASSOCIATION EXPENSE. Notwithstanding the foregoing, however, whenever the cost and expense of any such alterations, additions or improvements would, in the judgment of the BOARD OF DIRECTORS, exceed \$1000.00 in the aggregate in any calendar year, such proposed alterations, additions or improvements shall not be made unless first approved by a majority of the OWNERS. Except as otherwise provided in the DECLARATION and in these BY-LAWS, all such alterations, additions or improvements costing \$1000.00 or less in the aggregate in any calendar year may be made as aforesaid without the approval of the OWNERS.

**SECTION 11. USE OF COMMON AREAS AND FACILITIES**

(A) An OWNER shall not store any vehicles, packages or objects of any kind on any portion of the COMMON AREAS or other easements except where expressly permitted by the BOARD OF DIRECTORS.

(B) The COMMON AREAS or other easements shall be used only for those purposes as may be designated by the BOARD OF DIRECTORS. No OWNER shall make any addition, alteration, improvement or change in or to any COMMON AREAS and any scenic or other easements without prior written consent of the BOARD OF DIRECTORS and in compliance with the terms of the DECLARATION.

**ARTICLE VI**  
**MORTGAGES OF LOTS**

**SECTION 1. MORTGAGING OF LOTS – GENERAL**

Each OWNER shall have the right to mortgage the OWNER’S LOT, subject only to the terms and conditions contained in Section 2 of this Article VI.

## **SECTION 2. RESTRICTION ON MORTGAGING**

(A) No OWNER shall be permitted to mortgage, pledge or hypothecate the OWNER'S LOT unless and until the OWNER shall have paid in full to the BOARD OF DIRECTORS all unpaid ASSOCIATION CHARGES and SPECIAL ASSESSMENTS theretofore assessed against such LOT and all interest, costs and expenses attributable to such unpaid ASSOCIATION CHARGES and SPECIAL ASSESSMENTS.

(B) No OWNER shall execute any mortgage or other document mortgaging, pledging or hypothecating title to the OWNER'S LOT without including therein its appurtenant interest in the ASSOCIATION, so as to prevent any severance of LOT ownership. Any mortgage or other instrument purporting to affect a LOT from its appurtenant membership in the ASSOCIATION without including all such LOT interest in the ASSOCIATION shall be deemed and taken to include the interest so omitted, even though the latter shall not be expressly mentioned or described therein.

## **SECTION 3. NOTICE OF UNPAID ASSOCIATION CHARGES AND DEFAULT**

Whenever requested in writing by a mortgagee, the BOARD OF DIRECTORS shall promptly report to such mortgagee any default(s) by the mortgagor(s) in the payment of ASSOCIATION CHARGES or SPECIAL ASSESSMENTS or in the observance or performance of any of the provisions of the DECLARATION or these BY-LAWS as to which the BOARD OF DIRECTORS has knowledge. The BOARD OF DIRECTORS shall, when giving notice to an OWNER of any such default, also send a copy of such notice to the OWNER'S mortgagee, if so requested. However, the BOARD OF DIRECTORS shall have no liability for any failure, through oversight or negligence, in notifying a mortgagee of any default by the OWNER'S mortgagor under the DECLARATION or these BY-LAWS, provided that (A) the BOARD OF DIRECTORS shall advise such mortgagee of the default promptly after discovering such failure and (B) if the BOARD OF DIRECTORS shall foreclose a lien on such mortgagor's LOT pursuant to the terms of Section 4 of Article V hereunder by reason of such default, the BOARD OF DIRECTORS shall pay to such mortgagee any NET PROCEEDS of any foreclosure sale of such LOT (after retaining all sums due and owing to the BOARD OF DIRECTORS pursuant to the DECLARATION or these BY-LAWS) or such lesser sum as shall be due and owing to such mortgagee.

## **SECTION 4. PERFORMANCE BY MORTGAGEES**

Any sum or money to be paid or any act to be performed by an OWNER pursuant to the terms of the DECLARATION and these BY-LAWS may be paid or performed by the mortgagee, and the BOARD OF DIRECTORS shall accept such mortgagee's payment or performance with the same force and effect as if the same were paid or performed by such OWNER.

## **SECTION 5. EXAMINATION OF BOOKS**

Each mortgagee shall be permitted to examine the books of account of the ASSOCIATION at reasonable times on business days, but not more frequently than once a year.

#### **SECTION 6. CONSENT TO MORTGAGEES**

Except as otherwise expressly provided for herein or in the DECLARATION, no consent or approval by any mortgagee shall be required with respect to any determination or act of the BOARD OF DIRECTORS or any OWNER, provided, however, that nothing contained herein shall be deemed to limit or affect the rights of any mortgagee against the OWNER'S mortgagor.

### **ARTICLE VII** **SALES AND LEASES OF LOTS**

#### **SECTION 1. SALES AND LEASES**

Subject to the terms of Section 5 of this Article VII, no OWNER may sell or lease the OWNER'S LOT except in compliance with the applicable provisions of Article VII. Any purported sale or lease consummated in default of the applicable terms hereof shall be **voidable** at the sole election of the BOARD OF DIRECTORS and, if the BOARD OF DIRECTORS shall so elect, the selling or leasing OWNER shall be deemed to have authorized and empowered the BOARD OF DIRECTORS to institute legal proceedings to eject the purported purchaser (in the event of an unauthorized sale), or to evict the purported tenant (in the event of an unauthorized leasing), in the name of the said OWNER, as the OWNER or landlord, as the case may be. The said OWNER shall reimburse the BOARD OF DIRECTORS for all costs and expenses paid or incurred in connection with such proceedings, including without limitation, reasonable attorneys' fees, disbursements and court costs.

#### **SECTION 2. NO SEVERANCE OF OWNERSHIP**

No OWNER shall execute any deed or other instrument conveying title to the OWNER'S LOT without including therein its appurtenant interest in the ASSOCIATION. Any deed or other instrument purporting to affect a LOT shall be taken to include all such LOT'S interest in the ASSOCIATION, even though such interest shall not be expressly mentioned or described therein. No part of the appurtenant interest of any LOT may be sold, conveyed or otherwise disposed of, except as part of a sale, conveyance or other disposition of the LOT to which such interest is appurtenant. Nothing contained in this Section 2, however, shall prohibit the lease of any LOT without the simultaneous lease of its appurtenant interest in the ASSOCIATION.

#### **SECTION 3. PAYMENT OF ASSOCIATION CHARGES**

No OWNER shall be permitted to convey or lease the OWNER'S LOT unless the OWNER shall have paid in full to the BOARD OF DIRECTORS all unpaid ASSOCIATION CHARGES and SPECIAL ASSESSMENTS theretofore assessed against



such LOT and all interest costs and expenses attributable to such unpaid ASSOCIATION CHARGES and SPECIAL ASSESSMENTS.

**SECTION 4. GIFTS AND DEVICES, ETC.**

Any OWNER shall be free to convey or transfer the OWNER'S LOT, together with its appurtenant interest in the COMMON AREAS by gift, or to devise the same by will or to have the same pass by intestacy, without restriction, provided, however, that each succeeding OWNER shall be bound by, and the OWNER'S LOT shall be subject to, the provisions of these BY-LAWS.

**SECTION 5. EXCEPTIONS.**

The provisions of Section 1 of this Article VII shall not apply with respect to the acquisition, sale or lease of a LOT, together with the appurtenant interest, by a mortgagee who shall acquire title to such LOT by foreclosure or by deed in lieu of foreclosure.

**ARTICLE VIII**  
**CONDEMNATION**

In the event of a taking in condemnation or by eminent domain of part or all of the COMMON AREAS, the award made for such taking shall be payable to the ASSOCIATION. If replacement or reconstruction is feasible in the opinion of the BOARD OF DIRECTORS and if 51% or more of the OWNERS duly and promptly approve such replacement or reconstruction, the BOARD OF DIRECTORS shall arrange for such replacement or reconstruction and the BOARD OF DIRECTORS shall disburse the proceeds of such award to the contractor engaged in such replacement or reconstruction in appropriate progress payments. If replacement or reconstruction is not feasible in the opinion of the BOARD OF DIRECTORS, or if 51% or more of the OWNERS do not duly and promptly approve such replacement or reconstruction, the BOARD OF DIRECTORS shall apply to NET PROCEEDS of such award to the ASSOCIATION EXPENSES.

**ARTICLE IX**  
**RECORDS**

The BOARD OF DIRECTORS shall keep detailed records of the actions of the BOARD OF DIRECTORS, minutes of the meetings of the BOARD OF DIRECTORS, minutes of the meetings of the OWNERS, and financial records and books of account of the ASSOCIATION, including a chronological listing of receipts and expenditures, as well as a separate account for each LOT which, among other things, shall contain the amount of each assessment of ASSOCIATION CHARGES against such LOT, the date when due, the amount paid thereon, and the balance remaining unpaid. The BOARD OF

DIRECTORS shall also keep available for inspection by the OWNERS or their agents, copies of the DECLARATION, the BY-LAWS, and the RULES AND REGULATIONS.

An annual report of the receipts and expenditures of the ASSOCIATION, prepared by an independent certified public accountant, shall be rendered by the BOARD OF DIRECTORS to all OWNERS and to all mortgagees of LOTS who have requested the same, promptly after the end of the fiscal year. The cost of such report shall be paid by the OWNERS as an ASSOCIATION EXPENSE.

## **ARTICLE X** **AMENDMENT AND WITHDRAWAL**

No LOT or portion of the COMMON AREAS shall be withdrawn from the DECLARATION unless at least 80 percent of all OWNERS agree to such removal by duly recorded instrument.

Except as hereinafter provided otherwise, these BY-LAWS may be modified or amended by approval of 66-2/3 percent in number of all OWNERS.

Notwithstanding anything to the contrary herein in contained, no provision of these BY-LAWS relating to the use of the LOTS may be amended without the consent of every OWNER affected by such amendment.

## **ARTICLE XI** **CONFLICTS**

These BY-LAWS are set forth to comply with the requirements of the laws of the State of New York. In case any of these BY-LAWS conflict with the provisions of said laws or of the DECLARATION, the provisions of said laws or the DECLARATION as the case may be, shall control.

## **ARTICLE XII** **MISCELLANEOUS**

### **SECTION 1. INVALIDITY**

The invalidity of any part of these BY-LAWS shall not impair or affect in any manner the validity, enforceability or effect the balance of these BY-LAWS.

### **SECTION 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 BY-LAWS, or the intent of any provisions hereof.

**SECTION 3. WAIVER**

No restriction, condition, obligation or provision contained in these BY-LAWS shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.